IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/027**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF: **PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR MPIKA NORTH CONSTITUENCY HELD ON 13TH AUGUST 2026.**

IN THE MATTER OF: **THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMMENDED.**

IN THE MATTER OF: **ARTICLES, 1, 2, 5, 8, 9, 45, 46, 47, 48, 49, 50, 54, 48, 49, 50,54,70,71,72, AND 73 OF THE CONSTITUTION ACT, CHAPTER 1 OF THE LAWS OF ZAMBIA.**

IN THE MATTER OF: **SECTIONS 29, 37, 38, 55, 68, 72, 77, 81, 83, 84, 86, 89, 94, AND 95, OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA.**

IN THE MATTER OF: **SECTIONS 96, 77, 98, 99, 100, 106, 107, AND 108, OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA.**

IN THE MATTER OF: **THE ELECTORAL CODE OF CONDUCT 2016 RULE 9 OF THE HIGH COURT (ELECTORAL PETITION) RULES 2026, SI NO. 31 OF 2026.**

IN THE MATTER OF: **THE ELECTION OF FRANCIS ROBERT KAPYANGA AS MEMBER OF PARLIAMENT FOR MPIKA NORTH CONSTITUENCY IN MPIKA DISTRICT.**

BETWEEN:

MORDECAI SICHALWE **PETITIONER**

AND

FRANCIS ROBERT KAPYANGA **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

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

AFFIDAVIT IN OPPOSITION TO THE ELECTION PETITION

I, **SINGA DONATELLO** of Mpika in the Northern Province of the Republic of Zambia **DO HEREBY MAKE OATH** and **SAY AS** follows:

1. That my name is as stated above.
2. That I am a Zambian National.
3. That I reside at Plot No. 5618 Trench Town, Mpika.
4. That I was the Returning Officer for Mpika North Constituency in Mpika District, Northern Province during the General Elections held on 13th August, 2026 and I am therefore competent to depose to the facts and information herein which I possess by virtue of my aforesaid position.
5. That I have read what purports to be the Affidavit Verifying Facts in the Petition of one **MORDECAI SICHALWE** and wish to respond as hereunder.
6. That the 2nd Respondent is a statutory body established by the Constitution of the Republic of Zambia (Amendment) Act No. 2 of 2016, mandated to conduct elections and voter registration, among others.
7. That I am advised by the 2nd Respondent's Advocates, Messrs EMK and Associates which advise I verily believe that in the performance of its functions, the 2nd Respondent is guided by relevant electoral laws, which include, amongst others, the Constitution of Zambia (Amendment) Act No. 2 of 2016, Electoral Process Act No. 35 of 2016, the High Court (Election Petition) Rules, Statutory Instrument No. 31 of 2026 and the Regulations promulgated thereunder.
8. That on 13th August, 2026, the country held General Elections in all constituencies including Mkushi North Constituency which was contested by the candidates listed in paragraph 4 of the Answer.
9. That the 2nd Respondent confirms that the Petitioner contested as a Parliamentary candidate for Mkushi North Constituency under the sponsorship of the United Party for National Development (UPND) and polled 3, 806 votes in the Parliamentary election for Mkushi North Constituency held on 13th August, 2026.

10. That I declared the 1st Respondent as duly elected Member of Parliament for Mpika North Constituency after having scooped 19, 925 votes, against the Petitioner who polled 3,806.
11. That the election for Mpika Constituency was conducted in substantial conformity with the electoral laws and procedures.
12. That paragraphs 1, 2, 3, 4, 5 and 6 of the Affidavit Verifying Facts are admitted.
13. That the contents of paragraph 7, 8 and 9 of the Affidavit verifying Facts are within the peculiar knowledge of the Petitioner and shall be put to strict proof.
14. That the contents of paragraphs 9, 10, 11, 12, 13 and 14 of the Affidavit Verifying Facts are within the peculiar knowledge of the Petitioner and shall be put to strict proof.
15. That the contents of paragraph 15 of the Affidavit Verifying Facts are denied. The 2nd Respondent denies the allegations that UPND agents and observers were prevented from effectively observing the electoral process at the totalling centre. The Parliamentary elections conducted in Mpika were not only free and fair but were also conducted in substantive compliance with the Constitution of Zambia, the Electoral Process Act No. 35 and other electoral laws.
16. That further, the 2nd Respondent through Presiding Officers and the Returning Officer in Mpika North Constituency issued Gen 20 to all the duly accredited election agents, monitors and observers. The Petitioner's polling agents equally had the Gen 20 forms.
17. That furthermore, the 2nd Respondent had no pre-signed Gen 20 forms before the casting of votes on the material day nor any unsigned Gen 20 forms presented during the announcements of the results as alleged by the Petitioner.
18. That the allegations contained in paragraph 16 of the Affidavit Verifying Facts are denied. The 2nd Respondent was very transparent in the manner in which it conducted or handled the elections. It further denies the allegations that it permitted the 1st Respondent to intimidate or rather compromise the Petitioner's agents during the electoral process. The

2nd Respondent at all times discharged its constitutional and statutory mandate in conducting and supervising the elections in accordance with the applicable electoral laws, regulations and procedures.

19. That the allegations contained in paragraph 17 of the Affidavit Verifying Debt are denied. The 2nd Respondent denies that it engaged in any illegal, improper or unlawful conduct in the conduct and administration of the elections. Further, the allegation that the declared results did not reflect the will and preference of the majority voters is speculative and unsupported by evidence. The elections were conducted in accordance with the applicable electoral laws and regulations.

20. That the said elections were free and fair, and the 1st Respondent was duly declared the elected Member of Parliament for Mpika North Constituency, having received the majority votes cast by the voters who freely exercised their right to vote for the candidate of their choice.

