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



2026/HP/EP/621

IN THE MATTER OF: ARTICLES 47(2), 51, 54, 68, 72 (2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA

AND

IN THE MATTER OF: SECTIONS 81, 89, 97 (1), 98 (C), 99, 100 (2) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: CODE OF CONDUCT RULES 12, 15 (a), (h), (K)

AND

IN THE MATTER OF: CHADIZA WEST CONSTITUENCY ELECTIONS HELD IN ZAMBIA ON THE 13TH DAY OF AUGUST, 2026

AND

IN THE MATTER OF: RULE 9 (1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026

BETWEEN:

JONATHAN DAKA — PETITIONER

AND

OBET PHIRI — 1ST RESPONDENT
ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

LIST OF AUTHORITIES AND SKELETON ARGUMENTS IN SUPPORT OF AFFIDAVIT FACTS VERIFYING ELECTION PETITION

PART 1: LIST OF AUTHORITIES

LEGISLATION CITED

1. The Constitution of Zambia (Amendment) Act No. 2 of 2016.
2. The Electoral process Act No. 35 of 2016.
3. The Electoral Process (General) Regulations, Statutory Instrument No. 63 of 2016.
4. The Electoral (Code of Conduct) Regulations, Statutory Instrument No. 64 of 2016.

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

CASES CITED

1. Akashambatwa Mbikusita Lewanika and Others vs Fredrick Jacob Titus Chiluba (1998) Z.R. 79.

2. Anderson Kambela Mazoka and Others vs Levy Patrick Mwanawasa and Others (2005) Z.R. 138.

3. Michael Mabenga v Sikota Wina and Others (2003) Z.R. 110

4. Josephat Mlewa v Eric Wightman (1995 – 1997) Z.R. 171

5. Mubika Mubika v Poniso Njeulu, SCZ, Appeal No. 114 of 2007

6. Nkandu Luo (Prof) and Electoral Commission of Zambia v Doreen Sefuke Mwamba and The Attorney General, selected Judgment No. 51 of 2019.

7. Giles Chomba Yamba Yamba v Kapembwa Simbao and Others, selected Judgment No. 6 of 2018.

8. Abiud Kawangu v Elijah Muchima, Appeal No. 8 of 2017.

9. Mulondwe Muzungu v Elliot Kamondo, 2010/EP/001.

10. Nana Addo Dankwa Akufo Addo and Others v John Dramani Mahama and 2 others, Writ No. J1/6/2013 (Supreme Court of Ghana)

11. August v Electoral Commission and Others (1999) ZACC 3

PART II: SKELETON ARGUMENTS IN SUPPORT OF THE ELECTION PETITION

MAY IT PLEASE THIS HONOURABLE COURT, these are the Petitioner's Skeleton Arguments in support of the Election Petition challenging the election of the 1st Respondent as Member of Parliament for Chadiza West Constituency.

A. PRELIMINARY OBSERVATIONS

My Lord / Lady,

1. The Petitioner, Jonathan Daka, was a duly nominated and sponsored candidate for the Chadiza West Constituency Parliamentary Election held on 13th August, 2026, having been adopted by the United Party for National Development (UPND). The Petitioner contested the said election against the 1st Respondent, Obet Phiri and other candidates.

2. Following the conclusion of the Polling and counting process, the Returning Officer declared the 1st Respondent as the duly elected Member of Parliament for Chadiza West Constituency. The Petitioner, being aggrieved by the said declaration and the manner in which the election was conducted, has presented this Petition to challenge the validity of the 1st Respondent's election.

3. The Petitioner's grievances are founded on serious allegations of Electoral malpractices, including obstruction of the Petitioner's campaign activities, interference with the counting process, threats of Polling agents, beatings of Polling Agents, and denial of the Petitioner from accessing the totaling centre for verification of the results.

4. The Petitioner prays that this Honourable Court may be pleased to declare the Election of the 1st Respondent null and void and grant such other relief as the Court may deem fit and just in the circumstances.

B. JURISDICTION OF THE COURT

5. The jurisdiction of this Honourable Court to hear and determine an election petition challenging the election of a member of parliament is established under Article 73(1) of the Constitution of Zambia, which provides that:

"A person may file an election petition with the High Court to challenge the election of a Member of Parliament."

6 This constitutional provision is complemented by Section 96 of the Electoral Process Act No. 35 of 2016, which vests in the High Court the power to hear and determine questions concerning the validity of the appointment or nomination of a person as a Member of Parliament.

7. Further, Section 97(1) of the Electoral Process Act provides that:

"An election of a candidate as a Member of Parliament, Mayor, Council Chairperson or Councilor shall not be questioned except by an election Petition presented under this part.

8. With reference to the above, the Petitioner submits that this Honourable Court has the requisite jurisdiction to hear and determine this Petition and to grant the reliefs sought therein.

C. BURDEN AND STANDARD OF PROOF IN ELECTIONS PETITIONS

9. My Lord/Lady, it is trite law that in election petitions, the burden of proof rests on the Petitioner to establish the allegations made to the required standard. The Petitioner is cognizant of this burden and submits that the same has been discharged to the requisite standard.

10. In the seminal case of Akashambatwa Mbikusita Lewanika and Others v Fredrick Jacob Titius Chiluba (1998) Z.R. 79, the Supreme Court held at page 80 that:

"Parliamentary election Petitions are required to be proved to a standard higher than on a mere balance of probability."

11. Further, in Anderson Kambela Mazoka and Others v Levy Patrick Mwanawasa and Others (2005) Z.R. 138, the Supreme Court at page 140 stated:

"As regards burden of proof, the evidence adduced must establish the issues raised to a fairly high degree of convincing clarity."

12. The Constitutional Court in Abiud Kawangu v Elijah Muchima, Appeal No. 8 of 2017, reiterated this standard as follows:

"The standard remains higher and distinct from the required in an ordinary civil matter but lower than the standard of beyond reasonable doubt required in criminal matters."

13. The Petitioner submits that the evidence adduced in support of the Petition, as set out in the Affidavit of facts verifying election petition, establishes the allegations made to a fairly high degree of convincing clarity, thereby meeting the requisite standard of proof applicable to election petitions.

D. GROUNDS FOR NULLIFICATION OF AN ELECTION

(i) GENERAL PRINCIPLES

14. The grounds upon which the election of a candidate as Member of Parliament may be declared void are set out in Section 97(2) of the Electoral Process Act No. 35 of 2016, which provides as follows:

"(2) The election of a candidate as a member of parliament, mayor, council chairperson or councilor 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 c omitted 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.

(b) subject to the provisions of subsection (4), there has been non-compliance with the provisions of this Act relating to the conduct of elections, and it appears to the High Court or tribunal that the election was not conducted in accordance with the principles laid down in such provision and that such non-compliance affected the result of the election;

(c) The candidates was at the time of the election no qualified or was disqualified from being elected."

15. In the case of Micheal Mabenga v Sikota Wina and Others (2003) Z.R 110, the Supreme Court held that:

"Satisfactory proof of any one corrupt or illegal practice or misconduct in an election petition is sufficient to nullify an election."

16. The Petitioner submits that the conduct complained of in this Petition constitutes illegal practices and/or other misconduct within the meaning of Section 97(2)(a) of the Electoral process Act, and that such conduct was committed by the 1st Respondent and /or with his knowledge and consent or approval, thereby rendering the election of the 1st Respondent void.

(ii) ILLEGAL PRACTICE COMMITTED BY THE 1ST RESPONDENT

17. The Petitioner herein has adduced evidence demonstrating that the 1st Respondent obstructed the Petitioner from freely campaigning and addressing the community during the election period. This conduct constitutes a violation of Section 8(1) (g) of the Electoral Process Act, which prohibits the unlawful prevention of the holding of any political meeting or other political event.

18. Further, Regulation 15 (1) (a) of the Electoral (Code of Conduct) Regulations, 2016, provides that a person shall not:

"cause violence or use any language or engage in any conduct which leads or is likely to lead to violence or intimidation during an election campaign or elections."

19. The Petitioner submits that the obstruction of his campaign activities, as set out in the Affidavit of Facts Verifying Elections Petition, amounted to an illegal practice within the meaning of the Act and the Regulations.

(iii) NON-COMPLIANCE WITH THE PROVISIONS OF THE ACT RELATING TO THE CONDUCT OF ELECTIONS.

20. My Lord/Lady, the Petitioner has further adduced evidence demonstrating that the 1st Respondent deployed individuals to named Polling stations to obstruct vote counting and intimidate polling agents. This conduct constitutes non-compliance with the provisions of the Electoral Process Act relating to the conduct of elections.

21. In particular, the evidence demonstrates that:

(i) Persons purporting to represent and/or support the 1st Respondent beat up the UPND Polling Agent.

(ii) The Petitioner was asked, directed and/or compelled to leave the Polling Station after his children voted so that the 1st Respondent and his agents remain behind.

(iii) The Petitioner's observers were consequently unable to continue witnessing the counting of votes and unable to independently verify whether the ballots were properly counted.

(iv) The Petitioner was denied access to the totaling centre.

22. In Giles Chomba Yamba v Kapembwa Simbao and Others, Selected Judgment No. 6 of 2018, the Constitutional Court held that:

'Section 97(2)(b) relates to non-compliance with the law in the conduct of elections. It calls for annulment of elections in the event that there has been non-compliance with the principles laid down in the Electoral Process Act in as far as the conduct of elections is concerned."

23. The Petitioner submits that the conduct complained of constitutes non-compliance with the provisions of the Act relating to the conduct of elections, and that such non-compliance affected the result of the election.

(iv) THE PRINCIPLE OF SUBSTANCIAL COMPLIANCE

24. My Lord/Lady, we submit that the Petitioner is aware that an election shall not be declared void by reason of any act or omission by an election officer in breach of that officer's official duty if the election was conducted substantially in accordance with the provisions of the Act and such act or omission did not affect the result of the election, as provided in Section 97(4) of the Electoral Process Act.

25. However the Petitioner submits that the conduct complained of in this Petition goes beyond mere administrative irregularities and constitutes serious electoral malpractices that fundamentally undermined the integrity of the electoral process.

26. In August v Electoral Commission and Others (1999) ZACC 3, the South African Constitutional Court emphasized that elections must be conducted in a manner that permits the electorates will to be freely expressed and properly ascertained.

27. The Petitioner submits that the conduct complained of in this Petition prevented the electorate's will from being freely expressed and properly ascertained and that the election cannot be said to have been conducted substantially in accordance with the provisions of the Act.

E. SPECIFIC ALLEGATIONS AND SUPPORTING EVIDENCE

(i) OBSTRUCTION OF THE PETITIONER'S CAMPAIGN ACTIVITIES

28. My Lord/Lady, the Petitioner has deposed that during the time of elections, the 1st Respondent obstructed the Petitioner from freely campaigning and addressing the community. This allegation is set out in paragraph 6(i) of the Petition and paragraph 27 of the Affidavit of Facts verifying Election Petition.

29. The Petitioner submits that this conduct constitutes a violation of the Petitioner's right to participate in the electoral process on an equal footing, as guaranteed by the Constitution and the Electoral Process Act.

30. In Mulondwe Muzungu v Elliot Kamondo, 2010/EP/001, the Court held that the obstruction of a candidate's campaign activities constitutes an electoral, malpractice that my affect the validity of the election.

31. The Petitioner submits that the obstruction of his campaign activities materially interfered with his ability to present his candidacy to the electorate and to participate in the election on an equal footing with the 1st Respondent.

