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

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

2026/HP/EP/012

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026.

IN THE MATTER OF: ARTICLE 73 (1) AND ARTICLE 45(2) (A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 31 OF 2026).

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97(2), 98(C), 99(A), 100 (2) (A), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT) ACT, 2026].

AND

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA M. PHIRI — PETITIONER

AND

MACKSON C. KAPANTHA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

ELECTION PETITON
(For Nyimba South Constituency)

THE HUMBLE PETITION of OLIPA M. PHIRI of Plot No. 468 Riverside area, Nyimba in the Nyimba District in Eastern Province of the Republic of Zambia SHOWETH:

1. YOUR PETITIONER is a Zambian citizen who is a member of a political party namely the United Party for National Development (hereinafter referred to as the **"UPND"**) and was sponsored as an adopted candidate by the said UPND in respect of the Parliamentary Elections for Nyimba South Constituency which took place on 13th August, 2026.

2. YOUR PETITIONER is a person who was a candidate in the Parliamentary election for Nyimba South Constituency to which this election petition relates.

3. YOUR PETITIONER that there were seven (7) Parliamentary Candidates for Nyimba South Constituency including the Petitioner herein who successfully filed their nomination and participated in the said elections as follows:

No.	Name of Candidate	Party Ticket
1	Kapantha C. Mackson	NRPUP
2	Phiri M. Olipa	UPND
3	Zulu C. Fredrick	INDEPENDENT
4	Mwale M. Vivian	INDEPENDENT
5	Tembo Gadson	CF
6	Nguluwe Besnart	INDEPENDENT
7	Mumba D. Justine	FDD

4. YOUR PETITIONER avers that the 1st Respondent was also a Parliamentary Candidate standing on the National Reconciliation Party for Unity and Prosperity (hereinafter referred to as the **"NRPUP"**) sponsorship ticket and participated as such in the 13th August 2026 General Elections as a Parliamentary candidate for Nyimba South Constituency in the Eastern Province of the Republic of Zambia.

5. YOUR PETITIONER avers that the said Election was conducted by the 2nd Respondent herein the Electoral Commission of Zambia (hereinafter referred to as the **"ECZ"**) an election management body established pursuant to Article 229 of the Constitution of Zambia (Amendment) Act No. 2 of 2016 (hereinafter referred to as the **"Constitution"**) and the

Electoral Process Act No. 35 of 2016 (hereinafter referred to as "**Electoral Process Act**"), mandated to implement Zambia's electoral process, conduct free and fair elections in an accountable manner, regulate the conduct of voters and candidates as provided for under Article 45(1)(a) and 45(2)(a) and (c) of the Constitution among other functions.

6. AND YOUR PETITIONER states the election was held on 13th August 2026 when your Petitioner and the 1st Respondent were candidates and the Returning Officer Mr. Tembo Patrick returned the 1st Respondent one **Kapantha C. Mackson** on 15th August, 2026 as the winner and duly elected Member of Parliament for Nyimba South. The results of the poll were as follows:

No.	Name of Candidate	Party Ticket	Votes
1	Kapantha C. Mackson	NRPUP	10,443
2	Phiri Olipa M.	UPND	3,741
3	Zulu C. Fredrick	INDEPENDENT	1,192
4	Mwale M. Vivian	INDEPENDENT	597
5	Tembo Gadson	CF	239
6	Nguluwe Besnart	INDEPENDENT	218
7	Mumba D. Justine	FDD	193

GROUNDS RELIED ON IN SUPPORT OF THE PETITION:

AND YOUR PETITIONER says that (*facts and grounds on which the Petitioner relies*):

7. Contrary to the declaration by the Returning Officer that the 1st Respondent was duly elected, the said 1stRespondent was not validly elected as Member of Parliament for Nyimba South Constituency and Your Petitioner relies on the facts and grounds set out hereunder:

8. YOUR PETITIONER will state that the 1st Respondent and his appointed agent together with persons directly linked to the 1st Respondent and also to his appointed agent and acting upon the instructions and directions of the 1st Respondent engaged in corrupt, illegal

practices immediately before elections and during elections on the polling/voting day contrary to the provisions of Part VIII of the Electoral Process Act No. 35 of 2016, the Electoral Code of Conduct, and contrary to Article 45(2) (a) to (d) of the Constitution in that he was particularly involved in bribery, undue influence, threats, intimidation and hate speech against the Petitioner and the UPND and its President His Excellence Dr. Hakainde Hichilema.

9. YOUR PETITIONER will state that the 1st Respondent further conducted campaigns at polling stations on the voting day in all the eight (8) wards in Nyimba South Constituency.

10. YOUR PETITIONER avers contend that declaration of the 1st Respondent as duly elected Member of Parliament for South Constituency was invalid by reason of non-compliance with provisions of the Constitution of the Republic of Zambia and the Electoral Process Act (EPA) No. 35 of 2016 and the procedures under the said Act as particularized herein below:

PARTICULARS OF ELECTORAL MALPRACTICE AND MISCONDUCT:

1. <u>Manipulation of Votes Cast, Fraud, Swapping of Ballots Cast:</u>

YOUR PETITIONER says that:

(i) At Nyimba Primary School 3, Chipembe Community 1 and 2, Kasasamula, Chipilinyuma, Mombe 1 and 2, Mayawa, Kampala 1 and 2, Nyimba Boarding 3, Lupala 2 and 3 and Mkoma Polling Stations, the Petitioner's Agents were denied access to Gen-20a and all efforts to have a Gen 20a Forms were deliberately ignored by the Presiding Officer.

(ii) On 13th, 14th and 15th August 2026 at the polling stations, the Petitioner's agents were intimidated by the 1st Respondent and as a result, the totaling of the results was marred with serious manipulation, fraud and swapping of ballots to the extent that some of the valid votes for the Petitioner were disproportionately declared as invalid votes and some of the invalid votes were given to the 1st Respondent to give him undue advantage so as to ensure that the Petitioner losses the elections.

(iii) *Further, the 1st Respondent bribed a number of the Petitioner's Polling Agents by giving them money.*

(iv) *Some of Petitioner's polling agents contested the results announced at the polling centers but despite the clear communication to the Presiding Officer, the 2nd Respondent's officials refused to heed the objections and instead proceeded to declare the 1st Respondent as having been duly elected Member of Parliament for Nyimba South Constituency, when in fact not.*

(v) *After the declaration of result, the Petitioner and her teams continued engaging the 2nd Respondent's agents for the missing Gen20a forms and when the said Forms were released, they were discovered to be fake as most of them were either not signed, or improperly signed, or they were unclear photocopies of the same.*

2. Vote Buying:

YOUR PETITIONER says that:

(i) *The 1st Respondent and his agents acting under his directions with knowledge, consent and approval were distributing money to electorates during campaigns and on the polling/voting day to entice the electorates to vote for him to the extent that there are witnesses who received the said money and were told not to vote for the Petitioner but instead, to vote for the 1st Respondent* **"pa nyali"** *(meaning on the lamp-light). For instance, the 1st Respondent, his agent/supporters known as Shelly Sakala (Council Chairperson for Nyimba District) and all Ward Councilors under the 1st Respondent's Party were seen going round all the Polling Station distributing money and pens to electorates during the polling/voting day contrary to the clear provisions of the Constitution of the Republic of Zambia, The Electoral Process Act, and The Electoral Code of Conduct.*

(ii) *On the voting day on 13th August 2026, at Mukoma Polling Station of Chamilala Ward, Chowa and Kapakasa Polling Stations of Vizimumba and at Nyimba Primary Polling Stations, the 1st Respondent, Shelly Sakala and other members of the 1st Respondent's Party while acting under his instructions with his full knowledge, consent and approval and directions, were seen distributing pens, fritters (commonly known as* **'vitumbuwa'**) *and* **nshima** *to the electorates and the*

electorates were categorically told and instructed to vote for the 1st Respondent and not for the Petitioner because she was standing on a useless UPND Party headed by a Tonga President that has not done anything to develop Nyimba South Constituency and Eastern Province as a whole. This vice of vote buying, distributions pens, nshima on 13th August, 2026 characterized the 1st Respondent's illegal campaign tactics throughout all the wards in Nyimba South Constituency and continued until the voting day on 13th August 2026.