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

SWORN by the said)
SINGA DONATELLO)
At Lusaka the ..... day of ..... 2026)

DEPONENT

BEFORE ME:

PATRICIA M. SIMEZA
ADVOCATE
COMMISSIONER FOR OATHS
LUSAKA

COMMISSIONER FOR OATHS

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

2026/HP/EP/ 27

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
31 AUG 2026

IN THE MATTER OF:	PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR MPIKA NORTH CONSTITUENCY HELD ON 13TH AUGUST 2026.
IN THE MATTER OF:	THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMMENDED.
IN THE MATTER OF:	ARTICLES 1, 2, 5, 8, 9 ,45, 46, 47, 48 ,49, 50, 54, 70, 71, 72, AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA.
IN THE MATTER OF:	SECTIONS 29, 37, 38, 55, 68, 72, 77, 81, 83, 84, 86, 89,94, AND 95 OF THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA.
IN THE MATTER OF:	SECTION 96, 97, 98, 99, 100, 106, 107 AND 108 OF THE ELECTORAL PROCESS (ELECTORAL CODE OF CONDUCT) NO. 35 OF 2016 OF THE LAWS OF ZAMBIA.
IN THE MATTER OF:	THE ELECTORAL CODE OF CONDUCT 2016
IN THE MATTER OF:	RULE 9 OF THE HIGH COURT (ELECTION PETITION) RULES 2026, SI NO. 31 0F 2026
AND IN THE MATTER OF:	THE ELECTION OF FRANCIS ROBERT KAPYANGA AS MEMBER OF PARLIAMENT FOR MPIKA NORTH CONSTITUENCY IN MPIKA DICTRICT.

BETWEEN:

MORDECAI SICHALWE	PETITIONER
AND	
FRANCIS ROBERT KAPYANGA	1ST RESPONDENT
ELECTORAL COMMISSION OF ZAMBIA	2ND RESPONDENT

AFFIDAVIT IN SUPPORT OF EX-PARTE SUMMONS FOR AN ORDER FOR LEAVE TO SERVE PROCESS BY SUBSTITUED SERVICE

I, **NONDE KASAMBA LUMBWE** a Zambian National of Villa 35, Millenium Village, Birdcage Walk in the District and Province of Lusaka of the Republic of Zambia

DO HEREBY MAKE OATH and SAY as follows:

1. That my full name and particulars are as stated above.
2. That I am an Advocate in the firm of Messrs C L Mundia and Company representing the Petitioner and herein by virtue whereof I am competent to depose to this affidavit from facts that have come to me by virtue of my said position.
3. That on the 28th August, 2026, I filed a Petition in the High Court of Zambia for Mr Mordecai Sichalwe challenging the Parliamentary Election results in MPIKA NORTH of the Muchinga District by the Electoral Commission of Zambia that declared Mr FRANCIS ROBERT KAPYANGA as the Member of Parliament.
4. That the Petitioner does not know the exact location of the 1st Respondent in order to effect personal service on him as required.
5. That in order to effect personal service on the 1st Respondent, process would have to be served by WhatsApp, Electronic mail or any other Electronic means.
6. That I verily believe that the most effective way of effecting personal service of the Election Petition on the 1st Respondent is by serving the documents by Email or WhatsApp.

7. 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)
NONDE KASAMBA LUMBWE)

.....
DEPONENT

At Lusaka this day of 2026)

BEFORE ME: _____

COMMISSIONER FOR OATHS

Sylvester Chibangu Mwananshiku
Advocate
Commissioner for Oaths

Messrs CL Mundia and Company
Villa 35, Millennium Village
Birdcage Walk, Longacres
P.O.Box 35492
LUSAKA
Email: info@clmundia.com
ADVOCATES FOR THE PETITIONER

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

2026/HP/EP/027

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

IN THE MATTER OF: PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR MPIKA NORTH CONSTITUENCY HELD ON 13TH AUGUST, 2026

IN THE MATTER OF: THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA.

IN THE MATTER OF: ARTICLES 1, 2, 5, 8, 9, 45, 46, 47, 48, 49, 50, 54, 70, 71, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA.

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IN THE MATTER OF: THE ELECTORAL CODE OF CONDUCT 2016

IN THE MATTER OF: RULE 9 OF THE HIGH COURT (ELECTORAL PETITION) RULES 2026, SI NO. 31 OF 2026

IN THE MATTER OF: THE ELECTION OF FRANCIS ROBERT KAPYANGA AS MEMBER OF PARLIAMENT FOR MPIKA NORTH CONSTITUENCY IN MPIKA DISTRICT.

BETWEEN:

MORDECAI SICHALWE — PETITIONER

AND

FRANCIS ROBERT KAPYANGA — 1st RESPONDENT
ELECTORAL COMMISSION OF ZAMBIA — 2nd RESPONDENT

AFFIDAVIT VERIFYING FACTS IN ANSWER

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

2026/HP/EP/027

IN THE MATTER OF: PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR MPIKA NORTH CONSTITUENCY HELD ON 13TH AUGUST, 2026

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IN THE MATTER OF: RULE 9 OF THE HIGH COURT (ELECTORAL PETITION) RULES 2026, SI NO. 31 OF 2026

IN THE MATTER OF: THE ELECTION OF FRANCIS ROBERT KAPYANGA AS MEMBER OF PARLIAMENT FOR MPIKA NORTH CONSTITUENCY IN MPIKA DISTRICT.

BETWEEN:

MORDECAI SICHALWE — PETITIONER

AND

FRANCIS ROBERT KAPYANGA — 1st RESPONDENT
ELECTORAL COMMISSION OF ZAMBIA — 2nd RESPONDENT

AFFIDAVIT VERIFYING FACTS IN ANSWER

I, FRANCIS ROBERT KAPYANGA, of Mwamfushi road, trenchtown, Mpika in the Muchinga Province of the Republic of Zambia. **DO HEREBY** make **OATH** and **SAY** as follows:

1. That my name and address are as above stated.

2. That I am a Zambian by nationality.

3. That, by virtue of being the 1st Respondent and having participated as a candidate in the parliamentary election for Mpika North Constituency, I am competent to depose to this Affidavit from facts within my own knowledge, information and belief.