(ii) INTERFERENCE WITH THE COUNTING PROCESS

32. The Petitioner has deposed that on the day of vote counting, the 1st Respondent deployed individuals to a named Polling Station to obstruct vote counting and intimidate polling agents. This allegation is set out in paragraph 6(ii) of the Petition and paragraph 9 to 14 of the Affidavit of Facts Verifying Election Petition.

33. The specific acts of interference alleged include inter alia the entry of persons purporting to represent and/or support the 1st Respondent into the Polling of the counting; The disruption of proceedings at the polling station; and the continuation of the counting and/or handling of ballots in circumstances where the Petitioner's representatives were no longer in a position to observe the process.

34. In Josephat Mlewa v Eric Wighton (1995- 1997) Z.R. 171, the Supreme Court held that:

"……in plural politics, it is the parties which mount the campaigns for their candidates and that the consequences of any illegal dealings will inevitably affect the candidates so that a defence of not being personally involved would not be upheld if shown that the illegal acts complained of affected the results of the election."

35. The Petitioner submits that the interference with the counting process, as set out in the affidavit of facts verifying Election Petition, constitutes an illegal practice within the meaning of the Electoral Process Act and the Electoral (Code of

DENIAL OF ACCESS THE TOTALLING CENTRE

36. The Petitioner submits that the denial of access to electoral documents prevented him from verifying the accuracy of the figures declared and constituted a violation of his right to participate in the electoral process on an equal footing.

37. In ***Nkandu Luo (Prof) and Electoral Commission of Zambia v Doreen Sefuke Mwamba and the Attorney General, Selected Judgment No. 51 of 2019***, the Constitutional Court emphasized the importance of transparency in the electoral process and the provision of electoral documents to candidates and their agents.

38. The Petitioner submits that the denial of access to electoral documents, coupled with the interference with the counting process, raises serious questions concerning whether all votes cast were properly accounted for, accurately counted and correctly reflected in the results declared by the Returning Officer.

THE EFFECT ON THE MAJORITY OF VOTERS

39. The Petitioner has deposed that as a consequence of the aforesaid corrupt, illegal acts and electoral malpractices committed by the 1st Respondent, the majority of the voters in the affected areas and/or many polling stations were prevented from electing a candidate of their choice, whom they preferred in their Chadiza West Constituency. This allegation is set out in paragraph 27 of the Affidavit of Facts Verifying Election Petition.

In ***Mubika Mubika v Poniso Njeulu, SCZ Appeal No. 114 of 2007***, the Supreme Court held that: "*The provision for declaring an election of a Member of Parliament void is only where, whatever activity is complained of, it is proved satisfactorily that as a result of the wrongful conduct, the majority of voters in a constituency were or might have been prevented from electing a candidate of their choice. It is clear that when facts alleging misconduct are proved and fall in the prohibited category of conduct, it must be shown that the prohibited conduct was widespread in the constituency to the level where registered voters in greater numbers were influenced so as to change their selection of a candidate for that particular election in that constituency, only then can it be said that a greater number of registered voters were prevented or might have been prevented from electing their preferred candidate.*"

41. The Petitioner therefore pleads with this Court to so find that the voters were by the violence perturbed from voting freely, and that by the direct involvement of the 1st Respondent and/or his agents in the electoral malpractices complained of.

THE PRINCIPLE OF AGENCY AND THE LIABILITY OF THE 1ST RESPONDENT

42. In ***Nkandu Luo (Prof) and Electoral Commission of Zambia v Doreen Sefuke Mwamba and the Attorney General, Selected Judgment No. 51 of 2019*** the Constitutional Court held that:

> "In order for Petitioner to successfully have an election annulled pursuant section 97 (2)(a) there is a threshold to surmount. The first requirement is for the Petitioner to prove to the satisfaction of the Court that the person whose election is challenged personally or through his duly appointed election or polling agents, committed a corrupt practice or illegal practice or other misconduct in connection with the election, or that such malpractice was committed with the knowledge and consent or approval of the candidate or his or her election or polling agent."

The Petitioner submits that the conduct complained of in this Petition constitutes corrupts practices, illegal practices and/or other misconduct committed by the 1st Respondent personally and/or with his knowledge and consent or approval, and that such conduct prevented the majority of voters from electing the candidate whom they preferred.

THE SCOPE AND APPLICATION OF SECTION 97(2)(A) AND (B)

My Lord/Lady, the Petitioner submits that the conduct complained of in this Petition falls within the ambit of both Section 97 (2)(a) and Section 97(2)(b) of the Electoral Process Act.

In **Giles Chomba Yamba v Kepembwa Sibao and others, Selected Judgment No. 6 of 2028,** the Constitutional Court held that:

"*We have already stated above that an election can be annulled on the strength of one incident of corrupt or illegal practice or misconduct provided that, under Section 97 (2)(a), such is attributable to the candidate or his duly appointed agent with their knowledge and consent or approval and majority of the electorates were or may have been prevented from electing a candidate they preferred; or if it is an allegation pursuant to Section 97 (2)(b) on non-compliance, cogent evidence must be proffered to show that the results were affected.*"

The Petitioner submits that the evidence adduced in support of this Petition established that illegal practices and/ or other misconduct were committed by the 1st Respondent and/or with his knowledge and consent or approval, within the meaning of Section 97 (2)(a); and that there was non-compliance with the provisions of the Electoral Process Act relating to the conduct of lections, within the meaning of Section 97 (2)(b).

THE IMPORTANCE OF FREE AND FAIR ELECTIONS

The Petitioner submits that free and fair elections are the cornerstone of a democratic society, as recognized in Article 45 (2) of the Constitution of Zambia, which provides that:

"(2) The electoral process and system of administering elections shall ensure-
(a) that elections are free and fair;
(b) That elections are free from violence, intimidation and corruption."

In ***Nana Addo Dankwa Akufo Addo and others v John Dramani Mahama and 2 others***, Writ No. J1/6/2013 (Supreme Court of Ghana), the Court held that:

"*Elections ought not be held void by reasons of transgressions of the law without any corrupt motive by the returning officer or his subordinate, and where the Court is satisfied that the election was, notwithstanding those transgressions, a real election and was conducted under the existing election law.*"

The Petitioner submits that the conduct complained of is this Petition goes beyond mere transgressions of the law and demonstrates serious electoral

I. CONCLUSION

56. My Lord/Lady, the Petitioner respectfully submits that the election of the 1st Respondent as Member of Parliament for Chadiza West Constituency was conducted in a manner that fell short of the constitutional and statutory requirements for free and fair elections.

57. The conduct complained of, including the obstruction of the Petitioner's campaign activities, the interference with the counting process, the distribution of chitenje materials, the intimidation of polling agents, and the denial of access to electoral documents, constitutes electoral practices, illegal practices and/or other misconduct within the meaning of the Electoral Process Act.

58. The Petitioner adduced evidence establishing the allegations made to the requisite standard of a fairly high degree of convincing clarity, as required by the decisions of the Supreme Court and the Constitutional Court in a long time of authorities demonstrating that:

(i) The 1st Respondent personally and/or through his agents and/or with his knowledge and consent or approval, committed corrupt practices, illegal practices and/or other misconduct in connection with the election.

(ii) There was non-compliance with the provisions of the Electoral Process Act relating to the conduct of elections;

(ii) Such conduct and non-compliance prevented the majority of voters in Chadiza West Constituency from electing the candidate whom they preferred.

59. The Petitioner is not seeking to delay justice or to abuse the process of the Court. The Petitioner seeks only to have the integrity of the electoral process upheld and to ensure that the will of the electorate in Chadiza West Constituency is properly ascertained and respects.

PRAYER

1. A declaration that the election of the 1st Respondent as a Member of Parliament for Chadiza West Constituency is **NULL AND VOID AB INITIO**.

2. A declaration that the illegal practices committed by the 1st Respondent and / or his agents affected the election result and that the same ought to be nullified.

3. Such other declarations and orders as this Honourable Court may deem fit including a recount.

4. An Order that costs occasioned by the Petitioner be borne by the 1st Respondent.

Dated the _____ day of _____ 2026

Per: Messrs Muleza Mwiimbu and Company
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LUSAKA
Email: mulezamwiimbu@gmail.com
ADVOCATES FOR THE PETITIONER

TO: Obet Phiri
House No.
Chadiza
1st Respondent

TO: The Legal Counsel
Electoral Commission of Zambia
Elections House
Haile Selassie Avenue
P.O. Box 52074
LUSAKA
ADVOCATES FOR THE 2ND RESPONDENT

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

2026/HP/EP/021

IN THE MATTER OF:	**ARTICLES 47(2), 51, 54, 68, 72(2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA**
IN THE MATTER OF:	**SECTIONS 81, 89, 97 (1), 98(C), 99, 100 (2) (A) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**
IN THE MATTER OF:	**CODE OF CONDUCT RULES 12, 15 (a), (h), (k)**
IN THE MATTER OF:	**CHADIZA WEST CONSTITUENCY ELECTIONS HELD IN ZAMBIA ON THE 13TH DAY OF AUGUST 2026**
IN THE MATTER OF:	**RULE 9(1) OF THE HIGH COURT (ELECTION PETITION RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026)**

BETWEEN:

JONATHAN DAKA — **PETITIONER**

AND

OBET PHIRI — **1ST RESPONDENT**

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

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

2ND RESPONDENT'S AFFIDAVIT IN OPPOSITION OF THE NOTICE OF MOTION TO RAISE PRELIMINARY ISSUES ON A POINT OF LAW

I, **YVETTE MUKWIZA,** of House No. 1704/M, Ibex Hill, Lusaka District in the Lusaka Province of the Republic of Zambia, **DO HEREBY** make oath and **SAY** as follows:

1. **THAT** my particulars are as stated above.
2. **THAT** I am a duly authorised representative of the 2nd Respondent herein and am competent to depose to this Affidavit from the records of the proceedings and matters within my knowledge.

3. **THAT** the Petition herein was filed in this Honourable Court On the 28th August, 2026 and the matter subsequently came before Her Ladyship Honourable Justice Malama for a scheduling conference on 10th September 2026.
4. **THAT** at the said scheduling conference, the Court issued orders for directions requiring the Petitioner to file the Petitioner's list and bundle of documents on or before 15th September 2026 and the 1st Respondent to file its list and bundle of documents on or before 17th September 2026.
5. **THAT** the said directions were made by the Court in the presence of the parties and/or their respective advocates and remain the directions governing the filing of the respective documents in the matter.
6. **THAT** on 11th September 2026, the 1st Respondent filed a Notice of Motion to raise a Preliminary Issue on a Point of Law alleging, among other things, that the failure to file a list, description and bundle of documents together with the Petition renders the Petition incompetent.
7. **THAT** at the time the Preliminary Issue was filed, the date directed by the Court for the Petitioner to file its list and bundle of documents, namely 15th September 2026, had not elapsed.
8. **THAT** I depose to the foregoing facts in good faith and for purposes of placing before this Honourable Court the circumstances surrounding the filing of the Preliminary Issue.
9. **THAT** the above is true and correct to the best of my knowledge, information and belief.

SWORN by the said **YVETTE**)
MUKWIZA at **LUSAKA** this)
16th day of Sept, 2026.)

_____
DEPONENT

BEFORE ME: _____
ANGELA CHIKAMBA MWALULA
NOTARY PUBLIC
COMMISSIONER FOR OATHS
COMMISSIONER FOR OATHS

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

2026/HP/EP/021

IN THE MATTER OF:	**ARTICLES 47(2), 51, 54, 68, 72(2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA**
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BETWEEN:

JONATHAN DAKA	**PETITIONER**
AND	
OBET PHIRI	**1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	**2ND RESPONDENT**

2ND RESPONDENT'S AFFIDAVIT IN OPPOSITION OF THE NOTICE OF MOTION TO RAISE PRELINARY ISSUE ON A POINT OF LAW

Per: _____

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LUSAKA.
Email: info@mazubabandaandco.com
Advocates for the 2ND Respondent.