(iii) *In addition, the 1st Respondent and his associates or party cadres connected to him and acting under his directives and instructions, recruited his party cadres to stand and be stationed along all roads leading to the Polling Stations where they were fraudulently and widely giving out pens to almost all the voters under a guise that the pens that were provided by the 2nd Respondent (ECZ) were fake and fading. When distributing the said pens (on the poll day), electorate were asked to disclose their preferred candidates and regardless of the candidate they mentioned, they were told and misled that their candidate whom they needed to vote for is the one appearing on the lamp-light/* ***"pa nyali" (sic)*** *and that they were being given the said pen to vote for the said candidate standing on* ***"pa nyali"*** *and as a token of appreciation for their wise voting.*

(iv) *At Nyimba Primary Polling Station, the 1st Respondent through and his Party cadres and members acting under his direct instructions and orders was seen enticing electorates within the Polling centre premises by distributing Pens, and giving them biscuits and K20 to K50 notes to the electorates before each one of them could vote, and they were further promised that they would be given nshima with chicken and beef after voting as a token of appreciation for voting to the 1st Respondent. When one of the Petitioner's Agents noticed this vice, she approached them but instead she was threatened to told to apologise failure which her house would be burnt to ashes immediately because UPND had already lost power and there is nothing they could do. They continued giving people the money and pens.*

3. Intimidation and Campaigning on the Voting day:

YOUR PETITIONER says that:

(i) *The 1st Respondent and his agents and persons acting under his direct instructions with his knowledge, consent and approval particularly in Msima, Vizimumba, Chiweza and Chamilala Wards used intimidatory language to the electorate during campaigns and on the polling day on 13th August 2026 by threatening the electorate that anyone who would vote for any UPND candidates including the Petitioner herein, would be chased from the village to follow the UPND President Mr. Hakainde Hichilema in Southern Province where Tongas live.*

(ii) *On 13th August, 2026, at Nyimba Primary Polling Station, the 1st Respondent and his agent Shelly Sakala and persons acting under his direct instructions with his knowledge, consent and approval were heard instructing people to vote for the 1st Respondent and on the "nyali" (meaning the Lamp-light sign for NRPUP) the 1st Respondent's Party symbol. The 1st Respondent was further head telling electorates that the Petitioner and his Party were a bunch criminals and tribalists who were burnt on arresting people from the eastern region and busy giving jobs to Tongas and as such never deserved even a single vote from Eastern Province. These comments connote serious hate speech against the Petitioner and his Party UPND. This was the same situation at in Vizimumba Ward at Chowa Polling Station where the 1st Respondent was on the poll/voting day telling electorates to vote for him and his Party in order to bring jobs to Eastern Province.*

4. Character Assassination and Hate Speech:

(i) *The 1st Respondent's campaign message was based on character assassination, divisiveness, hate speech, intimidation, threats, inflammatory or tribal remarks and/or sentiments to the extent that he was heard telling electorates that it was being insensitive to vote for the Petitioner who was in association with a Political Party-UPND and President who are responsible for the death of the late President's Edgar Lungu's and for the failed burial in Zambia owing to the fact that the said Edgar Lungu is from Eastern Province and Nsenga tribe and that in Nsenga land,*

we should make sure that nobody votes for the Petitioner. The 1st Respondent was also heard telling people that voting for NRPUP and the 1st Respondent was the only way the said former President Edgar Lungu would be buried in Zambia and that former President Edgar Lungu's spirit will haunt any person who will not vote for the 1st Respondent and his Party UPND for betrayal.

11. YOUR PETITIONER states that as a consequence of the aforesaid illegal practices and/or election malpractices committed by the 1st and 2nd Respondent and their agents, the majority of the voters in the whole of Nyimba South Constituency in all the ***eight (8) Wards*** and all the ***fifty five (55) polling stations*** were prevented from exercising their freedom and right to choose a candidate of their choice as preferred. Further that some electorates who voted for the Petitioner had either their votes irregularly invalidated or fraudulently swapped in favor of the 1st Respondent, to your Petitioner's detriment and loss.

12. In the premise, YOUR PETITIONER states that the 1st Respondent was not duly elected in terms of the Constitution and the Electoral Act because the elections in Nyimba South Constituency were held in an atmosphere which was not free and fair, due to widespread malpractices, vote buying, bribery, violence and corruption, all constituting illegal activities in so far as the election relates.

13. By virtue of what is stated above, the 1st and 2nd Respondent contravened the electoral process law by:

    (i) *Serious and widespread manipulation, fraud and swapping of ballots and/or mistakes in relation to votes cast to the extent that some of the valid votes for the Petitioner were disproportionately declared as invalid votes and some of the invalid votes were given to the 1st Respondent to give him undue advantage and illegally enabling him to win the election;*

    (ii) *The 1st Respondent making false, defamatory, uttering hate speech, and inflammatory allegations against the Petitioner;*

    (iii) *practicing undue influence against the Petitioner; and*

    (iv) *Failing to comply with the Electoral Process Act and the Electoral Code of Conduct.*

RELIEFS SOUGHT BY THE PETITIONER:

WHEREOF, YOUR PETITIONER PRAYS for a declaration that and/or for the following Reliefs:

1. A declaration that the declaration by the 2nd Respondent that the 1st Respondent is a winner and duly elected Member of Parliament for Nyimba South Constituency *is null and void.*

2. A declaration that the 1stRespondent's election as Member of Parliament for Nyimba South Constituency is invalid by the reason of non-compliance with the strict provisions of the Constitution, Cap 1 of the Laws of Zambia and the Electoral Process Act No. 35 of 2016.

3. A declaration that the illegal practices committed by the 2nd Respondent as well as the 1st Respondent and his agents or persons acting under his instructions with his knowledge, consent and approval, affected the election results and therefore the election of the 1st Respondent as a Member of Parliament for Nyimba South Constituency *be nullified.*

4. An Order that the 1st and 2ndRespondents bears the costs of this Petition.

5. Any other reliefs the court may deem fit.

Dated at Lusaka this 28th day of AUGUST 2026.

Signed by: _____

THE PETITIONER -OLIPA M. PHIRI

This Petition was taken out by **Wallace & Co., Legal Practitioners,** whose address for service is at **Plot 43, Unit 2, Makani Street, Off Central Street & Great East Road, Jesmondine, Lusaka P.O. Box 320227, Lusaka,** and whose email address is: wallace@wallaceandco.co.zm, Cell: +260 763-886-465, Advocates for the said Petitioner. AND the Petitioner who resides at **Plot No. 468, Riverside, Nyimba in the Nyimba District of Eastern Province of the Republic of Zambia** and whose postal address for service is **P.O. Box 570162, Nyimba – Zambia** and email address being taitanalodge@gmail.com, and Cell: +260 977 947005.

To: THE 1ST RESPONDNET
Mackson C. Kapantha
NYIMBA DISTRICT
Cell: +260 979207300

To: THE 2ND RESPONDENT
Electoral Commission of Zambia
Elections House,
Haile Selassie Avenue,
Longacres,
P.O Box 50274
Lusaka, Zambia

IN THE HIGH COURT OF ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(CIVIL JURISDICTION)

2026/HP/EP/12

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026

IN THE MATTER OF: ARTICLE 73(1) AND ARTICLE 45(2)(a) AND (b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026, (SI NO. 31 OF 2026)

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97 (2) 99 (A), 100 (2) (A) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016, AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT ACT, 2026)



BETWEEN:

OLIPA PHIRI — PETITIONER

AND

MACKSON C. KAPANTHA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

ANSWER OF THE 2ND RESPONDENT TO THE ELECTION PETITION

The 2nd Respondent, the Electoral Commission of Zambia, through its Advocates, hereby answers the Petition filed herein as follows:

1. Save where expressly admitted herein, the 2nd Respondent denies each and every allegation, assertion and averment contained in the Petition and the Affidavit Verifying Facts in support thereof, as though the same were set out seriatim and specifically traversed.
2. The 2nd Respondent states that it is a constitutional body mandated to conduct elections in accordance with the Constitution and the Electoral Process Act.
3. The 2nd Respondent accordingly states that it conducted and administered the parliamentary election for Nyimba South Constituency in accordance with the Constitution, the Electoral Process Act, the applicable regulations and procedures governing the conduct of elections.
4. The 2nd Respondent denies that the election in Nyimba South Constituency was conducted in a manner that renders the result invalid.