4. That I have read the Affidavit Verifying Facts sworn by the Petitioner, MORDECAI SICHALWE, filed on the 28th day of August, 2026, and I respond thereto as follows:

5. That I was a candidate in the election for Member of Parliament for Mpika North Constituency, held on 13th August, 2026, in which the Petitioner and two others namely; Mr. Chibale Benard and Mr. Sata C. Chilufya were also candidates.

6. That, upon completion of the counting, verification and tallying process, I received a total of **19,925 votes**, while the Petitioner received a total of **3,806 votes**, resulting in a margin of **16,119 votes** in my favor. There is now shown to me and marked **"FRK1"** a true copy of the Declaration of Results of the Poll Form, as proof thereof.

7. That Mpika North Constituency comprises 7 wards and 72 polling stations, in all of which I obtained the majority of the votes cast. There is now produced and shown to me, marked **"FRK2"** true copies of the Record of Proceedings prepared and published by the 2nd Respondent for the Mpika North parliamentary election.

8. That, in response to the allegations contained in paragraph 7 and 8 of the Petitioner's Affidavit Verifying Facts, I did not, at any time, name the Petitioner as a harvester of human body parts, particularly the heart, to acquire wealth. Moreover, at no point in my entire campaign did I ever mention the Petitioner.

9. That the 1st Respondent conducted the election campaigns in line with the electoral code of conduct and at no point did the Petitioner lodge a complaint with the relevant conflict management committee against the 1st Respondent nor did the 1st Respondent ever mention the Petitioner anywhere throughout his campaign and as such the said Petitioner will be put to strict proof of such allegations.

10. That the allegations deposed to in paragraphs 9 and 10 of the Affidavit Verifying Facts are false and that neither myself nor my agents threatened violence or intimidated the Petitioner's agents and observers.

11. That I further deny all the allegations made in paragraphs 11 and 12 of the Affidavit Verifying Facts, and state that they are false, misconceived and unsupported by any credible or substantial evidence.

12. That in response to paragraph 13 of the Affidavit Verifying Facts, neither myself nor my agents made any tribal remarks to the constituents, insinuating or otherwise, that they are not to vote for a "Tonga Party".

13. That, I am aware, based on information received from my polling agents and election officials stationed at all 72 polling stations across the Constituency, which information I verily believe to be true, that the election in Mpika North Constituency was conducted in a transparent, orderly manner and in substantial compliance with the applicable law and prescribed procedures, leading to my securing of a landslide victory against the Petitioner. There are now shown to me and produced, individually marked from **"FRK3(I – XLVII),"** copies of GEN 20a forms from various polling stations across the Constituency, which reflect the 1st Respondent's majority vote.

14. That I was further informed by my polling agents who were stationed at all 72 polling stations that a majority of voters in the Constituency were able to vote without impediment, and the

result is therefore a true reflection of the will of the electorate and that whatever irregularities are alleged by the Petitioner, the same had no material effect on the outcome of the election. There are now shown to me and produced, collectively marked **"FRK4,"** accreditation forms of the said polling agents.

15. That in fact, members of the Petitioner's own campaign team and/agents are the ones who attributed malicious falsehoods against the 1st Respondent and even stated that they would rig the election if the electorate did not vote for the Petitioner's party. That the 1st Respondent even made a formal complaint to the 2nd Respondent concerning the falsehoods aforesaid and statements attributed to stealing the vote. There is now produced and shown to me a copy of a formal complaint made to the 2nd Respondent as proof thereof marked as **"FRK 5"**.

16. That I further verily believe that the Petitioner has failed to demonstrate any illegality, irregularity or non-compliance on the part of the 1st Respondent, which are capable of affecting the result of the election or warranting the nullification of my election.

17. That further to paragraph 16 above, the 1st Respondent managed to secure a landslide victory in the election despite the falsehoods made against him.

18. That I verily believe that the Petitioner is not entitled to any of the reliefs sought in the Petition.

19. That the contents of this Affidavit are true and correct to the best of my knowledge, information and belief.

SWORN by the said **FRANCIS ROBERT KAPYANGA**)
at Lusaka this 11th day of) _____
September 2026) **DEPONENT'S SIGNATURE**

REPUBLIC OF ZAMBIA
CONSTITUTIONAL COURT OF ZAMBIA
CLERK OF COURT
COMMISSIONER FOR OATHS
P.O. BOX 50067, LUSAKA

BEFORE ME: _____
COMMISSIONER FOR OATHS

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/027**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF: **PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR MPIKA NORTH CONSTITUENCY HELD ON 13TH AUGUST 2026.**

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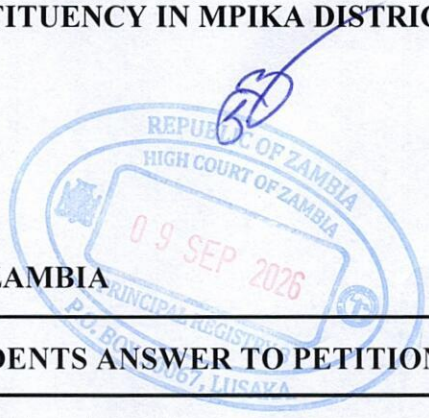
BETWEEN:

MORDECAI SICHALWE **PETITIONER**

AND

FRANCIS ROBERT KAPYANGA **1ST RESPONDENT**

ELCTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**



2ND RESPODENTS ANSWER TO PETITION

The 2nd Respondent Answer to the Petition shows that:

1. The 2nd Respondent is a statutory body established by Article 229 of the Constitution of Zambia (Amendment) Act No. 2 of 2016, among other duties mandated to conduct elections, and voter registration.
2. The 2nd Respondent responds as follows to each and every allegation in the Petition:

3. The 2nd Respondent confirms that the Petitioner was a candidate in the Parliamentary elections for Mpika North Constituency, held on 13th August, 2026.
4. The said Parliamentary election was contested by the Petitioner, Mordecai Sichalwe, the Petitioner, the 1st Respondent Francis Robert Kapyanga, Chilufya Sata and Bernard Chibale. The Returning Officer declared the 1st Respondent Francis Robert Kapyanga as the elected Member of Parliament for Mpika North Constituency having scooped 19, 925 votes, against the Petitioner Mordecai Sichalwe who polled 3,806 votes the runner up.
5. The 2nd Respondent admits the contents of paragraphs 3, 4, 5 and 6 of the Petition.
6. The contents of paragraphs 7 and 8 of the Petition are denied as they are within the peculiar knowledge of the Petitioner.
7. The 2nd Respondent denies the allegations in paragraph 9 of the Petition in so far as the same alleges that the Petitioner's agents or observers fled from the polling station for fear of violence. The 2nd Respondent shall demonstrate with documentary evidence that all accredited observers, monitors and election agents freely attended and witnessed the voting, counting and announcement as well as the declaration of results at polling stations and totaling centres.
8. The contents of paragraphs 10 are denied as they are within the peculiar knowledge of the Petitioner.
9. The Returning Officer correctly declared the 1st Respondent duly elected as he scooped the majority of the valid votes cast in the Constituency.
10. Contrary to the allegations in paragraphs 12 and 13, the 2nd Respondent, through Presiding Officers and the Returning Officer in Mpika North Constituency, issued Gen20 forms to all the duly accredited election agents, monitors and observers, including the Petitioners polling agents who were available.
11. The allegations in paragraph 14 are within the Petitioners peculiar knowledge.

12. Contrary to the Petitioner's averments in paragraphs 15, 16 and 17, the Parliamentary elections conducted in Mpika North Constituency were not only free and fair but were also conducted in substantive compliance with the Constitution of Zambia, the Electoral Process Act No. 35 of 2016 and other electoral laws.
13. The Petitioner is not entitled to any of the reliefs sought.
14. Save where expressly admitted, the 2nd Respondent denies each and every allegation in the Petition.

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

Per: Messrs EMK and Associates
Plot 9, Omelo Mumba Road,
Rhodespark.
P.O Box 30644
LUSAKA.
info@emk.co.zm
ADVOCATES FOR THE 2ND RESPONDENT

TO: Francis Robert Kapyanga
Chinsali
1ST RESPONDENT.

TO: Messrs C.L Mundia and Company
Villa 35 Millennium Village
Birdcage walk
Longacres
LUSAKA.
ADVOCATES FOR THE PETITIONER

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

2026/HP/EP/027

IN THE MATTER OF:	PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR MPIKA NORTH CONSTITUENCY HELD ON 13TH AUGUST, 2026
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IN THE MATTER OF:	THE ELECTION OF FRANCIS ROBERT KAPYANGA AS MEMBER OF PARLIAMENT FOR MPIKA NORTH CONSTITUENCY IN MPIKA DISTRICT.

BETWEEN:

MORDECAI SICHALWE — PETITIONER

AND

FRANCIS ROBERT KAPYANGA — 1st RESPONDENT
ELECTORAL COMMISSION OF ZAMBIA — 2nd RESPONDENT

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

ANSWER TO PETITION

Pursuant to Rule 10(1) of the High Court (Election Petition) Rules, 2026 Statutory Instrument 31 of 2026

THE 1ST RESPONDENT RESPONDS TO THE PETITION AS FOLLOWS:

[1.0] The 1st Respondent avers that the contents of paragraphs 1 and 2 of the Petition are within the Petitioner's peculiar knowledge.

[2.0] The 1st Respondent admits the contents of paragraphs 3, 4, 5 and 6 to the extent that the 1st Respondent was, on 15 August 2026, duly elected Member of Parliament for Mpika North Constituency after obtaining a majority of **19,925** votes and the Petitioner was pronounced to have received **3, 806** votes.

[3.0] Paragraph 7 of the Election Petition is denied in its entirety, and the 1st Respondent avers that neither the 1st Respondent nor his agent engaged in vote buying in any way. The Petitioner shall be put to strict proof on his unsubstantiated allegations.

[4.0] The 1st Respondent denies the contents of paragraph 8 and avers that neither the 1st Respondent nor the 1st Respondent's agent attacked the Petitioner or any other person nor did the 1st Respondent authorize any of the 1st Respondent's agents to attack the Petitioner and his agents nor to engage in any form of violence. Further, the 1st Respondent denies that he or his agents assaulted any Petitioner's election observer or any other observer, for any purpose whatsoever. The 1st Respondent avers that neither he nor his agents engaged in any form of violence before, during or after the election period. The Petitioner shall be put to strict proof on his allegations.

[5.0] The contents of paragraph 9 of the Petition are within the peculiar knowledge of the Petitioner, and he shall be put to strict proof thereof.

[6.0] The 1st Respondent denies the contents of paragraph 10 of the Petition in their entirety and the 1st Respondent avers that the 1st Respondent conducted the election campaigns in line with the electoral code of conduct and at no point did the Petitioner lodge a complaint with the relevant conflict management committee against the 1st Respondent nor did the 1st Respondent ever mention the Petitioner anywhere throughout his campaign and as such the said Petitioner will be put to strict proof of such allegations.

[7.0] With regards the contents of paragraph 11, the 1st Respondent reiterates that he was duly elected and subsequently declared as the validly elected Parliamentary representative of Mpika North Constituency.

[8.0] The contents of paragraphs 12 and 13 are denied, and the 1st Respondent will aver that, to the best of his knowledge and information, the 2nd Respondent provided the parties with the Gen 20 Forms at various polling stations. The 1st Respondent reiterates that he was duly elected and subsequently declared the validly elected Parliamentary representative of Mpika North Constituency. The Petitioner shall be put to strict proof on the remaining allegations.

[9.0] The contents of paragraph 14 are denied in their entirety, and the Petitioner shall accordingly be put to strict proof on his allegations in their entirety.

[10.0] The contents of paragraph 15 of the Petition are within the peculiar knowledge of the Petitioner, and the 1st Respondent avers that at no point did the 1st Respondent consent, collude or connive with the 2nd Respondent to make the electoral process untransparent. In any case, the Petitioner will be put to strict proof of the allegations aforesaid.