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

2026/HP/EP/ 021

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 SEP 2026
PRINCIPAL REGISTRY

IN THE MATTER OF: ARTICLES 47(2), 51, 54, 68, 72 (2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA .

AND

IN THE MATTER OF: SECTIONS 81, 89, 97 (1), 98 (C), 99, 100 (2) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 CODE OF CONDUCT RULES 12,15(a), (h),(k).

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JONATHAN DAKA — PETITIONER

AND

OBET PHIRI — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

AFFIDAVIT IN OPPOSITION TO AFFIDAVIT VERIFYING FACTS

The Answer of I, **OBET PHIRI**, of House No 21 Kamwala Compound, of Chadiza District, Eastern Province, in the Republic of Zambia, **DO HEREBY** make **OATH** and **SAY** as follows:

1. That my full particulars are as stated above.
2. That I am a Zambian National.,
3. That I am a business man and a politician by profession.

4. That I am the 1st Respondent in these proceedings and a duly elected Member of Parliament for Chadiza West Constituency following the elections held on 13th August 2026. I have the capacity to depose to this Affidavit and the facts deposed to herein are true and correct to the best of my knowledge, information and belief.

5. That I was duly nominated and contested the said elections under the National Reconciliation party for Unity and Prosperity herein called (**NRPUP**) and was declared winner by the Returning Officer, an officer of the 2nd Respondent, after obtaining the majority of valid votes cast in the total number of **8,566**. Followed by the petitioner who obtained **7,085.**

6. That I have read the contents of the Petitioner's Affidavit Verifying Petition dated 28th August 2026 and I wish to respond thereto as follows:

7. That paragraphs 1 to 6 of the Petitioners Affidavit are not disputed and peculiar with the Petitioner.

8. That contrary to paragraphs 7 of the Petitioner's Affidavit are denied in their entirety and wish to state hereunder;

   (i) That at no time before, during and after the campaign period or on the voting day did I or any of my agents distribute any unbranded chitenje material as purported and that Chadiza west has 43 polling stations and that at no time did I engage myself in distributing unbranded chitenje material or such act whatsoever.

   (ii) That I did not appear before any Conflict Management Committee in respect of the alleged distribution of chitenje, and I did not admit to any offence as alleged. The Petitioner has not annexed any Minutes to support this allegation and as such I deny such baseless allegations.

   (iii) That at no time did I or the Petitioner collect any Chitenge materials from me or my agents as alleged and I wish to deny such allegation.

   (iv) That contrary to the allegations that I was distributing K10 notes, I have never paid or distributed any monies to any electorates, as I am a law-

abiding citizen and I was compliant with the electoral rules as was advised by the 2nd Petitioner and my advocates herein. Such allegations are false and not true.

(v) That I did not campaign on polling day, nor did I or my agents show the NRPUP symbol to voters on the actual day of voting. Such conduct would be contrary to the Electoral Code of Conduct which I undertook to abide by.

(vi) That The Petitioner was not forced to leave Chiyambi Polling Station. Polling Agents are permitted to remain at Polling Stations throughout the voting and counting process in accordance with Electoral Commission of Zambia guidelines, I was never at the said Polling station as alleged and no illegalities as alleged took place.

(vii) That I have no knowledge of one Luandani Phiri being removed from the queue at Mangwe Polling Station. The security at the said Polling Station was provided by the Zambia Police Service and not by Immigration Officers. The Petitioner has not produced any complaint or Occurrence Book number to support this allegation.

(viii) That contrary to the allegations that the Totaling Centre was not accessible by the Petitioner, I wish to state that The totalling centre was accessible to all candidates, agents and stakeholders. It was manned and secured by the Zambia Police Service. I did not surround the totalling centre with NRPUP members as alleged.

(ix) That Contrary to the allegations that there was tempering with G20 forms, I wish state that at no time did that G20 Forms were tempered with as a All Gen 20 forms were signed by Presiding Officers, Polling Agents present, and Candidates' Representatives in accordance with the law. The Petitioner's allegation regarding Naviluli Polling Station is false. The document marked "JD1" is a copy and not the original, and its authenticity is disputed.

(x) That contrary to the allegations of threats, I did not threaten any UPND Polling Agent nor did I cause or condone the beating of one Trevor Siabwengu at Chisomo Polling Station. I was not present at the alleged

incident. The matter, if it occurred, should have been reported to Police with an OB number, which the Petitioner has not provided.

9. That the elections in Chadiza West Constituency were free, fair and transparent conducted in accordance with the Constitution of Zambia and the Electoral Process Act No. 35 of 2016.

10. That the 2nd Respondent acted professionally and impartially throughout the electoral process.

11. That the Petitioner lost the election fairly and is now seeking to overturn the will of the people through unsubstantiated allegations.

12. That as a result of the foregoing, the Petitioner has not disclosed any grounds upon which this Honourable Court can nullify my election.

13. That this Honourable Court dismisses the Petition with costs.

14. That the facts deposed herein are true and correct to the best of my knowledge.

SWORN BY the said)
OBET PHIRI)
At Lusaka this 3)
Day of Sept 2026)

_____
Deponent

BEFORE ME: _____
COMMISSSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 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/021

IN THE MATTER OF: **ARTICLES 47(2), 51, 54, 68, 72(2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA**

IN THE MATTER OF: **SECTIONS 81, 89, 97 (1), 98(C), 99, 100 (2) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**

IN THE MATTER OF: **CODE OF CONDUCT RULES 12, 15 (a), (h), (k)**

IN THE MATTER OF: **CHADIZA WEST CONSTITUENCY ELECTIONS HELD IN ZAMBIA ON THE 13TH DAY OF AUGUST 2026**

IN THE MATTER OF: **RULE 9(1) OF THE HIGH COURT (ELECTION PETITION RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026)**

BETWEEN:

JONATHAN DAKA **PETITIONER**

AND

OBET PHIRI **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

2nd RESPONDENT'S AFFIDAVIT IN OPPOSITION TO PETITIONER'S

I, **THOMAS JUMBE MBEWE**, of Kanjala Extension in the Chadiza District in the Eastern Province of the Republic of Zambia, **DO HEREBY** make oath and **SAY** as follows:

1. **THAT** I am the Returning Officer for Chadiza West Constituency, having been duly appointed as such by the 2nd Respondent for the purposes of the Chadiza West Constituency Parliamentary Elections held on the 13th of August 2026, and I am duly authorised by the 2nd Respondent to swear this Affidavit on its behalf, the facts deposed to herein being within my personal knowledge save where otherwise stated, in which case the source of my information and belief is disclosed.

2. **THAT** I have read and am familiar with the contents of the Election Petition filed herein by the Petitioner, Jonathan Daka and I depose this Affidavit in opposition thereto and in support of the Answer to the Petition filed on behalf of the 2nd Respondent.

3. **THAT** it is true that Obet Phiri, Jonathan Daka and Mirriam Sakala were the duly nominated candidates in the Chadiza West Constituency Parliamentary Elections held on the 13th of August 2026, having stood on the NRPUP, UPND and CF tickets respectively.

4. **THAT** the said Election was conducted by the 2nd Respondent on the 13th August, 2026 in accordance with the Electoral Process Act No. 35 of 2016 and the Electoral (General) Regulations and that upon conclusion of voting, counting and collation of results, the results were declared as follows: Obet Phiri (NRPUP) — 8,566 votes; Jonathan Daka (UPND) — 7,085 votes; and Mirriam Sakala (CF) — 439 votes and that the 1st Respondent, having polled the highest number of valid votes cast, was duly declared the winner and returned as Member of Parliament for Chadiza West Constituency.

5. **THAT** I verily believe the results so declared to be a true and accurate reflection of the votes lawfully cast by the electorate of Chadiza West Constituency, the same having been recorded, counted, verified and certified by the respective Presiding Officers and by myself as Returning Officer, in the presence of candidates and/or their duly accredited polling and counting agents where available.

6. **THAT** as to the allegations contained in paragraph 5(i) to (vii) and (x) of the Petition concerning the alleged conduct of the 1st Respondent, his agents and third parties in the distribution of campaign materials, alleged vote-buying, alleged intimidation and alleged death threats, I depose that these are not matters that were conducted by or within the direct knowledge or control of the 2nd Respondent or its officials and I am not able to confirm the truth of the said allegations.

7. **THAT** as to paragraph 5(viii) of the Petition, I deny that the Petitioner was denied access to the totaling centre. I verily believe that candidates and their duly accredited agents and monitors were, in accordance with the 2nd Respondent's guidelines and the Electoral Process Act No. 35 of 2016, permitted access to the

totaling centre for Chadiza West Constituency and I am not aware of any instance in which the Petitioner or his agents were unlawfully excluded therefrom.

8. **THAT** as to paragraph 5(ix) of the Petition, I deny that there was any manipulation of votes or unlawful tampering with the Statements of Results (Gen 20 forms). As to Naviluli (01) Polling Station in particular, I verily believe that the Statement of Results (Gen 20) for the said polling station was duly completed and signed by the Presiding Officer in the discharge of his or her statutory duty and I am not aware of any request by any polling agent to sign the said form having been refused.

9. **THAT** as to the alleged assault on one Trevor Siabwengu at Chisomo Polling Station referred to in paragraph 5(ix)(b) of the Petition, I have no personal knowledge of the said incident beyond what is pleaded save that I am aware that any such complaint reported to the Zambia Police Service would fall to be investigated and dealt with by that authority and not by the 2nd Respondent.

10. **THAT** I deny that the majority of voters in Chadiza West Constituency were, by reason of any act or omission attributable to the 2nd Respondent, prevented from electing the candidate of their choice and I verily believe that the Election was conducted substantially in accordance with the principles laid down in the Electoral Process Act No. 35 of 2016 and the Constitution of Zambia and that the results declared reflect the free and fair will of the electorate.

11. **THAT** the above is true and correct to the best of my knowledge, information and belief.

SWORN by the said THOMAS JUMBE MBEWE)
at **LUSAKA** this 8TH day)
of SEPTEMBER, 2026.)

DEPONENT'S

BEFORE ME: _____

COMMISSIONER FOR OATHS

CHOMBO Esq
LEG. AHCZ. ASCZ
08 SEP 2026
LEGAL PRACTITIONER
COMMISSIONER FOR OATHS

IN THE HIGH COURT FOR ZAMBIA 2026/THP/EP/021
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF: ARTICLES 47(2), 61, 54, 68, 72 (2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA

AND

IN THE MATTER OF: SECTIONS 81, 89, 97 (1), 98 (C), 99, 100 (2) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: CODE OF CONDUCT RULES 12, 15 (a), (h), (K)

AND

IN THE MATTER OF: CHADIZA WEST CONSTITUENCY ELECTIONS HELD IN ZAMBIA ON THE 13TH DAY OF AUGUST,2026

AND

IN THE MATTER OF: RULE 9 (1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026

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

BETWEEN:

JONATHAN DAKA PETITIONER

AND

OBET PHIRI 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA 2ND RESPONDENT

AFFIDAVIT IN SUPPORT OF SUMMONS TO RAISE PRELIMINARY ISSUE

I, JOSHUA PHIRI of Plot No.17 Mapepe Road, Olympia Park, Lusaka in the district of Lusaka province of the Republic of Zambia DO HEREBY MAKE OATH AND SAY AS FOLLOWS:

1. That my particulars are as stated above.

2. That I am a Zambian national.

3. That I am a legal practitioner by profession.

4. That I am Counsel having Conduct of this matter on behalf of the 1st Respondent herein thus competent to swear this Affidavit from facts within my personal knowledge and belief.