5. The 2nd Respondent shall contend that the Petitioner's allegations are either unsupported by sufficient particulars, unsupported by credible evidence, or do not satisfy the statutory requirements for nullification of an election.
6. The 2nd Respondent further states that allegations of electoral malpractice, misconduct, corruption, vote buying, intimidation, manipulation or unlawful conduct must be proved by the Petitioner to the standard required by law.
7. The 2nd Respondent admits only such matters as relate to the fact that the election for Nyimba South Constituency was conducted on 13th August 2026 and that the 1st Respondent was declared the winner, subject to the official electoral records.
8. The 2nd Respondent denies any allegation, whether express or implied, that the election was conducted unlawfully or contrary to the Constitution or the Electoral Process Act.
9. The 2nd Respondent states that the official results and relevant electoral returns shall speak for themselves.
10. The 2nd Respondent denies that its officers or agents unlawfully manipulated, swapped or altered votes in favour of the 1st Respondent.
11. The 2nd Respondent puts the Petitioner to strict proof of the specific polling stations at which it is alleged that votes were manipulated or swapped and the identity of the persons alleged to have undertaken such acts.
12. In particular, where the Petitioner alleges that his agents were denied access to Gen-20 forms or that objections raised by his agents were ignored, the Petitioner is put to strict proof of:
13. The 2nd Respondent states that the results declared were based upon the official electoral returns submitted through the prescribed electoral process.
14. The 2nd Respondent further denies that any errors or omissions, if established, were deliberate acts undertaken for the purpose of giving the 1st Respondent an unlawful advantage.
15. In response to the allegations of vote buying contained in the Petition, the 2nd Respondent states that it has no personal knowledge of the alleged private conduct attributed to the 1st Respondent or persons allegedly acting on his behalf.
16. The 2nd Respondent denies that its officers participated in, authorised or facilitated any vote buying.
17. To the extent that the Petition alleges that complaints were made to electoral officials or law-enforcement officers, the 2nd Respondent shall rely upon the official records relating to any such complaint, if any.
18. The 2nd Respondent denies that its officers unlawfully permitted or participated in intimidation or campaigning on polling day.
19. Where any complaint was brought to the attention of the 2nd Respondent or its officials, the 2nd Respondent shall rely upon the contemporaneous records and reports relating to that complaint.
20. The 2nd Respondent denies that any conduct of its officials unlawfully prevented the Petitioner or his supporters from exercising their right to vote.

21. In response to the allegations of character assassination, inflammatory language and hate speech, the 2nd Respondent states that it did not authorise, participate in or direct any such statements.
22. The 2nd Respondent denies that it breached the Electoral Code of Conduct or any other applicable electoral law in the manner alleged.
23. The 2nd Respondent denies the allegation that any unlawful conduct attributable to it affected the result of the election.
24. The Petitioner's allegation that the alleged malpractice occurred at all 47 polling stations and across all 7 wards is denied and the Petitioner is put to strict proof of each individual allegation.
25. The 2nd Respondent states that each polling station has its own electoral record and the Petitioner cannot rely on generalised allegations in place of proof of the specific irregularities complained of.
26. The 2nd Respondent further denies that rejected or disputed ballots were unlawfully treated as valid votes for the 1st Respondent and puts the Petitioner to strict proof of every ballot alleged to have been improperly counted.
27. The 2nd Respondent denies that the election was conducted in an atmosphere which rendered the election invalid.
28. The 2nd Respondent states that the declaration of the result was made pursuant to the applicable electoral procedures and on the basis of the official results received from the relevant polling stations.
29. The 2nd Respondent denies that the 1st Respondent was improperly declared elected.
30. The 2nd Respondent opposes all the reliefs sought by the Petitioner insofar as they are founded upon allegations that have not been proved against the 2nd Respondent.
31. In particular, the 2nd Respondent opposes any order declaring the election invalid.
32. The 2nd Respondent further opposes the Petitioner's prayer for an order declaring him duly elected.
33. The 2nd Respondent accordingly prays that the Petition be dismissed insofar as it is directed against the 2nd Respondent, with costs.

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

RESPONDENT OR ITS ADVOCATE

Drawn by : .....

STEMBRIDGE CHIRAMBO & ASSOCIATES
Western Wing Suite LG 03 & 04, Provident House,
Umodzi Highway,
P.O.Box 51034,
lahonju@gmail.com
CHIPATA
Or C/o Plot 3601/4, Mapepe Road,
Olympia Park,
LUSAKA

ADVOCATES FOR THE 2nd RESPONDENT

TO: THE PETITIONER AND HIS ADVOCATES
Wallace & Company,
Plot 43, Unit 2, Makani Street,
Off Central Street & Great East Road, Jesmondine
LUSAKA

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



2026/HP/EP/012

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026.

IN THE MATTER OF: ARTICLE 73 (1) AND ARTICLE 45(2) (A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 31 OF 2026).

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97(2), 98(C), 99(A), 100 (2) (A), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT) ACT, 2026].

AND

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA PHIRI — PETITIONER

AND

MACKSON C. KAPANTHA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

REPLY TO THE 2nd RESPONDENT'S ANSWER

THE PETITIONER'S REPLY TO THE 2nd RESPONDENT'S ANSWER AND STATES AS FOLLOWS:

1. The contents of paragraph 1, 2, 3 and 4 are not in issue, save to the Petitioner will aver that the election and declaration of the 1st Respondent as a duly elected Member of Parliament for

Nyimba South Constituency was not free and fair as a result of widespread irregularities, misconduct or breaches of electoral law that was occasioned by the 1st Respondent and/or his agents, with his consent and approval. The said wrongdoings were of such a scale or nature that it adversely affected a fair outcome of the election as the electorates were prevented to freely and fairly chose a candidate of their choice.

2. The in response to the contents of paragraphs 5, 6, 7 8, 9,10,11, 12, 13 and 14 the Petitioner will aver that contrary to the assertion contained in the said paragraphs of the 2nd Respondent's Answer filed on 07th September 2026, The Petitioner will aver that it will adduce enough evidence to prove to the required standards that the election of the 1st Respondent as Member of Parliament for Nyimba South Constituency was affected by serious and widespread irregularities, misconduct or breaches of electoral law. This included but not limited to results swapping and manipulation in favour of the 1st Respondent.

3. In response to the contents of paragraph 15,16,17,18, 19, 20, 21,22 and 23, the Petitioner I will repeat the contents of paragraphs 1 and 2 above and the contents of the Election Petition filed and dated 28th August, 2026 in its entirety to the extent that the Petitioner's election as Member of Parliament for Nyimba South Constituency was marred with widespread corrupt and illegal practices, and intimidation at a grand scale and as a result the said illegal practices adversely affected the outcome of the election and prevented the majority of the voters in the entire Nyimba South Constituency from voting for the Petitioner as a candidate of their choice. Simply put, the misconduct and/or illegal practices instigated at the instance of the 1st Respondent were sufficiently widespread to prevent, or potentially prevent the majority of voters from electing the Petitioner as their preferred candidate.

4. In response to the contents of paragraphs 24, 25, 26,27, 28, 29 and 30, the Petitioner will aver that corrupt or illegal or misconduct on the part of the 1st and 2nd Respondent was severe and widespread and as a result the majority of the voters in Nyimba South Constituency were or might have been prevented from electing a candidate of their choice. The alleged misconducts clearly fall within the prohibited category of misconduct, and that they were widespread in the constituency to the level where registered voters in great numbers were influenced to change their selection of a candidate or prevented from electing a candidate of their choice.