[11.0] The 1st Respondent denies the contents of paragraphs 16, 17 and 18 of the Petition, and avers that the Petitioner has failed to demonstrate and/or show any irregularity, of any form, linked to the 1st Respondent and/or his agents, committed at any of the 72 polling stations, sufficient to affect the general outcome of the election. In any case, the conduct of elections is the duty of the 2nd Respondent and the allegations in paragraphs 16, 17 and 18 lack specificity and particularity.

[12.0] Further, the 1st Respondent avers that to the best of his knowledge, voters in the Constituency voted without impediment, and the result is therefore a true reflection of the will of the electorate and whatever irregularities alleged by the Petitioner had no material effect on the outcome of the overall election.

[13] The 1st Respondent denies that the Petitioner is entitled to any of the reliefs claimed in the Petition, including a declaration that the election of the 1st Respondent as Member of

Parliament for Mpika North Constituency is null and void, the 1st Respondent having obtained a majority of votes at all 72 polling stations.

[13.1] The 1st Respondent denies the relief seeking a declaration that illegal practices committed by the 1st Respondent and/or their respective agents affected the election results, and shall put the Petitioner to strict proof of the nature, magnitude, extent and basis of the said alleged illegal practices.

[13.2] The 1st Respondent denies the relief seeking a declaration that the Petitioner was the duly elected Member of Parliament for Mpika North Constituency, as the 1st Respondent was duly elected Member of Parliament for Mpika North Constituency having obtained **19,925** votes against the Petitioner who obtained **3806** votes only.

[13.3] The 1st Respondent further denies the Petitioner's claim for an Order for costs.

[14.0] Save as expressly admitted, the 1st Respondent denies each and every allegation in the Petition as if the same were set forth and traversed seriatim.

Dated at Lusaka this _____ day of _____ 2026

Signed by: _____

FRANCIS ROBERT KAPYANGA

Filed by: _____

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IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/027**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF: **PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR MPIKA NORTH CONSTITUENCY HELD ON 13TH AUGUST 2026.**

IN THE MATTER OF: **THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMMENDED.**

IN THE MATTER OF: **ARTICLES, 1, 2, 5, 8, 9, 45, 46, 47, 48, 49, 50, 54, 48, 49, 50,54,70,71,72, AND 73 OF THE CONSTITUTION ACT, CHAPTER 1 OF THE LAWS OF ZAMBIA.**

IN THE MATTER OF: **SECTIONS 29, 37, 38, 55, 68, 72, 77, 81, 83, 84, 86, 89, 94, AND 95, OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA.**

IN THE MATTER OF: **SECTIONS 96, 77, 98, 99, 100, 106, 107, AND 108, OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA.**

IN THE MATTER OF: **THE ELECTORAL CODE OF CONDUCT 2016 RULE 9 OF THE HIGH COURT (ELECTORAL PETITION) RULES 2026, SI NO. 31 OF 2026.**

IN THE MATTER OF: **THE ELECTION OF FRANCIS ROBERT KAPYANGA AS MEMBER OF PARLIAMENT FOR MPIKA NORTH CONSTITUENCY IN MPIKA DISTRICT.**

BETWEEN:

MORDECAI SICHALWE **PETITIONER**

AND

FRANCIS ROBERT KAPYANGA **1ST RESPONDENT**

ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 09 SEP 2026 P.O. BOX 50067, LUSAKA

2ND RESPONDENT'S SKELETON ARGUMENTS AND LIST OF AUTHORITIES

MAY IT PLEASE THIS HONOURABLE COURT, these are the 2nd Respondent's Arguments herein.

1. **LIST OF AUTHORITIES**

Statutes

i. **The Constitution of Zambia of Zambia Act No. 2 of 2016**

ii. **The Electoral Process Act No. 35 of 2016**

Cases

i. **Brelsford Gondwe v Catherine Namugala, Supreme Court of Zambia Appeal No. 129 of 2012.**

ii. **Jonathan Kapaipi v Newton Samkayi, CCZ Appeal No. 13/2017**.

iii. **Lewanika & Others v Chiluba (1998) ZR 79.**

iv. **Margaret Mwanakatwe v Charlotte Scot, selected Judgment No. 57 of 2018**.

2. SUMMARY OF FACTS

2.1. On 13th of August, 2026, the country held Presidential and Parliamentary elections in which the 1st Respondent was declared the duly elected Member of Parliament for Mpika North Constituency having obtained the highest number of votes.

2.2. The Petitioner being dissatisfied with the election results, filed into this Court this Petition on 28th August, 2026 challenging the election of the 1st Respondent. The Petitioner alleges *inter alia* various acts of misconduct and irregularities during the electoral process and that, as a consequence thereof, voters were allegedly prevented from freely electing the candidate of their choice.

2.3. The 2nd Respondent, however maintains that the election was conducted in accordance with the Constitution of Zambia No. 2 of 2016, the Electoral Process Act No. 35 of 2016 and the High Court (Election Petition) Rules, Statutory Instrument No. 31 of 2026.

3. THE LAW AND ARGUMENTS

3.1. **My Lord/Lady**, the Petitioner's case is anchored on Article 73(1) of the Constitution of Zambia Act No. 2 of 2016 and Section 97(2) of the Electoral Process Act No. 35 of 2016.

Article 73(1) of the Constitution of Zambia provides as follows:

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

3.2. The grounds for challenging an election of a Member of Parliament are stipulated in Section 97(2) of the Electoral Process Act No. 35 of 2016 which provides that:

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

a...

b. subject to the provisions of subsection (4), there has been non-complaince 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 results of the election,"

3.3 **My Lord/Lady**, in relation to the 2nd Respondent, the Petitioner alleges that there was non-compliance with the provisions of the Electoral Process Act, particularly that the 2nd Respondent had Gen20 forms that were pre-signed before the casting of votes on the material day and further that there were unsigned Gen20 forms presented during the announcements of the results.

3.4. The Petitioner further alleges that this conduct by the 2nd Respondent constitutes non-compliance with the provisions of the Electoral Process Act relating to the conduct of elections.