5. That as this record will show, the Petitioner commenced this matter against the Respondents by way of a Petition before This Honourable Court.

6. That as the Court's record will further show, in support of the said Petition, the Petitioner filed into Court the following documents:

   i) Notice of Petition;

   ii) Election Petition;

   iii) Petitioner's list of witnesses;

   iv) List of authorities and skeleton arguments in support of Affidavit facts verifying Election Petition; and

   v) Affidavit verifying Petition.

7. That contrary to the provisions of the law, the Petitioner omitted to file into Court a list, description and bundle of documents together with the Election Petition.

8. That at the time of filing the said Petition, the Petitioner did have documents which they intended on relying on at the hearing which have been exhibited in the Affidavit verifying Petition.

9. That the said omission is fatal and divests the Court of the jurisdiction to hear and determine the Petition.

10. That I depose to the above facts verily believing the same to be true and correct to the best of my knowledge and belief.

SWORN by the said)
JOSHUA PHIRI)
at Lusaka this 11th)
day of SEPT 2026)

DEPONENT

REPUBLIC OF ZAMBIA
CONSTITUTIONAL COURT OF ZAMBIA
11 SEP 2026
CLERK OF COURT

BEFORE ME:

COMMISSIONER OF OATHS
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
28 AUG 2026
P.O. BOX

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

2026/HP/EP/021

IN THE MATTER OF:	**ARTICLES 47(2), 51, 54, 68, 72 (2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA**
AND	
IN THE MATTER OF:	**SECTIONS 81, 89, 97 (1), 98 (C), 99, 100 (2) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**
IN THE MATTER OF:	**CODE OF CONDUCT RULES 12, 15 (a), (h), (K)**
AND	
IN THE MATTER OF:	**CHADIZA WEST CONSTITUENCY ELECTIONS HELD IN ZAMBIA ON THE 13TH DAY OF AUGUST, 2026**
AND	
IN THE MATTER OF:	**RULE 9 (1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026**

BETWEEN:

JONATHAN DAKA	**PETITIONER**
AND	
OBET PHIRI	**1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA	**2ND RESPONDENT**

AFFIDAVIT VERYING PETITION

The Petition of **JONATHAN DAKA** of Chiguduli Village, Chief Mulolo, Chadiza in the Eastern Province of the Republic of Zambia **DO HEREBY** make **OATH** and **SAY** as follows;

1. That my full particulars are as stated above.

2. That I am a Zambian National.

3. That I am the Petitioner in this matter hence competent to swear this my affidavit from my personal knowledge and belief.

4. That I was a candidate in the Chadiza West Constituency for Parliamentary Elections held on the 13th August, 2026 having successfully filed my nomination papers under the United Party for National Development (UPND).

5. That in the election referred to in paragraph (4) above, the following persons were candidates namely; Obet Phiri, Jonathan Daka and Mirriam Sakala.

6. That the said election was conducted by the 2nd Respondent the Electoral Commission of Zambia established under Article 76 of the 1996 of the amended Constitution as read together with Section 19 of the Constitution of Zambia Act No. 1 of 2016.

7. That contrary to the declaration by the Returning Officer that the 1st Respondent was duly elected, the 1st Respondent was not validly elected for the reasons stated hereunder;

   (i) That the 1st Respondent who was standing on the NRPUP was distributing unbranded chitenje materials in all the Polling stations during the campaigns and on the actual day of voting.

   (ii) That the said candidate was reported to the Conflict Management Committee where he admitted having committed an offence and promised to stop the same but continued with the distribution especially in the night. Minutes to be included later.

   (iii) That some of the chitenje materials were confiscated by the Petitioner and his agents and kept them as evidence.

   (iv) That the 1st Respondent was seen distributing K10.00 notes to the voters on the queue while pretending to be greeting them when not.

   (v) That the 1st Respondent and his Agents were seen showing the NRPUP symbol to the voters on the actual day of voting.

   (vi) That at Chiyambi Polling Station, the Petitioner was forced to leave the Polling station immediately the Petitioner's children voted while the 1st Respondent and his Agents remained behind and continued with their illegal practices.

   (vii) That at Mangwe Polling Station, one of the UPND members by the name of Luandani Phiri was forcefully removed from the queue of voters when he merely complained that NRPUP members were busy campaigning but

instead the immigration officer who was providing security chased away the said Laundani Phiri accusing him of causing confusion and yet not.

(viii) That as an interested party, the Petitioner was not allowed to access the totaling center which was surrounded by the NRPUP members only.

(ix) That there was massive manipulation of votes and tempering with the Gen 20 forms where the UPND Polling Agents were not allowed to sign the said important documents particularly from;

(a) Naviluli (01) Polling Station where the original Gen 20 form was never signed by any other official apart from the Presiding Officer. Now produced and shown to me is a copy of the Gen 20 form marked **"JD 1"**.

(x) That the Ward Chairman, Mr. Bernard Phiri for Chadiza was using death threats on the UPND Polling Agents for Chadiza Ward, Madam Tiziwenji Banda, who was told that she would be killed by the said Bernard Phiri.

8. That at Chisomo Polling Station in Tikondane Ward, Trevor Siabwengu was badly beaten by the 1st Respondent's Agents in the presence of the 1st Respondent who did nothing to stop his Agents and the matter was reported at Zemba Police Post which is still unresolved to date.

9. That as a consequence of the aforesaid practices committed by the 1st Respondent and his agents, and the unprofessional behavior exhibited by the 2nd Respondent, the majority of the voters in the Constituency and / or Polling Stations were prevented from electing their preferred candidate in Chadiza West Constituency.

10. That by reason of the aforesaid, the Petitioner was disadvantaged as the playing field was not leveled.

11. That I depose to the contents of this my affidavit verily believing the same to be true and correct to the best of my knowledge and belief.

SWORN by the said)
JONATHAN DAKA)
At Lusaka this 28 day of AUG 2026)

BEFORE ME;_____
COMMISSIONER FOR OATHS

MUTUNA CHIMFWASOFU
BSc, LLB, AHCZ
LEGAL PRACTITIONER
COMMISSIONER FOR OATHS

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

2026/HP/EP/_____

IN THE MATTER OF: **ARTICLES 47(2), 51, 54, 68, 72 (2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA**

AND

IN THE MATTER OF: **SECTIONS 81, 89, 97 (1), 98 (C), 99, 100 (2) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016**

IN THE MATTER OF: **CODE OF CONDUCT RULES 12, 15 (a), (h), (K)**

AND

IN THE MATTER OF: **CHADIZA WEST CONSTITUENCY ELECTIONS HELD IN ZAMBIA ON THE 13TH DAY OF AUGUST, 2026**

AND

IN THE MATTER OF: **RULE 9 (1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026**

BETWEEN:

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

JONATHAN DAKA **PETITIONER**

AND

OBET PHIRI **1ST RESPONDENT**
ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

CERTIFICATE OF EXHIBITS

These are true copies of Exhibits referred to in the Affidavit of one **JONATHAN DAKA** marked "**JD1**"

Dated the .....day of 2026

BEFORE ME: .....

COMMISSIONER FOR OATHS

MUTUNA GRAHAM KASOFU
BSC, LLB, AHCZ
LEGAL PRACTITIONER
COMMISSIONER FOR OATHS

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

2026/HP/EP/021

IN THE MATTER OF:	**ARTICLES 47(2), 51, 54, 68, 72(2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA**
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IN THE MATTER OF:	**RULE 9(1) OF THE HIGH COURT (ELECTION PETITION RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026)**

BETWEEN:

JONATHAN DAKA — **PETITIONER**

AND

OBET PHIRI — **1ST RESPONDENT**

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

ANSWER TO THE PETITION FOR THE 2ND RESPONDENT

The Answer of the 2nd Respondent, Electoral Commission of Zambia, to the Petition herein is as follows:

1. Save that the 2nd Respondent has no personal knowledge of the internal adoption processes of the United Party for National Development (UPND), the 2nd Respondent admits paragraph 1 of the Petition to the extent that the Petitioner, Jonathan Daka, was a duly nominated candidate in the Chadiza West Constituency Parliamentary Elections held on the 13th August 2026.

2. Paragraph 2 of the Petition is admitted. The 2nd Respondent confirms that Obet Phiri, Jonathan Daka and Mirriam Sakala were the candidates in the said Election and that the Returning Officer duly declared the 1st Respondent as the winning candidate in accordance with the results recorded and verified at the relevant polling stations and the constituency totalling/tallying centre.

3. Paragraph 3 of the Petition is admitted. The 2nd Respondent avers that the Election was held on the 13th August 2026 and that the results declared by the Returning Officer were as follows: Obet Phiri (NRPUP) — 8,566 votes; Jonathan Daka (UPND) — 7,085 votes; and Mirriam Sakala (CF) — 439 votes, and that the said results were arrived at lawfully, transparently and in accordance with the Electoral Process Act No. 35 of 2016 and the Electoral (General) Regulations.

4. Paragraph 4 of the Petition is admitted. The 2nd Respondent conducted the said Election pursuant to its constitutional and statutory mandate under Article 229 of the Constitution and the Electoral Process Act No. 35 of 2016.

5. Save as is hereinafter specifically admitted, the 2nd Respondent denies each and every allegation contained in paragraph 5 of the Petition, and in particular denies that the 1st Respondent was not validly elected as Member of Parliament for Chadiza West Constituency, and puts the Petitioner to strict proof of each of the sub-paragraphs (i) to (x) thereof, and further states as follows in response to the specific sub-paragraphs:

   i) As to sub-paragraph (i), the 2nd Respondent has no personal knowledge of the matters alleged concerning the distribution of chitenge materials by the 1st Respondent, the same not being within the direct conduct of the 2nd Respondent's officials and the Petitioner is put to strict proof thereof.

   ii) As to sub-paragraph (ii), the 2nd Respondent avers that Conflict Management Committees operate as a mechanism for the amicable resolution of electoral disputes among contestants and are not organs through which the 2nd Respondent makes findings of illegal practice; the 2nd Respondent has no personal knowledge of the specific proceedings pleaded and puts the Petitioner to strict proof thereof.

iii) As to sub-paragraph (iii), the 2nd Respondent has no personal knowledge of the alleged confiscation of chitenje materials by the Petitioner and his agents and puts the Petitioner to strict proof thereof.

iv) As to sub-paragraph (iv), the 2nd Respondent denies any knowledge of the alleged distribution of K10.00 notes to voters on the queue by the 1st Respondent and puts the Petitioner to strict proof thereof.

v) As to sub-paragraph (v), the 2nd Respondent denies any knowledge of the 1st Respondent or his agents placing voters on the queue while displaying the NRPUP symbol and puts the Petitioner to strict proof thereof.

vi) As to sub-paragraph (vi), the 2nd Respondent denies that its Presiding Officer or polling staff at Chiyambi Polling Station compelled the Petitioner to hasten his children's voting or permitted any person to remain at the polling station to engage in unlawful conduct, and puts the Petitioner to strict proof thereof.

vii) As to sub-paragraph (vii), the 2nd Respondent avers that security at polling stations, including at Mangwe Polling Station, is provided by officers of the Zambia Police Service and other security wings deployed to maintain peace and order and not by officials under the direct control of the 2nd Respondent; the 2nd Respondent denies that any removal of Laundani Phiri from the queue was improper or attributable to the 2nd Respondent and puts the Petitioner to strict proof thereof.

viii) As to sub-paragraph (viii), the 2nd Respondent denies that the Petitioner, as an interested party, was denied access to the totalling/tallying centre. The 2nd Respondent avers that candidates and/or their duly accredited monitors and agents were, in accordance with the Electoral Process Act No. 35 of 2016 and the 2nd Respondent's guidelines, permitted access to the totalling centre and puts the Petitioner to strict proof of the allegation of exclusion.

ix) As to sub-paragraph (ix), the 2nd Respondent denies that there was any manipulation of votes or tampering with the Statement of Results (Gen 20) forms and denies that UPND polling agents were prevented from signing the said forms, and states further:

a) As to Naviluli (01) Polling Station, the 2nd Respondent avers that the Statement of Results (Gen 20) was duly and lawfully completed and signed by the Presiding Officer in accordance with the Electoral Process Act No. 35 of 2016 and that the signature of a Presiding Officer, being the officer charged by law with recording and certifying the results, is sufficient for the validity of the said form; the absence of additional signatures by polling agents, if any, does not of itself vitiate the result and the 2nd Respondent denies that any manipulation or tampering occurred, putting the Petitioner to strict proof thereof.

b) As to Chisomo Polling Station, the 2nd Respondent has no personal knowledge of the alleged assault on Trevor Siabwengu, notes that the matter is stated to have been reported to and remains under investigation by the Zambia Police at Zemba Police Post and denies that any such incident, if proved, is attributable to the 2nd Respondent or affected the conduct or outcome of the Election at the said polling station.

x) As to sub-paragraph (x), the 2nd Respondent has no personal knowledge of the alleged conduct of Mr. Bernard Phiri towards Madam Tiziwenji Banda, the same not involving any official or agent of the 2nd Respondent and puts the Petitioner to strict proof thereof.