5. The Petition will aver that contrary to assertion by the 2nd Respondent in paragraphs 31 and 32 of the 2nd Respondent's Answer filed on 7th September, 2026, the Petitioner will aver that in view of the foregoing by irregularities, misconduct or breaches of electoral law, it will be justifiable for the Court to grant the Petitioner with the reliefs sought in the Petition dated 28th August, 2026.

6. SAVE the contents of the 2nd Respondent's Answer, the Petitioner denies all the assertions and/or allegations contained in the said Answer and maintains that the reliefs sought in the Election Petition filed into Court and dated 28th August, 2026 be upheld.

Dated at Lusaka this _____ day of_____2026.

Signed by the Petitioner: _____,

OLIPA PHIRI
(PETITIONER)

The Reply was drawn by Counsel of_____

Wallace & Co; Legal Practitioners
Plot 43, Unit 2, Makani Street
Off Central Street & Great East Road
Jesmondine
Lusaka – Zambia
Email: wallace@wallaceandco.co.zm
Cell: +260 763-886-465
Advocates for the Petitioner

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

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

2026/HP/EP/012

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026.

IN THE MATTER OF: ARTICLE 73 (1) AND ARTICLE 45(2) (A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 31 OF 2026).

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97(2), 98(C), 99(A), 100 (2) (A), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT) ACT, 2026].

AND

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA M. PHIRI — PETITIONER

AND

MACKSON C. KAPANTHA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

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

THE PETITIONER'S REPLY TO THE 1ST RESPONDENT'S ANSWER AND STATES AS FOLLOWS:

1. The contents of paragraph 1 are not in issue, save to indicate that the Petition herein does not relate to a challenge against an election for a Member of Parliament for Mkushi North, but that of Nyimba South Constituency.

2. The Petitioner will aver that contrary to the assertion contained in paragraphs 2, 3 and 4 of the 1st Respondent's Answer filed on 07th September, 2026, The Petitioner will repeat the contents of Paragraph 7, 8 and 9 of his Election Petition filed on 28th August 2026.

3. The Petitioner will aver that contrary to the assertion contained in paragraphs 5 and 6 of the 1st Respondent's Answer filed on 07th September 2026, The Petitioner will repeat the contents of Paragraph 10 (i), (ii), (iii) and of her Election Petition filed on 28th August 2026.

4. In addition, the Petitioner will aver that the election of the 1st Respondent as a Member of Parliament for Nyimba South Constituency was not free and fair as a result of widespread irregularities, misconduct or breaches of electoral law that was occasioned by the 1st Respondent and/or his agents, with his consent and approval. The said wrongdoings were of such a scale or nature that it adversely affected a fair outcome of the election as the electorates were prevented to freely and fairly chose a candidate of their choice.

5. The Petitioner will aver that contrary to the assertion contained in paragraph 7 of the 1st Respondent's Answer filed on 07th September 2026, The Petitioner will repeat the contents of Paragraph 10 (2) (i), (ii), (iii) and (iv) of her Election Petition filed on 28th August 2026 and the contents of paragraph 4 above. Further the Petitioner shall aver that the 1st Respondent was seen at Lupala, Nyimba Primary School and Kapakasa polling stations distributing flitters, pens and nshima and were being told to vote for the 1st Respondent in consideration of receiving the said flitters, pens and nshima. It is therefore, not true for the 1st Respondent to say that after voting at Chipembele Hall in Ngozi ward he went home to sit and wait for the declaration of the votes in the election. The truth is that the 1st Respondent was seen going round all the polling stations enticing people to vote for him on the polling day.

6. The Petitioner will aver that contrary to the assertion contained in paragraph 8 of the 1st Respondent's Answer filed on 07th September 2026, The Petitioner will repeat the contents of Paragraph 10 (3) (i) and (ii) and 10 (4) (i) of her Election Petition filed on 28th August 2026 and the contents of paragraph 4 above.

7. The contents of paragraph 10 are within the peculiar knowledge of the 1st Respondent and the same is vehemently denied. Further, the Petitioner will aver that the alleged insults by the Petitioner is just an afterthoughts calculated to insulate or normalise the 1st Respondent's hate speech and character assassination during campaigns.

8. In response to the contents of paragraph 10 and 11, the Petitioner I will repeat the contents of paragraph 4 above and the contents of the Election Petition filed into Court and dated 28th August, 2026 in its entirety to the extent that the Petitioner's election as Member of Parliament for Nyimba South Constituency was marred with widespread corrupt and illegal practices, and intimidation at a grand scale and as a result the said illegal practices adversely affected the outcome of the election and prevented the majority of the voters in the entire Nyimba South Constituency from voting for the Petitioner as a candidate of their choice. Simply put, the misconduct and/or illegal practices instigated at the instance of the 1st Respondent were sufficiently widespread to prevent, or potentially prevent the majority of voters from electing the Petitioner as their preferred candidate Nyimba South Constituency Parliamentary seat.

9. SAVE the contents of the 1st Respondent's Answer, the Petitioner denies all the assertions and/or allegations contained in the said Answer and maintains that the reliefs sought in the Election Petition filed into Court and dated 28th August, 2026 be upheld.

Dated at Lusaka this 11th day of **September** 2026.

Signed by the Petitioner: _____

OLIPA M. PHIRI
(PETITIONER)

The Petitioner's Reply was drawn by Counsel of_____

Wallace & Co., Legal Practitioners
Plot 43, Unit 2, Makani Street
Off Central Street & Great East Road
Jesmondine
Lusaka – Zambia
Email: wallace@wallaceandco.co.zm
Advocates for the Petitioner

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 SEP 2026
PRINCIPAL REGISTRY 5
P.O. BOX 50067, LUSAKA

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

2026/HP/EP/012

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026

IN THE MATTER OF: ARTICLE 73(1) AN ARTICLE 45(2)(A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 36 OF 2026)

IN THE MATTER OF: SECTION 81, 83, 87, 89, 96, 97(2) 98(C), 99(A), 100(2)(A) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 THE PROCESS (AMENDMENT) ACT, 2026

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA PHIRI	PETITIONER
AND	
MACKSON C. KAPANTHA	1ST RESPONDENT
ELECTORAL COMMISSION OF ZAMBIA	2ND RESPONDENT

1ST RESPONDENT'S ANSWER TO PETITION

THE 1ST RESPONDENT RESPONDS TO THE PETITION AS FOLLOWS:

1. The 1st Respondent admits the contents of Paragraphs 1 to 6 of the Election Petition save to add that in further response to paragraph 2 that the 1st Respondent is the duly elected member of parliament for Mkushi North.
2. In answer to Paragraph 7 the 1st Respondent was in fact validly elected in accordance with the Constitution of Zambia as amended by Act No. 2 of 2016 (the "Constitution"), the Electoral Process Act No. 35 of 2016 as amended by the Electoral Process (Amendment) Act, 2026, and all other subsidiary legislation.

3. Paragraph 8 is denied in its entirety and the 1st Respondent shall put the Petitioner to strict proof thereof.

4. The 1st Respondent categorically denies the contents of Paragraph 9 and will say that on the voting day he did not campaign at any polling stations, but merely attended to cast his vote in the election at his polling station at Chipembe Hall, in Ngozi ward following which he returned home where he remained pending the close of polls and declaration of the votes in the election.

5. In answer to Paragraph 10 of the Election Petition, the 1st Respondent denies the allegations contained therein, and avers that he was duly elected in the 13th August, 2026, elections, as announced by the 2nd Respondent in accordance with the Constitution, the Electoral Process Act No. 35 of 2016 as Amended by the Electoral Process Act, 2026, and all other subsidiary legislation. and the Petitioner will be put to strict proof of all allegations to the contrary.