4. BURDEN AND STANDARD OF PROOF

4.1. **My Lord/Lady,** before interrogating the issues at hand, it is imperative to address the burden and standard of proof in election petitions. It is trite law that he who alleges

must prove. The burden of proof in an election petition lies upon the Petitioner. The standard of proof is different from that of an ordinary civil matter. The standard remains higher and distinct from that required in an ordinary civil matter, but lower than the standard of beyond reasonable doubt required in criminal matters.

4.2. Parliamentary election petitions are required to be proved to a standard higher than on a mere balance of probabilities and issues raised are to be established to a fairly high degree of convincing clarity. The position was stated in the case of ***Lewanika & Others v Chiluba (1998) ZR 79*** where the Supreme Court stated that

> ***"Parliamentary election petitions are required to be proved to a standard higher that a mere balance of probabilities. The issues raised are required to be established to a fairly high degree of convincing clarity".***

4.3. This was additionally re-echoed in **Brelsford Gondwe v Catherine Namugala, Supreme Court of Zambia Appeal No. 129 of 2012** in which the Supreme Court said:

> ***"The burden of establishing the grounds lies on the person making the allegations, and in an election petition, it is the Petitioner in keeping with the well settled principle of law in civil matters that he who alleges must prove. The grounds must be established to the required standard in election petitions namely fairly high degree of convincing clarity."***

Thus it is incumbent upon the Petitioner in this case to prove the allegations against the 2nd Respondent to a fairly high degree of convincing clarity.

4.4. **My Lord/Lady**, without over emphasizing the issue, in the case of **Margaret Mwanakatwe v Charlotte Scot, selected Judgment No. 57 of 2018**, at page 34,

> ***"the Constitutional Court re-iterated that as in all other civil cases, the Petitioner bears the burden of proof in an election petition but the standard to which the electoral offences complained of must be proved***

is higher than proof on a balance of probability which is required in an ordinary civil action. The evidence adduced in support of the allegations in an election petition must establish the issues raised to a fairly high degree of convincing clarity."

4.5. **My Lord/Lady**, the Petitioner alleges that there was non-compliance with the provisions of the Electoral Process Act by the 2nd Respondent. The Petitioner alleges that the 2nd Respondent had Gen20 forms that were pre-signed before the casting of votes on the material day. And further, that there were unsigned Gen20 forms presented during the announcements of the results.

4.6. Further, in paragraph 12 and 13 of the petition, the Petitioner alleges that the 2nd Respondent refused, neglected or omitted to issue any form of Gen20 in most areas in the Petitioner's constituency. The Petitioner further alleges that the refusal to issue Gen20 form at every stage of the electoral process deprived the Petitioner an opportunity to be granted a free and fair election.

4.7. Contrary to the allegations in paragraphs 12 and 13 of the Petition, the 2nd Respondent through Presiding Officers and the Returning Officer in Mpika North Constituency issued Gen20 forms to all the duly accredited election agents, monitors and observers. The Petitioner's polling agents equally had the Gen20 forms as earlier alluded to in paragraph 16 of the 2nd Respondent's Affidavit in Opposition to the election Petition.

4.8. Further, the 2nd Respondent denies the allegation that there were pre-signed Gen20 forms before the casting of votes on the material day and unsigned Gen20 forms during the announcements of the results as alluded to in paragraph in 17 of the 2nd Respondent's Affidavit in Opposition to the election Petition. .

4.9. **My Lord/Lady,** the mere mention of the allegations does not establish the allegations. The Petitioner should have gone a step further to prove the allegation by adducing evidence before this Court to support such a serious allegation of the pre-signed and

unsigned Gen20 forms. We submit that such a failure is fatal to this petition in terms of this allegation as it remains unproved.

4.10. Furthermore, the Petitioner alleges that the misconduct committed by the 1st and 2nd Respondent and their agents, the voters in the affected areas and polling stations were prevented from electing a candidate of their preference in the constituency.

4.11. In the case of **Jonathan Kapaipi v Newton Samakayi, CCZ Apeal No. 13/2017**, the Constitutional Court stated 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 into the prohibited category of conduct, it must be shown that the prohibited conduct was widespread in the constituency to the level where registered voters 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."***

4.12. **My Lord/Lady,** from the authority cited above, it can be safely be said that the Petitioner has a further task to adduce cogent evidence that the electoral malpractice or misconduct might have prevented the majority voters in a constituency from electing a candidate of their choice. In the case in *casu,* the Petitioner has failed to adduce any evidence to support the allegation of misconduct on the part of the 2nd Respondent.

4.13. The Petitioner alleges that voters in the affected areas were prevented from electing a candidate of their preference in Mpika North Constituency due to the misconduct

of the 1st and 2nd Respondent. The 2nd Respondent submits that the Petitioner's allegation that voters were prevented from freely electing their preferred candidate must be considered against the actual results of the election. While the Petitioner alleges misconduct which, according to the Petitioner, interfered with the electoral process, the critical question is whether the alleged misconduct was of such a nature and magnitude as to materially affect the outcome of the election.

4.14. **My Lord/Lady,** in the case in *casu,* the results speak for themselves. The successful candidate obtained 19, 925 votes while the Petitioner polled 3,806 votes giving a margin of 16, 119 votes between the two candidates. The magnitude of this margin is significant. It clearly demonstrates that the successful candidate did not prevail by a narrow or marginal difference which could reasonably be attributed to a limited number of allegedly affected voters. Rather, the margin was overwhelmingly in favour of the successful candidate; therefore, the Petitioner's allegation fails.

4.15. Contrary to the Petitioner's averments, the Parliamentary elections held in Mpika North Constituency were not only free and fair but were also conducted in substantive compliance with the Constitution of Zambia and other electoral laws.

5. CONCLUSION

5.1. It is our humble but firm submission that there was substantial compliance with the provisions of the Constitution of Zambia and all other Electoral Laws. In addition, the conduct of the elections relating to Mpika North Constituency were conducted in accordance with the principles laid down in the provisions of the law therefore the Petition must be dismissed.

We are obliged.

Dated the ..... day of .....2026.