6. Paragraph 6 of the Petition is denied. The 2nd Respondent avers that the Election in Chadiza West Constituency was conducted substantially in accordance with the principles laid down in the Electoral Process Act No. 35 of 2016, the Electoral (General) Regulations and the Constitution of Zambia, that the majority of voters were not prevented from electing the candidate of their choice and that the results

declared reflect the free and fair expression of the will of the electorate of Chadiza West Constituency.

7. SAVE as is hereinbefore expressly admitted, the 2nd Respondent denies each and every allegation contained in the Petition as if the same were set out herein and specifically traversed and denies that the Petitioner is entitled to any of the reliefs sought, or any relief at all, as against the 2nd Respondent.

WHEREFORE the 2nd Respondent prays that:

1. The Petition be dismissed in its entirety for want of merit.
2. This Honourable Court do declare and uphold the election of the 1st Respondent as the duly elected Member of Parliament for Chadiza West Constituency.
3. The costs of and occasioned by this Petition be borne by the Petitioner.
4. Such other or further relief as this Honourable Court may deem fit.

Dated the _____ day of _____, 2026.

Per: _____

Messrs. Mazuba Banda and Company
Villa Chile, House No. 35 Nalikwanda Road,
Woodlands,
P/B E891, Box 228
LUSAKA.
Email: info@mazubabandaandco.com
Advocates for the 2ND Respondent.

To: **Messrs Muleza Mwiimbu and Company**,
Plot 3796, Ngwerema Close,
Off Kwacha Road, Olympia Park,
P.O. Box 36182,
LUSAKA
Advocates for the Petitioner

1st Respondent
Amon Mumba,
Msanzala,
Petauke.

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

2026/HP/EP/021

IN THE MATTER OF: **ARTICLES 47(2), 51, 54, 68, 72(2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA**

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IN THE MATTER OF: **CHADIZA WEST CONSTITUENCY ELECTIONS HELD IN ZAMBIA ON THE 13TH DAY OF AUGUST 2026**

IN THE MATTER OF: **RULE 9(1) OF THE HIGH COURT (ELECTION PETITION RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026)**

BETWEEN:

JONATHAN DAKA **PETITIONER**

AND

OBET PHIRI **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

LIST OF AUTHORITIES AND SKELETON ARGUMENTS IN SUPPORT OF THE ANSWER AND AFFIDAVIT IN OPPOSITION ON BEHALF OF THE 2ND RESPONDENT

LIST OF AUTHORITIES

LEGISLATION

1. The Electoral Process Act No. 35 of 2016

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

CASES LAW

1. Anderson Kambela Mazoka and Others v Levy Patrick Mwanawasa and Electoral Commission of Zambia (2005) ZR 138 (SC)

1.0 INTRODUCTION

MAY IT PLEASE THIS HONOURABLE COURT, these are the Skeleton Arguments filed by the 2nd Respondent, the Electoral Commission of Zambia ("the Commission"), in support of its Answer to the Petition and the Affidavit in Opposition filed herein, and in opposition to the Election Petition filed by the Petitioner, Jonathan Daka, challenging the election of the 1st Respondent, Obet Phiri, as Member of Parliament for Chadiza West Constituency.

2.0 ISSUES FOR DETERMINATION

2.1. **MY LORD/MY LADY**, it is submitted that, as against the 2nd Respondent, the issues for determination are:

a) Whether the Petitioner has discharged the burden of proof, to the standard required in election petitions, of establishing that any illegal or corrupt practice was committed by, or with the knowledge, consent or approval of, the 2nd Respondent or any officer thereof;

b) Whether the Election was conducted substantially in accordance with the principles laid down in the Electoral Process Act No. 35 of 2016 and the Electoral (General) Regulations; and

c) Whether, even if any non-compliance is established, the same affected, or is such that it may reasonably be supposed to have affected, the result of the Election, so as to have prevented the majority of voters in Chadiza West Constituency from electing the candidate whom they preferred.

3.0 THE LAW

3.1. BURDEN AND STANDARD OF PROOF

MY LORD/MY LADY, it is trite that in election petitions the burden of proof lies squarely on the Petitioner throughout and does not shift to the Respondents merely because a Respondent elects not to call evidence in rebuttal of every allegation made. The Supreme Court's guidance in ***Anderson Kambela Mazoka and Others v Levy Patrick Mwanawasa and Electoral Commission of Zambia (2005) ZR 138 (SC)*** is authority for the proposition that the standard of proof required in election petitions is higher than the ordinary civil standard of a balance of probability, though it falls short of the criminal standard of proof beyond reasonable doubt; a Petitioner must adduce evidence of a fairly high degree of credibility and cogency before a Court can be moved to nullify the result of a democratic election.

3.3. It is further submitted that it is not sufficient for a Petitioner to prove the bare occurrence of an irregularity or isolated incident. Under ***Section 97 of the Electoral Process Act No. 35 of 2016***, an election shall only be voided on

proof that, by reason of a corrupt or illegal practice or other misconduct, the majority of voters in the constituency were or may have been prevented from electing the candidate whom they preferred or that there was non-compliance with the law relating to the conduct of elections which affected the result.

3.4. It follows that a petitioner must go further than merely narrating isolated incidents; the petitioner must establish, with the requisite degree of cogency, both:

(i) the occurrence of the illegal or corrupt practice or non-compliance complained of, and

(ii) that the same had a bearing on the result of the election, whether by reason of its scale, its effect on the majority of voters, or its causal connection to the declared outcome.

3.5. Distinct liability of the 2nd Respondent. It is submitted that the 2nd Respondent, as the body statutorily charged with the conduct of elections under ***the Electoral Process Act No. 35 of 2016*** is answerable in an election petition only for its own acts and omissions, or those of its own officers acting in that capacity and not for the personal conduct of a candidate, his election or polling agents or third parties, in the absence of proof that such conduct was committed with the knowledge, consent or approval of the 2nd Respondent or its officers.

4.0 SUBMISSIONS

4.1. **GROUNDS (I) TO (VII) AND (X) — NO ALLEGATION AGAINST THE 2ND RESPONDENT.**

MY LORD/MY LADY, it is submitted that the allegations at paragraph 5(i), (ii), (iii), (iv), (v), (vi), (vii) and (x) of the Petition, concerning the distribution of chitenje materials, proceedings before the Conflict Management Committee, alleged confiscation of materials, alleged vote-buying, alleged display of party symbols on the queue, alleged conduct at Chiyambi Polling Station, the removal of a party member from the queue at Mangwe Polling Station by a security officer and alleged threats by a Ward Chairman, are, on their face, allegations of the personal conduct of the 1st Respondent, his agents, or persons other than officers of the 2nd Respondent. None of these paragraphs plead, nor does the supporting evidence disclose, any act or omission on the part of the 2nd Respondent or its officers, still less that any such conduct was committed with the 2nd Respondent's knowledge, consent or approval. These grounds accordingly disclose no cause of action against, and no basis for relief as against, the 2nd Respondent.

4.2. As to the reference to the security officer at Mangwe Polling Station (ground (vii)), it is submitted that security personnel deployed at polling stations for the maintenance of peace and order are members of the Zambia Police Service and allied security wings and not officers of the 2nd Respondent; their conduct, even if established, cannot without more be attributed to the 2nd Respondent.

4.3. **GROUND (VIII) — ACCESS TO THE TOTALING CENTRE**.

MY LORD/MY LADY, it is submitted that the Petitioner's bare assertion that he was denied access to the totaling centre is unsupported by any particulars as to when, by whom, or in what manner access was denied, and is denied in the Affidavit in Opposition. In accordance with the 2nd Respondent's guidelines and

the ***Electoral Process Act No. 35 of 2016***, candidates and their duly accredited agents and monitors are entitled to be present at collation and totaling centres and it is submitted that the Petitioner has not discharged the burden of proving, to the standard required, that he was unlawfully excluded, still less that any such exclusion affected the declared result.

4.4. **GROUND (IX) — THE GEN 20 FORMS**.

MY LORD/MY LADY, it is further submitted that the completion and certification of the Statement of Results (Gen 20) by the Presiding Officer, as deposed to in the Affidavit in Opposition, satisfies the statutory requirement for the recording of results at a polling station. While the signature of polling agents on the Gen 20 form is a desirable feature of transparency, it is submitted that its absence, without more, does not constitute non-compliance with the law affecting the validity of the result, particularly where, as here, the Petitioner has not shown that the figures recorded on the Gen 20 form for Naviluli (01) Polling Station differed from those counted, or that any specific number of votes was thereby wrongly attributed to any candidate.

2.5. **GROUND (IX)(B) - alleged assault on Trevor Siabwengu at Chisomo Polling Station**,

MY LORD/MY LADY, it is submitted that this is, on the Petitioner's own pleading, a matter reported to and under investigation by the Zambia Police Service, and does not disclose any act or omission of the 2nd Respondent or its officers; nor does the Petition particularise how the incident, however regrettable, affected the counting or recording of votes at that polling station.

4.6. No proof of effect on the result. It is submitted that, even if the Court were to find that any of the matters pleaded at paragraph 5 of the Petition were proved against the 1st Respondent or third parties, the Petitioner has failed to plead or lead evidence demonstrating a causal connection between the matters complained of and the declared margin of 1,481 votes between the 1st Respondent and the Petitioner. In the absence of such proof, the Court cannot be satisfied that the majority of voters in Chadiza West Constituency were, or may have been, prevented from electing the candidate of their choice, as required to void the election under the applicable statutory grounds.

4.7. It is submitted, on the strength of the Affidavit in Opposition, that the 2nd Respondent conducted the Chadiza West Constituency Election substantially in accordance with the principles laid down in the Electoral Process Act No. 35 of 2016 and that the results declared reflect the true and free will of the electorate of Chadiza West Constituency.