6. Further in answer to Paragraph 10(1)(i) -(v) alleging manipulation of votes cast, fraud and swapping of ballots cast, the 1st Respondent denies the contents thereof in their entirety, and will say as follows:

    i. The same is a falsehood, maliciously crafted by the Petitioner, as all stakeholders received Gen20 forms.

    ii. The same is a falsehood, maliciously crafted by the Petitioner. Neither the 1st Respondent nor his agents engaged in any manipulation, fraud or swapping of ballots. Further the results declared by the returning officer were true reflection of the ballots cast in the election.

    iii. The same is a falsehood, maliciously crafted by the Petitioner, and the Petitioner will be put to strict proof thereof.

    iv. The same is a falsehood, maliciously crafted by the Petitioner, as all declarations announced at the polling stations were

    v. The same is a falsehood, maliciously crafted by the Petitioner, as no Gen20forms were missing in the election, or fake. The Plaintiff will be put to strict proof thereof.

7. Further in answer to Paragraph 10(2)(i) -(iv) alleging vote buying, the 1st Respondent denies the contents thereof in their entirety, and will say as follows:

   i. The 1st Respondent has never himself engaged in or instructed his agents to distribute money to electorates during the campaigns and on voting day.

   ii. The 1st Respondent denies the allegation that he was distributing pens, fritters, and nshima to voters on polling day, as on the voting day of 13th August, 2026 the 1st Respondent merely attended to cast his vote in the election at his polling station at Chipembe Hall, in Ngozi ward following which he returned home where he remained pending the close of polls and declaration of the votes in the election. The 1st Respondent would have had to travers an area of over 120km to have been at al the said polling stations, which would be impossible to achieve in a single day.

   iii. The same is falsehood maliciously crafted by the Petitioner. Contrary to the allegations it was in fact the Petitioner through his agents describing themselves as the "Polling Station Management Committee who with the knowledge and full consent of the Petitioner who were illegally distributing pens and instructing voters on polling day to vote for the Petitioner.

   iv. The same is falsehood maliciously crafted by the Petitioner, as the 1st Respondent has never himself engaged in or instructed his agents to distribute money to electorates on voting day

8. In answer to Paragraph 10(3)(i) -(ii) alleging intimidation and campaigning on the voting day, the 1st Respondent denies the contents thereof in their entirety, and will say as follows:

   i. The 1st Respondent denies ever using intimidatory language to the electorates during campaigns and on polling day at the said wards. The same is a falsehood, maliciously crafted by the Petitioner and the 1st Respondent again reiterates that on voting day of 13th August, 2026 the he merely attended to cast his vote in the election at his polling station at Chipembe Hall, in Ngozi ward following which he returned home where he remained pending the close of polls and declaration of the votes in the election.

ii. The same is falsehood, maliciously crafted by the Petitioner as the 1st Respondent has never been to the said polling station.

9. In answer to Paragraph 10(4)(i) alleging character assassination and hate speech the 1st Respondent denies the contents thereof in their entirety, and avers that in fact it was the Petitioner who engaged in the use of insulting language against the 1st Respondent by stating to the electorate that the 1st Respondent had no children, that he was going out with married women, and that that he had nothing to offer in the 2016 election.

10. The 1st Respondent denies the contents of Paragraphs 11 and 12 of the Election Petition, and avers that the election held in Nyimba South Constituency were done so in accordance with all applicable electoral laws and procedures, and was thereby free and fair, with the result thereof being a true reflection of the choice of the majority of the electorate that cast votes in the election.

11. The 1st Respondent denies the contents of Paragraphs 13 and shall put the Petitioner to strict proof thereof.

12. **SAVE** as herein before admitted the 1st Respondent denies each and every allegation contained in the Petition as if the same were produced herein and set out *seriatim.*

13. The 1st Respondent therefore states that the Petitioner is not entitled to any of the reliefs sought in the Petition.

14. **WHEREOF**, the 1st Respondent prays that this Honourable Court be pleased to dismiss the Petition in its entirety, uphold the election and declaration of the 1st Respondent as the duly elected Member of Parliament for Mkushi Constituency , dismiss the reliefs sought by the Petitioner, and award the costs of and incidental to the Petition to the 1st Respondent, together with such further or other relief as this Honourable Court may deem just.

Dated at Lusaka this _____ day of _____ 2026

_____

MACKSON KAPANTHA

Drawn by: _____

Messrs Joseph Chirwa and Company
Plot No. 10426 Manda Hill Road, Behind
Manda Hill Mall, Olympia Park
Tel: +260975756793
Email: admin@chirwalaw.com
LUSAKA
ADVOCATES FOR THE 1ST RESPONDENT

To: **The Petitioner and his Advocates**
Messrs Wallace & Company Legal Practitioners
Plot No. 43, Unit 2, Makani Street
Off Central Street & Great East Road
Jesmondine
LUSAKA

The 2nd Respondent
The Electoral Commission of Zambia
Elections House, Haile Selassie Avenue,
P.O. Box 50274
LUSAKA

IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP/012

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026.

IN THE MATTER OF: ARTICLE 73 (1) AND ARTICLE 45(2) (A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 31 OF 2026).

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97(2), 98(C), 99(A), 100 (2) (A), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT) ACT, 2026].

AND

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA PHIRI — PETITIONER

AND

MACKSON C. KAPANTHA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

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

PETITIONER'S SKELETON ARGUMENTS IN SUPPORT OF REPLY TO THE 2ND RESPONDENT'S ANSWER

IF IT MAY PLEASE THIS HONOURABLE COURT, hereunder are the Petitioner's Skeleton in support of the Reply to the 2nd Respondent Answer.

1.1 MY LODY/LADY, in the case of *Subeta Mutelo vs. Kang'ombe Christopher & Electoral Commission of Zambia - 2021/CCZ/A0033 (19th July 2022)* the Court intimated that *to warrant nullification of an election, the electoral malpractices the Petitioner needed to prove that the electoral malpractices or misconduct was so widespread that it prevented majority of electorates from electing a candidate of their choice.*

1.2 MY LORD/LADY, in the present case the Petitioner submits that there were serious widespread wrong doings by the 1st Respondent and his agents acting with his consent and approval, and breach of statutory duty by the 2nd Respondent such that the said illegal activities or wrong doings or electoral malpractices and the breach of statutory duty by the 2nd Respondent had the effect of affecting the majority of voters in the whole of Nyimba South Constituency.

1.3 **MY LORD/LADY**, we submit that the 2nd Respondent acted in such a manner that favorable the 1st Respondent as it allowed the swapping of votes and validation of spoilt votes to be counted as if they were votes for the 1st Respondent when in fact not, thereby failing in its constitutional and legal statutory duty in conduct, counting, collation and/or declaration of election results.

1.4 **MY LORD/LADY**, we submit that the Court must make a declaration that the declaration by the 2nd Respondent that the 1st Respondent was duly elected as Member of Parliament for Nyimba South Constituency be reversed.

2.1 <u>CONCLUSION AND PETITIONER'S PRAYER:</u>

2.2 **MY LORD/LADY**, it is our submission that the allegation of electoral offence alleged to have been committed by the 1st Respondent and the breach of statutory duty by the 2nd Respondent shall be proven by the Petitioner at trial as there is sufficient material and/or evidence to overturn the elections and therefore this Petition must succeed.

WE ARE MOST OBLIGED!

Dated at Lusaka the _____ day of **September 2026.**

The Petitioner's Skeleton Arguments were filed by Counsel of: _____

Wallace & Co., Legal Practitioners

Plot 43, Unit 2, Makani Street

Off Central Street & Great East Road

Jesmondine

Lusaka – Zambia

Email: wallace@wallaceandco.co.zm

Cell: +260 763-886-465

Advocates for the Petitioner

To: The 1st Respondent's Advocates

Joseph Chirwa and Company

Plot No. 10426 Manda Hill Road,

Behind Manda Hill Mall, Olympia Park

Tel: +260 975 756793

Email: admin@chirwalaw.com

Lusaka, Zambia

To: The 2nd Respondent& Its Advocates

Stembridge Chirambo & Associates

Plot No. 3601/4, Mapepe Road

Olympia Park

Lusaka, Zambia

IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP/012

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026.