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ADVOCATES FOR THE PETITIONER

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

2026/HP/EP/027

IN THE MATTER OF:	PARLIAMENTARY PETITION RELATING TO THE PARLIAMENTARY ELECTIONS FOR MPIKA NORTH CONSTITUENCY HELD ON 13TH AUGUST, 2026
IN THE MATTER OF:	THE CONSTITUTION OF ZAMBIA, THE CONSTITUTION OF ZAMBIA ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA.
IN THE MATTER OF:	ARTICLES 1, 2, 5, 8, 9, 45, 46, 47, 48, 49, 50, 54, 70, 71, 72 AND 73 OF THE CONSTITUTION OF ZAMBIA, CONSTITUTION ACT, CHAPTER 1, VOLUME 1, OF THE LAWS OF ZAMBIA.
IN THE MATTER OF:	SECTIONS 29, 37, 38, 55, 68, 72, 77, 81, 83, 84, 86, 89, 94, AND 95, OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA.
IN THE MATTER OF:	SECTION 96, 97, 98, 99, 100, 106, 107 AND 108 OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 OF THE LAWS OF ZAMBIA.
IN THE MATTER OF:	THE ELECTORAL CODE OF CONDUCT 2016
IN THE MATTER OF:	RULE 9 OF THE HIGH COURT (ELECTORAL PETITION) RULES 2026, SI NO. 31 OF 2026
IN THE MATTER OF:	THE ELECTION OF FRANCIS ROBERT KAPYANGA AS MEMBER OF PARLIAMENT FOR MPIKA NORTH CONSTITUENCY IN MPIKA DISTRICT.

BETWEEN:

MORDECAI SICHALWE — PETITIONER

AND

FRANCIS ROBERT KAPYANGA — 1st RESPONDENT
ELECTORAL COMMISSION OF ZAMBIA — 2nd RESPONDENT

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

SKELETON ARGUMENTS

(Pursuant to Rule 10(2)(b) of the High Court (Election Petition) Rules, 2026 Statutory Instrument 31 of 2026)

MAY IT PLEASE THIS HONOURABLE COURT, these are the Skeleton Arguments in Support of the Answer to the Election Petition and Affidavit filed on behalf of the 1st Respondent.

[1.0] INTRODUCTION

[1.1] This matter originates from the general election held on 13th August, 2026 for the Member of Parliament seat for Mpika North Constituency, in which the 1st Respondent was duly declared the winning candidate in the fore stated election. The Petitioner since petitioned this Honorable Court challenging *inter alia* the declaration of the 1st Respondent as Member of Parliament for Mpika North Constituency. The 1st Respondent furthers the following Skeleton Arguments in Support of Answer to the Election Petition and Affidavit and shall demonstrate that the Election Petition lacks sufficient foundation, merit and ought to be dismissed.

[2.0] WHETHER OR NOT THE ELECTION OF THE 1ST REPSONDENT SHOULD BE NULLIFIED, IN ACCORDANCE WITH THE LEGAL REQUIREMENTS THEREIN:

[2.1] **MY LORD/LADY,** the basis for nullifying an election for Member of Parliament where corrupt practice, illegal practice or other misconduct is alleged in an Election Petition is governed by the provisions of the ***Electoral Process Act*** under ***Section 97(2)***[1] , and provides the following guidance:

> ***"(2) The election of a candidate as Member of Parliament, mayor, council chairperson or councillor shall be void if, on the trial of an election petition, if it is proved to the satisfaction of the High Court or a tribunal, as the case may be, that –***
> ***(a) a corrupt practice, illegal practice or other misconduct has been committed in connection with the election –***
> ***(i) by a candidate; or***
> ***(ii) with the knowledge of and consent or approval of a candidate or of that candidate's election agent or polling agent; and the majority of voters in the constituency, district or ward were or may have been prevented from electing the candidate in that constituency, district or ward whom they preferred."***

Further ***Section 97(4) of the Electoral Process Act***[2] provides that:

> ***"(4) 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 in connection with an***

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[1] Act No. 35 of 2016.
[2] Ibid.

election if it appears to the High Court or a tribunal that the election was so conducted as to be substantially in accordance with the provisions of this Act, and that such act or omission did not affect the result of that election."

[2.2] **MY LORD/LADY,** to properly outline the meaning of the fore stated provisions, reference is made to the Constitutional Court case of ***Musumba v Kamondo***[3] where it was stated that:

> ***"The requirement in the current law for nullifying an election of a Member of Parliamentis that a petitioner must not only prove that the respondent has committed a corrupt or illegal act or other misconduct or that the illegal act or misconduct complained of was committed by the respondent's election agent or polling agent or with the respondent's knowledge, consent or approval, but that he/she must also prove that as a consequence of the corrupt or illegal act or other misconduct committed, the majority of voters in the constituency were or may have been prevented from electing a candidate whom they preferred."***

In further reference and explanation, the case of ***Nkandu Luo v Doreen Sefuke Mwamba***[4] went on to hold that:

> ***"Section 97(2) of the (Electoral Process) Act is central to the judicial resolution of electoral disputes...In order to successfully have an election annulled, 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 agent, 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... In addition, the petitioner has the further task of adducing cogent evidence that the electoral malpractice or misconduct was so widespread that it swayed or may have swayed the majority of the electorate from electing the candidate of their choice."***

[2.3] **MY LORD/MY LADY,** applying the foregoing principles to the present case, the Petitioner's allegations are primarily grounded on the alleged conduct of the 1st Respondent and officials of the 2nd Respondent such as the Returning Officer and other electoral officials in relation to the tallying, verification and announcement of results, in the facilitation of the electoral process

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[3] (2017) 3 Z.R. 130.

[4] Selected Judgment No. 51 of 2018.

and declaration of results therein. However, the Petitioner has not produced evidence supporting his allegations, demonstrating that the 1st Respondent personally committed any corrupt practice, illegal practice or other misconduct, or that any such conduct was undertaken with his knowledge, consent or approval. It is therefore submitted that the Petition herein is not supported by sufficient, cogent and credible evidence capable of establishing reasonable ground upon which the election may be lawfully nullified. Thus, the Petition fails to satisfy either limb of the considerations provided for in the above cited law and statute.