5.0 CONCLUSION AND RELIEF SOUGHT

5.1. **MY LORD/MY LADY**, for the foregoing reasons, it is submitted that the Petitioner has failed to discharge the burden, to the standard required in election petitions, of proving any illegal or corrupt practice on the part of the 2nd Respondent, or of proving that any matter complained of affected, or is such as may reasonably be supposed to have affected, the result of the Election.

5.2. The 2nd Respondent accordingly and respectfully prays that this Honourable Court:

a) dismisses the Petition as against the 2nd Respondent for want of merit;

b) declares and upholds the election of the 1st Respondent as the duly elected Member of Parliament for Chadiza West Constituency; and

c) orders that the costs of and occasioned by this Petition, as against the 2nd Respondent, be borne by the Petitioner.

We are obliged!

Dated the _____ day of _____, 2026.

Per: **Messrs. Mazuba Banda and Company**
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Nalikwanda Road, Woodlands
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LUSAKA
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TO: MARGARET MITI
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1ST RESPONDENT

IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP/021
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF: ARTICLES 47(2), 61, 54, 68, 72 (2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA

AND

IN THE MATTER OF: SECTIONS 81, 89, 97 (1), 98 (C), 99, 100 (2) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: CODE OF CONDUCT RULES 12, 15 (a), (b), (K)

AND

IN THE MATTER OF: CHADIZA WEST CONSTITUENCY ELECTIONS HELD IN ZAMBIA ON THE 13TH DAY OF AUGUST,2026

AND

IN THE MATTER OF: RULE 9 (1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 11 SEP 2026 PRINCIPAL REGISTRY P.O. BOX 50067, LUSAKA

BETWEEN:

JONATHAN DAKA PETITIONER

AND

OBET PHIRI 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA 2ND RESPONDENT

RESPONDENT'S LIST OF AUTHORITIES AND SKELETON ARGUMENTS IN SUPPORT OF AFFIDAVIT IN SUPPORT OF NOTICE OF MOTION TO RAISE A PRELIMINARY ISSUE ON A POINT OF LAW

1. IF IT MAY PLEASE THIS HONOURABLE COURT, these are the 1st Respondent List of Authorities and Skeleton Arguments filed in support of the Notice of Motion to raise a preliminary issue.

2. LEGISLATION

2.1 RULES OF THE SUPREME COURT (WHITE BOOK, 1999 EDITION) 1965

2.2 High Court (Election Petition) Rules Statutory Instrument No. 31 of 2026

3. CASE LAW

3.1 Isaac Mwanza v Chitalu Chilufya and others 2026/HP/EP/002

3.2 Mattican Mutale vs Emmanuel Mutale 2007) Z.R. SCZ Judgment No. 14 of 2007

3.3 Ted Chanda Muwowo v Abraham Muwowo (Appeal No. 115/2014)

3.4 Kilolo N'gambi v Opa Kapijimpanga (Appeal No. 210/2015, Judgment of 9 October 2018)

4. BRIEF FACTS

4.1 My Lord/Lady, the Present Petition was filed in Court on 28th August, 2026. The Petition filed into Court was accompanied with a Notice of Petition, Petitioner's list of witnesses, List of authorities and skeleton arguments in support of Affidavit facts verifying Election Petition and Affidavit verifying Petition.

4.2 The Petitioner omitted to file into Court a list, description and bundle of documents together with the Election Petition which requirement is mandatory at law and the Court is invited to take judicial notice of this position.

5. THE LAW AND ARGUMENTS

5.1 THE JURISDICTION OF THE COURT

5.1.1 My Lord/Lady, the 1st Respondent's application is made pursuant to *Order 14A (1-2) of the Rules of the Supreme Court (White Book, 1999 Edition) 1965 which provides as follow:*

> ***"(1) The Court may upon the application of a party or of its own motion determine any question of law or construction of any document arising in any cause or matter at any stage of the proceedings where it appears to the Court that - (a) such question is suitable for determination without a full trial of the action, and (b) such determination will finally determine (subject only to any possible appeal) the entire cause or matter or any claim or issue therein.***
>
> ***(2) Upon such determination the Court may dismiss the cause or matter or make such order or judgment as it thinks just."***

5.1.4 My Lord/Lady, the effect of this provision is that where there is a question of law arising from the facts of a matter, the Court has jurisdiction to hear and determine the questions raised.

5.1.5 My Lord/Lady, coming to the case incasu, it is our submission that provisions of the law surrounding the filing of Election Petitions mandatorily require the Petitioner to file into

Court Ruling and Finds the Effect of Which Such a Petition is Rendered Incompetently before the Court.

The effect of the failure to file a list, description and bundle of documents together with the Election Petition

5.1.6 **My Lord/Lady**, Rule 9(3)(c) of the High Court (Election Petition) Rules Statutory Instrument No. 31 of 2026 specifies that an election petition must be accompanied by a **list, description and bundle of documents**. Rules (3) provides as follows:

> ***"3) A nomination petition referred to under subrule (1) shall be accompanied by —***
>
> (a) *an affidavit verifying facts;*
>
> (b) *skeleton arguments of not more than fifteen pages in font size 12 and with double spacing;*
>
> (c) *a list of authorities and copies of those authorities;*
>
> (d) *a list and description of documents to be relied on, if any; and*
>
> (e) *a bundle of documents, if any."*

5.1.7 The above provision of the High Court (Election Petition) Rules, 2026 are clear that when filing an Election Petition, it shall be accompanied by an affidavit, skeleton arguments, list of authorities and bundles of documents that the Petitioner intends to rely on. The rationale for the above position of the law is to ensure that petitions are heard timeously in view of the limited time within which they must be heard and determined, and also to ensure that Respondents are fully aware of the case they have to meet.

5.1.8 In that regard, the High Court (Election Petition) Rules, 2026 are clear that when filing a Election Petition, it shall be accompanied by an affidavit, skeleton arguments, list of authorities and bundles of documents that the petitioner intends to rely on.

5.1.9 If a Petitioner has documents to be lied upon, they must file them together with the Petition, the failure of which renders the Petition incompetently before the Court.

5.1.10 Suffice to state that a reading of Rule 9 (3) of the High Court (Election Petition) Rules shows that the provisions are couched in mandatory terms by the use of the word "shall".

5.1.11 In the case of Mutinta Mufalo and Others v Mulyata Nkandu Mwale and Others (Appeal No. 7 of 2008), the Supreme Court considered the case of the word 'shall' in a provision requiring Petitioners to sign the petition. The Court held that:

> *"(2) The fundamental rule of construction of Acts of Parliament is that they must be construed according to the words expressed in the Acts themselves. If the words of a statute are precise and unambiguous, then no more can be necessary than to expound on those words in the ordinary and natural sense."*

5.1.12 Whenever a strict interpretation of a statute gives rise to an absurdity and unjust situation, judges can and should use their good sense to remedy it by reading words in it, if necessary so as to do what Parliament would have done had they had the situation in mind.

5.1.13 In the context of Rule 9(3) the words used therein do not carry any technical meaning to require further elaboration as to the true intention of the legislature. A Petitioner is obliged to file a bundle of documents together with the Petition and not at any point later than this if they have documents to be relied upon.

5.1.14 In the Matilda Mutale case, the Apex Court proceeded to dismiss the Petition having found that it was mandatory for the Petitioner to personally sign the Petition in view of the use of the word 'shall'.

5.1.15 Similarly, in the case of Hakainde Hichilema & Geoffrey Bwalya Mwamba vs Edgar Chagwa Lungu, Inonge Wina, Electoral Commission & The Attorney Genera16, the Constitutional Court, in considering Article 101 (5) of the Constitution of Zambia, held that:

> *"The provision set out above is clear and unambiguous. It is couched in mandatory terms thus giving the Court no discretion to enlarge the time for hearing the petition."*

5.1.16 In a similar case of Isaac Mwanza v Chitalu Chilufya and others 2026/HP/EP/002 wherein parties filed into Court a Nomination Petition pursuant to the High Court (Election Petition) Rules Statutory Instrument No. 31 of 2026, the Court held that:

> *"In other words, the Petition must be filed with an affidavit verifying facts, skeleton arguments, a list of authorities and the copies of those authorities, a list and description of documents to be relied on, and a bundle of documents. The failure to file the aforesaid documents together with the petition is a fundamental omission that is fatal and*

renders the petition incompetent and improperly before court. The result is that the court is divested of the jurisdiction to hear and determine the petition. For the above reasons, I find merit in the objection. The 1st and 2'd Petitioners' nomination petition against the 1 st to the 105th Respondents is accordingly dismissed for being incompetent, and improperly before court. The nomination petition having failed, it is otiose to consider the other three applications."

5.1.17 In the above case, Rule 4(3) of the High Court (Election Petition) Rules equally uses the word 'shall'. That makes it mandatory for the petitioner, in a Nomination Petition, to file an affidavit verifying facts, skeleton arguments, a list of authorities and copies of authorities, a list and description of documents to be relied on and bundle of documents together with the Petition.

5.1.8 **My Lord/Lady**, our contention is that failure to file the bundle of documents together with the Petition entails that the mode of commencement is not complied with and therefore the mode of commencement itself is defective which goes to the jurisdiction of the Court as was stated in the case of Chikuta v Chipata Rural Council (1974) ZR 241 (SC) in which it was held that wrong mode of commencement goes to the jurisdiction of the court.

6.0 CONCLUSION

6.1 **My Lord/Lady,** it is our submission that based on the authorities cited above, the 1st Respondent has demonstrated a clear procedural preliminary issue in the Petitioner's case and it is our humble prayer that this Petition be dismissed with costs in favour of the 1st Respondent.

We remain obliged.

Dated at Lusaka this_____ day of_____ 2026

Drawn by: Chaps

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Advocates for the Petitioner

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Election House
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Advocates for the 2nd Respondent

IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP/021
AT THE PRINCIPAL REGISTRY
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4.2 The Petitioner omitted to file into Court a list, description and bundle of documents together with the Election Petition which requirement is mandatory at law and the Court is invited to take judicial notice of this position.

5. THE LAW AND ARGUMENTS

5.1 THE JURISDICTION OF THE COURT

5.1 **My Lord/Lady,** the 1st Respondent's application is made pursuant to *Rule 17 (1)* **High Court (Election Petition) Rules Statutory Instrument No. 31 of 2026** which provides as follows:

"(1) Subject to subrule (3), a party may make an interlocury application to be heard and determined by the Court."

5.1.4 Further, ***Order 14A (1-2) of the Rules of the Supreme Court (White Book, 1999 Edition) 1965*** *which* provides as follow:

"(1) The Court may upon the application of a party or of its own motion determine any question of law or construction of any document arising in any cause or matter at any stage of the proceedings where it appears to the Court that - (a) such question is suitable for determination without a full trial of the action, and (b) such determination will finally determine (subject only to any possible appeal) the entire cause or matter or any claim or issue therein."

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6.0 CONCLUSION

6.1 **My Lord/Lady,** it is our submission that based on the authorities cited above, the 1st Respondent has demonstrated a clear procedural preliminary issue in the Petitioner's case and it is our humble prayer that this Petition be dismissed with costs in favour of the 1st Respondent.

We remain obliged.