IN THE MATTER OF: ARTICLE 73 (1) AND ARTICLE 45(2) (A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 31 OF 2026).

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97(2), 98(C), 99(A), 100 (2) (A), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT) ACT, 2026].

AND

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA PHIRI PETITIONER

AND

MACKSON C. KAPANTHA 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.

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

IF IT MAY PLEASE THIS HONOURABLE COURT, hereunder are the Petitioner's Skeleton in support of the Reply to the 1st Respondent Answer.

1.1 MY LODY/LADY, in the case of *Subeta Mutelo vs. Kang'ombe Christopher & Electoral Commission of Zambia - 2021/CCZ/A0033 (19th July 2022)* the Court intimated that *to warrant nullification of an election, the electoral malpractices the Petitioner needed to prove that the electoral malpractices or misconduct was so widespread that it prevented majority of electorates from electing a candidate of their choice.*

1.2 MY LORD/LADY, in the present case the Petitioner submits that there were serious widespread wrong doings by the 1st Respondent and his agents acting with his consent and approval, and that the said illegal activities or wrong doings or electoral malpractices had the effect of affecting the majority of voters in the whole of Nyimba South Constituency.

1.3 MY LORD/LADY, we submit that in the present case the Petitioner submits that there is sufficient material to show that the 1st Respondent or his election agent or persons acting with

the knowledge, consent and approval were involved in electoral malpractices whose effect is to affect the majority of voters in the whole of Nyimba South Constituency.

1.4 **MY LORD/LADY**, we submit that the Court must make a declaration that the declaration by the 2nd Respondent that the 1st Respondent was duly elected as Member of Parliament for Nyimba South Constituency is *null and void.*

2.1 **CONCLUSION AND PETITIONER'S PRAYER:**

2.2 **MY LORD/LADY**, it is our submission that the allegation of electoral offence alleged to have been committed by the 1st Respondent shall be proven by the Petitioner at trial as there is sufficient material and/or evidence to overturn the elections and therefore this Petition must succeed.

WE ARE MOST OBLIGED!

Dated at Lusaka the 11th day of **September** 2026.

The Petitioner's Skeleton Arguments were filed by Counsel of: _____

Wallace & Co., Legal Practitioners
Plot 43, Unit 2, Makani Street
Off Central Street & Great East Road
Jesmondine
Lusaka – Zambia
Email: wallace@wallaceandco.co.zm
Cell: +260 763-886-465
Advocates for the Petitioner

To: The 1st Respondent's Advocates

Joseph Chirwa and Company

Plot No. 10426 Manda Hill Road,

Behind Manda Hill Mall, Olympia Park

Tel: +260 975 756793

Email: admin@chirwalaw.com

Lusaka, Zambia

To: The 2nd Respondent & Its Advocates

Stembridge Chirambo & Associates

Plot No. 3601/4, Mapepe Road

Olympia Park

Lusaka, Zambia

Dated at Lusaka the 11th day of September 2026.

The Petitioner's Skeleton Arguments were filed by Counsel of: _____

Wallace & Co., Legal Practitioners

Plot 43, Unit 2, Makani Street

Off Central Street & Great East Road

Jesmondine

Lusaka – Zambia

Email: wallace@wallaceandco.co.zm

Cell: +260 763-886-465

Advocates for the Petitioner

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
PRINCIPAL REGISTRY 5
P.O. BOX 50067, LUSAKA

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

2026/HP/EP/012

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026

IN THE MATTER OF: ARTICLE 73(1) AN ARTICLE 45(2)(A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 36 OF 2026)

IN THE MATTER OF: SECTION 81, 83, 87, 89, 96, 97(2) 98(C), 99(A), 100(2)(A) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 THE PROCESS (AMENDMENT) ACT, 2026

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA PHIRI — PETITIONER

AND

MACKSON C. KAPANTHA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

1ST RESPONDENT'S SKELETON ARGUMENTS

MAY IT PLEASE THIS HONOURABLE COURT, these are the Skeleton Arguments in Support of the Answer to 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 Nyimba South 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 Nyimba South 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,** in 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, 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 election if it appears to the High Court or a tribunal that the election was so***

---

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

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 Parliament is 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."*

---

[3] (2017) 3 Z.R. 130.
[4] Selected Judgment No. 51 of 2018.

[2.3] **MY LORD/MY LADY,** applying the foregoing principles to the present case, the Petitioner's allegations are primarily grounded on allegations of alleged, vote buying, manipulation, and intimidation as well as a concerning the conduct of Presiding Officers at polling stations and other electoral officials in relation to the tallying, verification and announcement of results, in the facilitation of the electoral process and declaration of results therein. We however contend that, the Petitioner has not produced evidence supporting his allegations, demonstrating that the 1st Respondent personally or through individuals by his direction and with his consent or approval 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 provides 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 Nyimba South 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 Nyimba South 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 of 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 **"MN1"** the 1st Respondent obtained 10,443 votes and the Petitioner obtained 3,741 votes, having a majority vote of 6,702 votes obtained by the 1st Respondent. In order for the Petitioner to prove his

case, he must present evidence that will satisfy the statutory conditions and allegations of irregularity depicting a connection of the same to the 1st Respondent and with proof of their effect on the electorate, to his disadvantage, threshold imposed by ***Section 97(2) of the Electoral Process Act.***[5] 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 Nyimba South 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 submitted that the election of the 1st Respondent as duly elected Member of Parliament of Nyimba South 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 solemn result to be overturned.

[3.0] STANDARD OF PROOF IN NULLIFICATION OF AN ELECTION

---

[5] Supra note 1.
[6] No. 35 of 2016.

[3.1] **MY LORD/LADY,** it is 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 of 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:

> ***"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 and the Affidavit Verifying Facts 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 Nyimba South 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

---

[7] Appeal No. 19 of 2017.

Returning Officer has not been met, thus, the Petition fails to establish any reasonable validity to have 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 the cogent and convincing evidence required to unsettle an election duly conducted and declared. The Petition rests upon allegations largely concerning the alleged conduct of the 1st Respondent, his agents, and electoral officials, without sufficient evidence connecting the 1st Respondent to any unlawful act or demonstrating that any alleged irregularity affected the will of the majority of the electorate. Therefore the 1st Respondent humbly prays that this Honourable Court upholds the declaration of **MACKSON C. KAPANTHA** as the duly elected Member of Parliament for Nyimba South Constituency and dismiss the Petition with costs.

Dated at Lusaka this _____day of _____ 2026.

This document was settled by: _____

Messrs Joseph Chirwa and Company
Plot No. 10426 Manda Hill Road, Behind
Manda Hill Mall, Olympia Park
Tel: +260975756793
Email: admin@chirwalaw.com
LUSAKA
ADVOCATES FOR THE 1ST RESPONDENT

To: **The Petitioner and her Advocates**
Messrs Wallace & Company Legal Practitioners
Plot No. 43, Unit 2, Makani Street
Off Central Street & Great East Road
Jesmondine
LUSAKA

The 2nd Respondent
The Electoral Commission of Zambia
Elections House, Haile Selassie Avenue,
P.O. Box 50274
LUSAKA

IN THE HIGH COURT OF ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(CIVIL JURISDICTION)

2026/HP/EP/12

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026

IN THE MATTER OF: ARTICLE 73(1) AND ARTICLE 45(2)(a) AND (b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026, (SI NO. 31 OF 2026)

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97 (2) 99 (A), 100 (2) (A) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016, AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT ACT, 2026)



BETWEEN:

OLIPA PHIRI — PETITIONER

AND

MACKSON C. KAPANTHA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

SKELETON ARGUMENTS IN SUPPORT OF 2ND RESPONDENTS ANSWER

---

1. INTRODUCTION

1. These Skeleton Arguments are filed on behalf of the 2nd Respondent, the Electoral Commission of Zambia ("the Commission"), in opposition to the Petition challenging the parliamentary election held in Nyimba South Constituency on 13 August 2026.
2. The 2nd Respondent relies on its Answer to the Petition and the Affidavit in Opposition filed herein.
3. The 2nd Respondent's position is that the election was conducted pursuant to its constitutional and statutory mandate and that the Petitioner has failed to establish any ground upon which the election may lawfully be declared void.
4. The Petitioner's allegations include alleged vote buying, carrying or displaying weapons, disruption of political meetings, threats of violence and intimidation allegedly committed by the 1st Respondent

or his supporters. The 2nd Respondent denies knowledge of, participation in or responsibility for those alleged acts.