[2.4] In further submission, **MY LORD/LADY,** it is not in contention that the 1st Respondent was a candidate in the 13th August, 2026 Parliamentary Election for Mpika North Constituency, just like the Petitioner herein and not an election officer or official of any capacity. He neither counted the votes, verified the GEN20 Forms, controlled the tallying centre nor declared himself the winner of the elections. The declaration of the 1st Respondent as duly elected Member of Parliament for Mpika North Constituency was made by the Returning Officer acting in official capacity upon completion of the electoral process. Therefore, the 1st Respondent played no role in the electoral process to any extent and the accusations rendered by the Petitioner herein do not have sufficient evidence to show the involvement of the 1st Respondent herein and the Petition falls short of the criteria recognized in the fore cited law and ought to be dismissed as it fails to satisfy the requirements that warrant the nullification of an election.

[2.5] **MY LORD/LADY,** through the announcement of the election results shown in the official electoral documentation, including the Declaration of Results Form marked **"FRK1"**, the relevant GEN 20 Forms marked collectively **"FRK3"**, and the accreditation forms of his agents and observers marked **"FKR4"**, the 1st Respondent obtained 19,925 votes and the Petitioner obtained 3,806 votes, having a majority vote of 16, 119 votes obtained by the 1st Respondent. In order for the Petitioner to prove his case, he must raise evidence that will satisfy the statutory conditions that warrant nullification of results and allegations of irregularity without any connection to the 1st Respondent and without proof of their effect on the electorate, cannot by themselves satisfy the threshold imposed by ***Section 97(2) of the Electoral Process Act.***[5]

[5] Supra note 1.

Therefore, it is submitted that the Petition fails to satisfy that limb of the considerations that warrant the nullification of election results, and it ought to be dismissed for lack of validity.

[2.6] **MY LORD/LADY,** to further demonstrate the insufficiency of the Petition herein it is imperative to refer to ***Section 97(4) of the Electoral Process Act***[6] which guides that an election is not to be lightly disturbed merely because an election officer may have committed an act or omission in the discharge of official duties. The primary consideration in relation to the fore stated provision is whether the election was substantially conducted in accordance with the law and whether the alleged act or omission affected the result.

[2.6.1] The 1st Respondent maintains that the Parliamentary election held in Mpika North Constituency was conducted through transparent, orderly and prescribed electoral process which declared him duly elected candidate by the Returning Officer, in total compliance with the law. Therefore, it is submitted that the Petitioner has not demonstrated, on the facts pleaded, that any alleged irregularities are attributed to the 1st Respondent or that it prevented the majority of voters from electing the candidate of the choice.

[2.6.2] **MY LORD/LADY,** on that basis, the 1st Respondent respectfully submits that the statutory threshold for nullifying his election has not been established or demonstrated by the Petitioner and that the Petition seeking to have election nullified ought to be dismissed for lack of merit. Therefore, having that the election of the 1st Respondent as duly elected Member of Parliament of Mpika North Constituency was conducted and concluded on merit, the Petition fails and the election and its attendant results ought not to be disturbed unless the Petitioner proves the grounds upon which the law permits a valid result to be overturned.

[3.0] STANDARD OF PROOF IN NULLIFICATION OF AN ELECTION

[3.1] **MY LORD/LADY,** it is a settled principle that the applicable standard of proof in an election petition is higher than that required in an ordinary civil action but lower than the standard beyond reasonable doubt required in criminal matters. Furthermore, the evidence adduced in support of the allegations made must prove issues raised to a fairly high degree of convincing clarity. This position of the law was restated by the constitutional Court in the case of ***Mutapwe v Shomeno***[7] where we held that:

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[6] No. 35 of 2016.
[7] Appeal No. 19 of 2017.

"The petitioner in an election, just as in any other civil matter, bears the burden to prove the electoral offence complained of. However, the standard of proof in an election petition is higher than that required in an ordinary civil action. The evidence adduced in support of the allegations made in an election petition must prove the issues raised to a fairly high degree of convincing clarity." (emphasis ours)

From the above guidance, it is submitted that the burden of proof for election related matter rests upon the Petitioner to prove that the electoral offence complained of, and mere allegation, suspicion or assertions of illegality do not suffice to discharge this burden. Therefore, evidence adduced in support of a Petition, as that *in casu* must be of a high degree of convincing clarity, higher than the regular standard of proof in civil proceedings but lower the proof beyond reasonable doubt observed in criminal proceedings.

[3.2] Therefore, the 1st Respondent submits that the Petition has failed to discharge the burden of proof, as the allegations contained in the Petition remain largely assertions concerning the conduct of Returning Officer and electoral officials and various polling stations, in the absence of cogent evidence demonstrating that the 1st Respondent personally committed, authorized, consented to or had knowledge of any corrupt practice, illegal practice or other misconduct. Neither has the Petitioner demonstrated that any alleged irregularity was sufficiently material nor widespread as to prevent the majority of the voters in Mpika North Constituency from electing the candidate of their choice. Therefore, in the absence of such proof, the threshold for disturbing the election duly declared by the Returning Officer has not been met, thus, the Petition fails to establish any reasonable validity to have the election of the 1st Respondent nullified herein and ought to be dismissed for lack of merit.

[4.0] CONCLUSION:

[4.1] **MY LORD/MY LADY**, in conclusion, the 1st Respondent respectfully submits that the Petitioner has not placed before this Honourable Court cogent and convincing evidence required to unsettle an election duly conducted and declared. The Petition rests upon allegations largely concerning the conduct of electoral officials, without sufficient evidence connecting the 1st Respondent to any valid unlawful act or demonstrating that any alleged irregularity affected the will of the majority of the electorate. Therefore 1st Respondent humbly prays that this

Honourable Court upholds the declaration of **FRANCIS ROBERT KAPYANGA** as the duly elected Member of Parliament for Mpika North Constituency and dismiss the Petition with costs.

Dated at Lusaka this _____day of _____ 2026

Filed by: _____

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