Dated at Lusaka this_____ day of_____ 2026

Drawn by: _____

Messrs Joseph Chirwa & Company

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To: The Legal Counsel
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P.O. Box 52074
Advocates for the 2nd Respondent

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

2026/HP/EP/021

IN THE MATTER OF:	**ARTICLES 47(2), 51, 54, 68, 72(2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA**
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IN THE MATTER OF:	**CHADIZA WEST CONSTITUENCY ELECTIONS HELD IN ZAMBIA ON THE 13TH DAY OF AUGUST 2026**
IN THE MATTER OF:	**RULE 9(1) OF THE HIGH COURT (ELECTION PETITION RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026)**

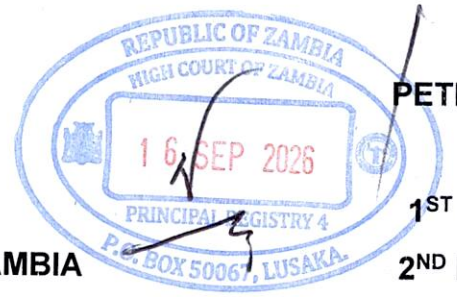
BETWEEN:

JONATHAN DAKA — **PETITIONER**

AND

OBET PHIRI — **1ST RESPONDENT**

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



2nd RESPONDENT'S LIST OF AUTHORITIES AND SKELETON ARGUMENTS IN OPPOSITION TO THE NOTICE OF MOTION TO RAISE PRELINARY ISSUE ON A POINT OF LAW

LIST OF AUTHORITIES

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

1. INTRODUCTION

1.1 **MY LADY**, the 1st Respondent has raised a Preliminary Issue contending that the Petition is fatally defective because the Petitioner did not file a list, description and bundle of documents together with the Petition.

1.2 The 2nd Respondent opposes the Preliminary Issue **MY LADY**. The objection was raised before the time directed by the Court for the Petitioner to file its documents had expired.

2. THE APPLICABLE RULES

2.1 **MY LADY**, the 2nd Respondent relies exclusively on the High Court (Election Petition) Rules, 2026, Statutory Instrument No. 31 of 2026. Rule 9(3) sets out the documents which accompany a Petition, including an Affidavit verifying facts, Skeleton arguments, a list of authorities and documents to be relied upon, if any.

2.2 Rule 15(2) provides that, at a scheduling conference, the Court shall issue such directions or orders as it considers necessary and that those directions or orders shall be strictly adhered to by the parties.

3. APPLICATION TO THE PRESENT MATTER

3.1 **MY LADY** On 10th September 2026, the parties appeared before Her Ladyship for a scheduling conference. The Court directed the Petitioner to file its list and bundle of documents by 15th September 2026 and the Respondent to file theirs by 17th September 2026.

3.2 The Preliminary Issue was filed by the 1st Respondent on 11th September 2026. Therefore **MY LADY,** it was raised before the Court-ordered deadline for the Petitioner's filing had expired.

3.3 In the circumstances, the omission complained of cannot, at that stage, properly

be treated as a failure to comply with the Court's directions. The directions made under Rule 15 govern the timetable for the filing of the documents.

3.4 Further to this **MY LADY**, a list and bundle of documents are evidential material upon which a party may wish to rely. Failure to file them at the time alleged does not go to the root of the Petition or deprive the Court of jurisdiction to hear the Petition.

4. CONCLUSION

4.1 The 2nd Respondent respectfully submits that the Petition is properly before this Honourable Court. The Petition was commenced in accordance with the applicable election petition procedure and the filing of the list and bundle was subject to the directions issued at the scheduling conference.

WHEREFORE, the 2nd Respondent accordingly prays that the Preliminary Issue be dismissed and that the Petition proceed in accordance with the directions of the Court.

DATED at Lusaka this _____ day of _____ 2026.

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LUSAKA

CO-ADVOCATES FOR THE 1ST RESPONDENT.

IN THE HIGH COURT FOR ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA

2026/HP/EP/021

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

2026/HP/EP/021

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
28 AUG 2026
BOX 50067, LUSAKA.

IN THE MATTER OF: ARTICLES 47(2), 51, 54, 68, 72 (2) C, 73 (1) OF THE CONSTITUTION OF THE REPUBLIC OF ZAMBIA

AND

IN THE MATTER OF: SECTIONS 81, 89, 97 (1), 98 (C), 99, 100 (2) (a) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016

IN THE MATTER OF: CODE OF CONDUCT RULES 12, 15 (a), (h), (K)

AND

IN THE MATTER OF: CHADIZA WEST CONSTITUENCY ELECTIONS HELD IN ZAMBIA ON THE 13TH DAY OF AUGUST, 2026

AND

IN THE MATTER OF: RULE 9 (1) OF THE HIGH COURT (ELECTION PETITION) RULES 2026, STATUTORY INSTRUMENT NO. 31 OF 2026

BETWEEN:

JONATHAN DAKA — PETITIONER

AND

OBET PHIRI — 1ST RESPONDENT
ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

LIST OF AUTHORITIES AND SKELETON ARGUMENTS IN SUPPORT OF AFFIDAVIT FACTS VERIFYING ELECTION PETITION

PART 1: LIST OF AUTHORITIES

LEGISLATION CITED

1. The Constitution of Zambia (Amendment) Act No. 2 of 2016.
2. The Electoral process Act No. 35 of 2016.
3. The Electoral Process (General) Regulations, Statutory Instrument No. 63 of 2016.
4. The Electoral (Code of Conduct) Regulations, Statutory Instrument No. 64 of 2016.

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

CASES CITED

1. Akashambatwa Mbikusita Lewanika and Others vs Fredrick Jacob Titus Chiluba (1998) Z.R. 79.
2. Anderson Kambela Mazoka and Others vs Levy Patrick Mwanawasa and Others (2005) Z.R. 138.
3. Michael Mabenga v Sikota Wina and Others (2003) Z.R. 110
4. Josephat Mlewa v Eric Wightman (1995 – 1997) Z.R. 171
5. Mubika Mubika v Poniso Njeulu, SCZ, Appeal No. 114 of 2007
6. Nkandu Luo (Prof) and Electoral Commission of Zambia v Doreen Sefuke Mwamba and The Attorney General, selected Judgment No. 51 of 2019.
7. Giles Chomba Yamba Yamba v Kapembwa Simbao and Others, selected Judgment No. 6 of 2018.
8. Abiud Kawangu v Elijah Muchima, Appeal No. 8 of 2017.
9. Mulondwe Muzungu v Elliot Kamondo, 2010/EP/001.
10. Nana Addo Dankwa Akufo Addo and Others v John Dramani Mahama and 2 others, Writ No. J1/6/2013 (Supreme Court of Ghana)
11. August v Electoral Commission and Others (1999) ZACC 3

PART II: SKELETON ARGUMENTS IN SUPPORT OF THE ELECTION PETITION

MAY IT PLEASE THIS HONOURABLE COURT, these are the Petitioner's Skeleton Arguments in support of the Election Petition challenging the election of the 1st Respondent as Member of Parliament for Chadiza West Constituency.

A. PRELIMINARY OBSERVATIONS

My Lord / Lady,

1. The Petitioner, Jonathan Daka, was a duly nominated and sponsored candidate for the Chadiza West Constituency Parliamentary Election held on 13th August, 2026, having been adopted by the United Party for National Development (UPND). The Petitioner contested the said election against the 1st Respondent, Obet Phiri and other candidates.

2. Following the conclusion of the Polling and counting process, the Returning Officer declared the 1st Respondent as the duly elected Member of Parliament for Chadiza West Constituency. The Petitioner, being aggrieved by the said declaration and the manner in which the election was conducted, has presented this Petition to challenge the validity of the 1st Respondent's election.

3. The Petitioner's grievances are founded on serious allegations of Electoral malpractices, including obstruction of the Petitioner's campaign activities, interference with the counting process, threats of Polling agents, beatings of Polling Agents, and denial of the Petitioner from accessing the totaling centre for verification of the results.

4. The Petitioner prays that this Honourable Court may be pleased to declare the Election of the 1st Respondent null and void and grant such other relief as the Court may deem fit and just in the circumstances.

B. JURISDICTION OF THE COURT

5. The jurisdiction of this Honourable Court to hear and determine an election petition challenging the election of a member of parliament is established under Article 73(1) of the Constitution of Zambia, which provides that:

"A person may file an election petition with the High Court to challenge the election of a Member of Parliament."

6 This constitutional provision is complemented by Section 96 of the Electoral Process Act No. 35 of 2016, which vests in the High Court the power to hear and determine questions concerning the validity of the appointment or nomination of a person as a Member of Parliament.

7. Further, Section 97(1) of the Electoral Process Act provides that:

"An election of a candidate as a Member of Parliament, Mayor, Council Chairperson or Councilor shall not be questioned except by an election Petition presented under this part.

8. With reference to the above, the Petitioner submits that this Honourable Court has the requisite jurisdiction to hear and determine this Petition and to grant the reliefs sought therein.

C. BURDEN AND STANDARD OF PROOF IN ELECTIONS PETITIONS

9. My Lord/Lady, it is trite law that in election petitions, the burden of proof rests on the Petitioner to establish the allegations made to the required standard. The Petitioner is cognizant of this burden and submits that the same has been discharged to the requisite standard.

10. In the seminal case of Akashambatwa Mbikusita Lewanika and Others v Fredrick Jacob Titius Chiluba (1998) Z.R. 79, the Supreme Court held at page 80 that:

"Parliamentary election Petitions are required to be proved to a standard higher than on a mere balance of probability."

11. Further, in Anderson Kambela Mazoka and Others v Levy Patrick Mwanawasa and Others (2005) Z.R. 138, the Supreme Court at page 140 stated:

"As regards burden of proof, the evidence adduced must establish the issues raised to a fairly high degree of convincing clarity."

12. The Constitutional Court in Abiud Kawangu v Elijah Muchima, Appeal No. 8 of 2017, reiterated this standard as follows:

"The standard remains higher and distinct from the required in an ordinary civil matter but lower than the standard of beyond reasonable doubt required in criminal matters."

13. The Petitioner submits that the evidence adduced in support of the Petition, as set out in the Affidavit of facts verifying election petition, establishes the allegations made to a fairly high degree of convincing clarity, thereby meeting the requisite standard of proof applicable to election petitions.

D. GROUNDS FOR NULLIFICATION OF AN ELECTION

(i) GENERAL PRINCIPLES

14. The grounds upon which the election of a candidate as Member of Parliament may be declared void are set out in Section 97(2) of the Electoral Process Act No. 35 of 2016, which provides as follows:

"(2) The election of a candidate as a member of parliament, mayor, council chairperson or councilor 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 c omitted 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.

(b) subject to the provisions of subsection (4), there has been non-compliance with the provisions of this Act relating to the conduct of elections, and it appears to the High Court or tribunal that the election was not conducted in accordance with the principles laid down in such provision and that such non-compliance affected the result of the election;

(c) The candidates was at the time of the election no qualified or was disqualified from being elected."

15. In the case of Micheal Mabenga v Sikota Wina and Others (2003) Z.R 110, the Supreme Court held that:

"Satisfactory proof of any one corrupt or illegal practice or misconduct in an election petition is sufficient to nullify an election."

16. The Petitioner submits that the conduct complained of in this Petition constitutes illegal practices and/or other misconduct within the meaning of Section 97(2)(a) of the Electoral process Act, and that such conduct was committed by the 1st Respondent and /or with his knowledge and consent or approval, thereby rendering the election of the 1st Respondent void.

(ii) ILLEGAL PRACTICE COMMITTED BY THE 1ST RESPONDENT

17. The Petitioner herein has adduced evidence demonstrating that the 1st Respondent obstructed the Petitioner from freely campaigning and addressing the community during the election period. This conduct constitutes a violation of Section 8(1) (g) of the Electoral Process Act, which prohibits the unlawful prevention of the holding of any political meeting or other political event.

18. Further, Regulation 15 (1) (a) of the Electoral (Code of Conduct) Regulations, 2016, provides that a person shall not:

"cause violence or use any language or engage in any conduct which leads or is likely to lead to violence or intimidation during an election campaign or elections."