5. The 2nd Respondent denies knowledge of, participation in or responsibility for those alleged acts.
6. Another cloudy Petitioner's allegations is noncompliance of the electoral process act and attendant law governing overseeing and management of an election by designated officer.
7. In our view, the preceding allegation against the 2nd Respondent is the one worth advancing legal arguments against.
8. Therefore we frame the question that must be answered by this honorable courts as:

    (a) "whether there was any non-compliance by the 2nd Respondent in accordance under section 97(2) (b) and

    (b) whether any such noncompliance substantially affected the result of the election under contention.

(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; or

2. THE APPLICABLE LAW

6. ***Section 97(2) of the Electoral Process Act*** provides the statutory grounds upon which an election may be declared void.
7. The said law is couched as follows:

> ***97. (1) 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.***
>
> ***(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 committed in connection with the election—***
>
> ***(i) by a candidate; or***
>
> ***(ii) with the knowledge and consent or approval of a candidate or of that candidate's election agent or polling agent; and the majority of voters in a constituency, district or ward were or may***

have been prevented from electing the candidate in that constituency, district or ward whom they preferred;

(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; or omission did not affect the result of that election *(underlining is our for-emphasis's sake)*

8. Under section 97(2)(b), the Petitioner must establish establish non-compliance with the provisions of the Act relating to the conduct of elections and further establish that such non-substantially compliance affected the result.
9. In **Christine Phiri and Another v Melessiana Phiri and Another, CCZ/A 37 of 2021, [2022] ZMCC 41**, the Constitutional Court held that that non-compliance under section 97(2)(b) must be shown to have affected the result.
10. In doing so, the Court was breathing life into ***Section 97(4) of the Electoral Process Act*** which provides:

(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 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.

12. In this seminal case of **Christine Phiri and Another v Melessiana Phiri and Another**, the Constitutional Court further reiterated that the petitioner bears the burden of proving the allegations under section 97(2)(a) and (b) to the requisite standard.
13. Section 97(2)(b) concerns non-compliance with the provisions of the Electoral Process Act relating to the conduct of elections and requires proof that such non-compliance affected the result.
14. In ***Giles Chomba Yamba Yamba v Kapembwa Simbao, Electoral Commission of Zambia and Another, CCZ Appeal No. 12 of 2018, Selected Judgment No. 6 of 2018***, the Constitutional Court explained that section 97(2)(b) concerns non-compliance in the conduct of elections and the constitutional responsibility of ECZ for that conduct.
15. **The principle was applied in Nkonge v Nyemba,** where the Court recognised the distinction between misconduct attributable to a candidate under section 97(2)(a) and non-compliance in the conduct of an election under section 97(2)(b).

16. Accordingly, if the breach exist at all, the Petitioner is required to demonstrate how that breach affected the result.
17. The 2nd Respondent submits that the Court must distinguish between a proven irregularity and an irregularity sufficient to invalidate an election.
18. Further Section 97(4) recognises the principle of substantial compliance and protects an election from being invalidated merely because of an act or omission of an election officer where the statutory threshold for nullification is not met.
19. In ***Christine Phiri v Melessiana Phiri***, supra, the Constitutional Court likewise affirmed that non-compliance must be shown to have affected the result.
20. It follows that the Court should not nullify an election merely because an irregularity is alleged or even established. The Petitioner must demonstrate the statutory and causal connection between the irregularity and the result.
21. The 2nd Respondent has pleaded that it conducted and administered the Nyimba South Constituency parliamentary election in accordance with the Constitution, the Electoral Process Act and the applicable regulations and procedures.
22. The 2nd Respondent further states that the Presiding Officers at its Polling Stations lawfully announced the results and that the Returning Officer performed the statutory functions relating to aggregation and declaration.
23. The Petitioner is therefore put to strict proof of any allegation that those processes were unlawful or materially non-compliant and, overall, affected the results.

3. CONCLUSION

38. The 2nd Respondent respectfully submits that the Petitioner's case fails unless the Court is satisfied, upon cogent evidence and to the requisite standard, that there was non-compliance by the electoral machinery within section 97(2)(b), and that such non-compliance affected the result.
39. The 2nd Respondent submits that the allegations against it have not met that statutory threshold.
40. The 2nd Respondent accordingly prays that the Petition be dismissed with costs and that the election of the 1st Respondent as Member of Parliament for Nyimba South Constituency be upheld.

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

Prepared by: .....

STEMBRIDGE CHIRAMBO & ASSOCIATES
Western Wing Suite LG 03 & 04, Provident House,
Umodzi Highway,
P.O.Box 51034,
lahonju@gmail.com
CHIPATA
Or C/o Plot 3601/4, Mapepe Road, Olympia Park,
LUSAKA
ADVOCATES FOR THE 2ND RESPONDENT

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

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
2 8 AUG 2026
PRINCIPAL REGISTRY 1
P.O. BOX 50067, LUSAKA.

2026/HP/EP/012

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026.

IN THE MATTER OF: ARTICLE 73 (1) AND ARTICLE 45(2) (A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 31 OF 2026).

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97(2), 98(C), 99(A), 100 (2) (A), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT) ACT, 2026].

AND

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA M. PHIRI — PETITIONER

AND

MACKSON C. KAPANTHA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

AFFIDAVIT VERIFYING FACTS IN THE PETITION

I, OLIPA M. PHIRI of Plot No.468, Riverside area, Nyimba in the Nyimba District of Eastern Province in the Republic of Zambia DO make OATH and say as follows:

1. THAT my full name and address are as stated above.
2. THAT I am a Zambian National.

3. **THAT** I am the Petitioner in the above matter by virtue of which I am competent to swear to this my Affidavit.

4. **THAT** I am a member of the United Party for National Development (hereinafter referred to as the **"UPND"**) and I was sponsored by the said UPND as a candidate in respect of the Parliamentary Election for Nyimba South Constituency which took place on 13th August, 2026.

5. **THAT** there were seven (7) Parliamentary candidates for Nyimba South Constituency including myself who successfully filed their nomination and participated in the elections as follows:

No.	Name of Candidate	Party Ticket
1	Kapantha C. Mackson	NRPUP
2	Phiri Olipa M.	UPND
3	Zulu C. Fredrick	INDEPENDENT
4	Mwale M. Vivian	INDEPENDENT
5	Tembo Gadson	CF
6	Nguluwe Besnart	INDEPENDENT
7	Mumba D. Justine	FDD

6. **THAT** the 1st Respondent was also a Parliamentary Candidate standing on the National Reconciliation Party for Unity and Prosperity (hereinafter referred to as the **"NRPUP"**) sponsorship ticket and participated as such in the 13th August 2026 General Elections for Nyimba South Constituency in the Eastern Province of the Republic of Zambia.

7. **THAT** the said Election was conducted by the 2nd Respondent herein the Electoral Commission of Zambia (hereinafter referred to as the "**ECZ**") an electoral body established pursuant to Article 229 of the Constitution of Zambia (Amendment) Act No. 2 of 2016 (hereinafter referred to as the **"Constitution"**) and the Electoral Process Act No. 35 of 2016 (hereinafter referred to as the "**Electoral Process Act**").