19. The Petitioner submits that the obstruction of his campaign activities, as set out in the Affidavit of Facts Verifying Elections Petition, amounted to an illegal practice within the meaning of the Act and the Regulations.

(iii) NON-COMPLIANCE WITH THE PROVISIONS OF THE ACT RELATING TO THE CONDUCT OF ELECTIONS.

20. My Lord/Lady, the Petitioner has further adduced evidence demonstrating that the 1st Respondent deployed individuals to named Polling stations to obstruct vote counting and intimidate polling agents. This conduct constitutes non-compliance with the provisions of the Electoral Process Act relating to the conduct of elections.

21. In particular, the evidence demonstrates that:

(i) Persons purporting to represent and/or support the 1st Respondent beat up the UPND Polling Agent.

(ii) The Petitioner was asked, directed and/or compelled to leave the Polling Station after his children voted so that the 1st Respondent and his agents remain behind.

(iii) The Petitioner's observers were consequently unable to continue witnessing the counting of votes and unable to independently verify whether the ballots were properly counted.

(iv) The Petitioner was denied access to the totaling centre.

22. In Giles Chomba Yamba v Kapembwa Simbao and Others, Selected Judgment No. 6 of 2018, the Constitutional Court held that:

'Section 97(2)(b) relates to non-compliance with the law in the conduct of elections. It calls for annulment of elections in the event that there has been non-compliance with the principles laid down in the Electoral Process Act in as far as the conduct of elections is concerned."

23. The Petitioner submits that the conduct complained of constitutes non-compliance with the provisions of the Act relating to the conduct of elections, and that such non-compliance affected the result of the election.

(iv) THE PRINCIPLE OF SUBSTANCIAL COMPLIANCE

24. My Lord/Lady, we submit that the Petitioner is aware that an election shall not be declared void by reason of any act or omission by an election officer in breach of that officer's official duty if the election was conducted substantially in accordance with the provisions of the Act and such act or omission did not affect the result of the election, as provided in Section 97(4) of the Electoral Process Act.

25. However the Petitioner submits that the conduct complained of in this Petition goes beyond mere administrative irregularities and constitutes serious electoral malpractices that fundamentally undermined the integrity of the electoral process.

26. In August v Electoral Commission and Others (1999) ZACC 3, the South African Constitutional Court emphasized that elections must be conducted in a manner that permits the electorates will to be freely expressed and properly ascertained.

27. The Petitioner submits that the conduct complained of in this Petition prevented the electorate's will from being freely expressed and properly ascertained and that the election cannot be said to have been conducted substantially in accordance with the provisions of the Act.

E. SPECIFIC ALLEGATIONS AND SUPPORTING EVIDENCE

(i) OBSTRUCTION OF THE PETITIONER'S CAMPAIGN ACTIVITIES

28. My Lord/Lady, the Petitioner has deposed that during the time of elections, the 1st Respondent obstructed the Petitioner from freely campaigning and addressing the community. This allegation is set out in paragraph 6(i) of the Petition and paragraph 27 of the Affidavit of Facts verifying Election Petition.

29. The Petitioner submits that this conduct constitutes a violation of the Petitioner's right to participate in the electoral process on an equal footing, as guaranteed by the Constitution and the Electoral Process Act.

30. In Mulondwe Muzungu v Elliot Kamondo, 2010/EP/001, the Court held that the obstruction of a candidate's campaign activities constitutes an electoral, malpractice that my affect the validity of the election.

31. The Petitioner submits that the obstruction of his campaign activities materially interfered with his ability to present his candidacy to the electorate and to participate in the election on an equal footing with the 1st Respondent.

(ii) INTERFERENCE WITH THE COUNTING PROCESS

32. The Petitioner has deposed that on the day of vote counting, the 1st Respondent deployed individuals to a named Polling Station to obstruct vote counting and intimidate polling agents. This allegation is set out in paragraph 6(ii) of the Petition and paragraph 9 to 14 of the Affidavit of Facts Verifying Election Petition.

33. The specific acts of interference alleged include inter alia the entry of persons purporting to represent and/or support the 1st Respondent into the Polling of the counting; The disruption of proceedings at the polling station; and the continuation of the counting and/or handling of ballots in circumstances where the Petitioner's representatives were no longer in a position to observe the process.

34. In Josephat Mlewa v Eric Wighton (1995- 1997) Z.R. 171, the Supreme Court held that:

"……in plural politics, it is the parties which mount the campaigns for their candidates and that the consequences of any illegal dealings will inevitably affect the candidates so that a defence of not being personally involved would not be upheld if shown that the illegal acts complained of affected the results of the election."

35. The Petitioner submits that the interference with the counting process, as set out in the affidavit of facts verifying Election Petition, constitutes an illegal practice within the meaning of the Electoral Process Act and the Electoral (Code of

DENIAL OF ACCESS THE TOTALLING CENTRE

36. The Petitioner submits that the denial of access to electoral documents prevented him from verifying the accuracy of the figures declared and constituted a violation of his right to participate in the electoral process on an equal footing.

37. In ***Nkandu Luo (Prof) and Electoral Commission of Zambia v Doreen Sefuke Mwamba and the Attorney General, Selected Judgment No. 51 of 2019***, the Constitutional Court emphasized the importance of transparency in the electoral process and the provision of electoral documents to candidates and their agents.

38. The Petitioner submits that the denial of access to electoral documents, coupled with the interference with the counting process, raises serious questions concerning whether all votes cast were properly accounted for, accurately counted and correctly reflected in the results declared by the Returning Officer.

THE EFFECT ON THE MAJORITY OF VOTERS

39. The Petitioner has deposed that as a consequence of the aforesaid corrupt, illegal acts and electoral malpractices committed by the 1st Respondent, the majority of the voters in the affected areas and/or many polling stations were prevented from electing a candidate of their choice, whom they preferred in their Chadiza West Constituency. This allegation is set out in paragraph 27 of the Affidavit of Facts Verifying Election Petition.

In ***Mubika Mubika v Poniso Njeulu, SCZ Appeal No. 114 of 2007***, the Supreme Court held that: "*The provision for declaring an election of a Member of Parliament void is only where, whatever activity is complained of, it is proved satisfactorily that as a result of the wrongful conduct, the majority of voters in a constituency were or might have been prevented from electing a candidate of their choice. It is clear that when facts alleging misconduct are proved and fall in the prohibited category of conduct, it must be shown that the prohibited conduct was widespread in the constituency to the level where registered voters in greater numbers were influenced so as to change their selection of a candidate for that particular election in that constituency, only then can it be said that a greater number of registered voters were prevented or might have been prevented from electing their preferred candidate.*"

41. The Petitioner therefore pleads with this Court to so find that the voters were by the violence perturbed from voting freely, and that by the direct involvement of the 1st Respondent and/or his agents in the electoral malpractices complained of.

THE PRINCIPLE OF AGENCY AND THE LIABILITY OF THE 1ST RESPONDENT

42. In ***Nkandu Luo (Prof) and Electoral Commission of Zambia v Doreen Sefuke Mwamba and the Attorney General, Selected Judgment No. 51 of 2019*** the Constitutional Court held that:

> "In order for Petitioner to successfully have an election annulled pursuant section 97 (2)(a) there is a threshold to surmount. The first requirement is for the Petitioner to prove to the satisfaction of the Court that the person whose election is challenged personally or through his duly appointed election or polling agents, committed a corrupt practice or illegal practice or other misconduct in connection with the election, or that such malpractice was committed with the knowledge and consent or approval of the candidate or his or her election or polling agent."

The Petitioner submits that the conduct complained of in this Petition constitutes corrupts practices, illegal practices and/or other misconduct committed by the 1st Respondent personally and/or with his knowledge and consent or approval, and that such conduct prevented the majority of voters from electing the candidate whom they preferred.

THE SCOPE AND APPLICATION OF SECTION 97(2)(A) AND (B)

My Lord/Lady, the Petitioner submits that the conduct complained of in this Petition falls within the ambit of both Section 97 (2)(a) and Section 97(2)(b) of the Electoral Process Act.

In **Giles Chomba Yamba v Kepembwa Sibao and others, Selected Judgment No. 6 of 2028,** the Constitutional Court held that:

"*We have already stated above that an election can be annulled on the strength of one incident of corrupt or illegal practice or misconduct provided that, under Section 97 (2)(a), such is attributable to the candidate or his duly appointed agent with their knowledge and consent or approval and majority of the electorates were or may have been prevented from electing a candidate they preferred; or if it is an allegation pursuant to Section 97 (2)(b) on non-compliance, cogent evidence must be proffered to show that the results were affected.*"

The Petitioner submits that the evidence adduced in support of this Petition established that illegal practices and/ or other misconduct were committed by the 1st Respondent and/or with his knowledge and consent or approval, within the meaning of Section 97 (2)(a); and that there was non-compliance with the provisions of the Electoral Process Act relating to the conduct of lections, within the meaning of Section 97 (2)(b).

THE IMPORTANCE OF FREE AND FAIR ELECTIONS

The Petitioner submits that free and fair elections are the cornerstone of a democratic society, as recognized in Article 45 (2) of the Constitution of Zambia, which provides that:

"(2) The electoral process and system of administering elections shall ensure-
(a) that elections are free and fair;
(b) That elections are free from violence, intimidation and corruption."

In ***Nana Addo Dankwa Akufo Addo and others v John Dramani Mahama and 2 others***, Writ No. J1/6/2013 (Supreme Court of Ghana), the Court held that:

"Elections ought not be held void by reasons of transgressions of the law without any corrupt motive by the returning officer or his subordinate, and where the Court is satisfied that the election was, notwithstanding those transgressions, a real election and was conducted under the existing election law."

The Petitioner submits that the conduct complained of is this Petition goes beyond mere transgressions of the law and demonstrates serious electoral

I. CONCLUSION

56. My Lord/Lady, the Petitioner respectfully submits that the election of the 1st Respondent as Member of Parliament for Chadiza West Constituency was conducted in a manner that fell short of the constitutional and statutory requirements for free and fair elections.

57. The conduct complained of, including the obstruction of the Petitioner's campaign activities, the interference with the counting process, the distribution of chitenje materials, the intimidation of polling agents, and the denial of access to electoral documents, constitutes electoral practices, illegal practices and/or other misconduct within the meaning of the Electoral Process Act.

58. The Petitioner adduced evidence establishing the allegations made to the requisite standard of a fairly high degree of convincing clarity, as required by the decisions of the Supreme Court and the Constitutional Court in a long time of authorities demonstrating that:

(i) The 1st Respondent personally and/or through his agents and/or with his knowledge and consent or approval, committed corrupt practices, illegal practices and/or other misconduct in connection with the election.

(ii) There was non-compliance with the provisions of the Electoral Process Act relating to the conduct of elections;

(ii) Such conduct and non-compliance prevented the majority of voters in Chadiza West Constituency from electing the candidate whom they preferred.

59. The Petitioner is not seeking to delay justice or to abuse the process of the Court. The Petitioner seeks only to have the integrity of the electoral process upheld and to ensure that the will of the electorate in Chadiza West Constituency is properly ascertained and respects.

PRAYER

1. A declaration that the election of the 1st Respondent as a Member of Parliament for Chadiza West Constituency is **NULL AND VOID AB INITIO**.

2. A declaration that the illegal practices committed by the 1st Respondent and / or his agents affected the election result and that the same ought to be nullified.

3. Such other declarations and orders as this Honourable Court may deem fit including a recount.

4. An Order that costs occasioned by the Petitioner be borne by the 1st Respondent.

Dated the _____ day of _____ 2026

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