8. **THAT** on 15th August, 2026 of the Electoral Commission of Zambia through its Returning Officer for Nyimba South Constituency **Mr. Tembo Patrick** declared the 1st Respondent as a winner and validly elected Member of Parliament for Nyimba South Constituency. Now produced and shown to me exhibit marked "**OP/1**" a copy of the declaration of results of the poll - Gen20b. Further the results of the poll are as below:

No.	Name of Candidate	Party Ticket	
1	Mackson C. Kapantha	NRPUP	10,443
2	Olipa M. Phiri	UPND	3,741
3	Fredrick Zulu	INDEPENDENT	1,192
4	Vivian M. Mwale	INDEPENDENT	597
5	Gadson Tembo	CF	239
6	Nguluwe Besnard	INDEPENDENT	218
7	Banda D. Justine	FDD	193

9. **THAT** the 1st Respondent and his appointed agent together with persons directly linked to the 1st Respondent and acting upon the instructions and directions with his full knowledge, consent and approval, engaged in corrupt, illegal practices immediately before elections, during elections on the polling/voting day, contrary to the provisions of the Electoral Process Act, the Electoral Code of Conduct and the Constitution in that the 1st Respondent and his agents were involved in bribery, undue influence, threats, intimidation, hate speech against the Petitioner, the UPND and its President. The 1st Respondent further conducted campaigns in all the eight (8) wards and all the fifty (55) polling stations on the voting day in the whole Nyimba South Constituency contrary to the law.

10. **THAT** the declaration of the 1st Respondent as duly elected Member of Parliament for South Constituency was invalid by reason of non-compliance with provisions of the Constitution of the Republic of Zambia and the Electoral Process Act.

11. **THAT** for instance, at Nyimba Primary stream 3, Chipembe Community stream 1 and 2, Kasasamula, Chipilinyuma, Mombe stream 1 and 2, Mayawa, Kampala stream 1 and 2, Nyimba Boarding 3, Lupala stream 2 and 3 and Mkoma Polling Stations, my Agents were denied access to Gen-20a and all efforts to have the Gen 20a forms were deliberately ignored by the Presiding Officer, contrary to the laid down procedures.

12. **THAT** on 13th, 14th and 15th August 2026 at all the 55 polling stations in all the 8 wards in Nyimba South Constituency, the Petitioner's agents were intimidated and as a result, the totaling of the results was marred with serious manipulation, fraud and swapping of ballots to the extent that some of the valid votes cast for me were disproportionately declared as invalid votes and some of the invalid votes were given to the 1st Respondent to give him undue advantage over me.

13. **THAT** further, the 1st Respondent bribed some of my polling agents. However, some of polling agents contested the results announced at the polling centers but despite the clear communication to the Presiding Officer, the 2nd Respondent's officials refused to heed the objections and instead proceeded to declare the 1st Respondent as having been duly elected Member of Parliament for Nyimba South Constituency, when in fact not. I shall further state that after the declaration of result by the 2nd Respondent, my team and I continued engaging the 2nd Respondent's agents for the missing Gen20a forms and when the said forms were released, I noticed that they were fake as most of them were either not signed, or improperly signed and/or were unclear photocopies.

14. **THAT** the 1st Respondent and his agents acting under his directions with his full knowledge, consent and approval were seen distributing money to electorates throughout the campaigns and more importantly even on the polling/voting day they distributed money to the electorates and were heard instructing the electorates that received money to vote for him. I shall further state that there are witnesses who received the said money and were told not to vote for me but instead, to vote for the 1st Respondent. The 1st Respondent, his agent/supporters known as Shelly Sakala (Council Chairperson for Nyimba District) and all Ward Councilors under the 1st Respondent's Party were seen going round all the 55 Polling Stations distributing money and pens to electorates on the polling/voting day. For instance at Mukoma Polling Station of Chamilala Ward, Chowa and Kapakasa Polling Stations of Vizimumba and at Nyimba Primary Polling Station, the 1st Respondent, Shelly Sakala and other members of the 1st Respondent's Party were seen distributing pens, fritters (*vitumbuwa*) and nshima to the electorates and specifically told them that they were been given those pens, flitters not for free but that they must vote for the 1st Respondent. This vice of vote buying, distributions pens, nshima on the voting day on 13th August, 2026 characterized the 1st Respondent's illegal campaign tactics throughout Nyimba South Constituency.

15. **THAT** in addition, I shall state that the 1st Respondent and his agents and party members connected to him recruited his party cadres to stand along all roads leading to all the 55 polling stations where they were fraudulently and widely giving out pens to almost all the voters under a guise that the pens that were provided by the 2nd Respondent (ECZ) were fake and fading and would exchange votes when marks the ballot. Further, I shall state that when distributing the said pens (on the poll day), electorate were asked to disclose their preferred candidates and regardless of the candidate, they were misled that their candidate is on the ***"nyali"*** *(meaning on the Lamp-light)* and that they were being given the said pen to vote for the said candidate and as a token of appreciation for their wise voting.

16. **THAT** at Nyimba Primary polling station, the 1st Respondent through and his Party cadres acting under his direct instructions with his full knowledge, consent and approval were seen enticing electorates within the Polling centre premises by distributing pens, packets of biscuits and K20 to K50.00 notes to the electorates before each one of them could vote, and they were further promised that they would be given nshima with chicken and beef after voting as a token of appreciation for voting to the 1st Respondent. The nshima was being cooked right next to each and every polling station and the Police manning the polling stations had no say at all as the 1st Respondent bragged that they were all under his pocket. When one of my polling agents noticed this vice, she approached them but instead she was threatened to told to apologise failure which her house would be burnt to ashes immediately because UPND had already lost power and there is nothing they could do.

17. **THAT** the 1st Respondent and his agents and persons acting under his direct instructions with his consent and approval particularly in Msima, Vizimumba, Chiweza and Chamilala Wards used intimidatory language during campaigns including on the polling day on 13th August 2026 to the electorates by threatening them that anyone who would vote for any UPND candidate which include myself, would be chased from the village to follow the UPND President Mr. Hakainde Hichilema in Southern Province.

18. **THAT** on 13th August, 2026, at Nyimba Primary Polling Station, the 1st Respondent and his agent named Shelly Sakala and persons acting under his direct instructions were heard instructing people to vote for the 1st Respondent on the **"nyali"** (meaning the lamp-light sign for NRPUP), the 1st Respondent's Party symbol.

19. **THAT** the 1st Respondent was further heard telling electorates that I and the UPND were just a bunch criminals and tribalists who were burnt on arresting people from the Eastern region and busy giving jobs to Tongas and as such never deserved even a single vote from Eastern Province. These comments connote serious hate speech against me and my Party the UPND. This was the same situation at in Vizimumba Ward at Chowa Polling Station where the 1st Respondent was on the poll day telling electorates to vote for him and his Party in order to bring back the stolen jobs to Eastern Province.

20. **THAT** I shall state that the totality of the 1st Respondent's campaign message was based on character assassination, divisiveness, hate speech, intimidation, threats, inflammatory or tribal remarks and/or sentiments to the extent that he was heard telling electorates that it was being insensitive to vote for me who was in association with a Political Party (UPND) and President who are responsible for the late President's Edgar Lungu's failed burial in Zambia owing to the fact that the said Edgar Lungu is from Eastern Province and Nsenga by tribe and that in Nsenga land, electorates should make sure that nobody votes for me and the UPND.

21. **THAT** the 1st Respondent was also heard telling people that voting for NRPUP and the 1st Respondent was the only way the said former President Edgar Lungu would be buried in Zambia and further threatened the electorates by telling them that former President Edgar Lungu's spirit will haunt any person who will not vote for the 1st Respondent and his Party for betrayal.

22. **THAT** as a consequence of the aforesaid illegal practices committed by the 1st and 2nd Respondent and their agents and supporters, I shall state that the majority of the voters in the whole of Nyimba South Constituency in all the 8 wards and 55 polling stations were clearly prevented from exercising their freedom and right to choose a candidate of their choice and further that some electorates who voted for me had either their votes irregularly invalidated or fraudulently swapped in favor of the 1st Respondent.

23. **THAT** in the premise, I shall state that the 1st Respondent was not duly elected in terms of the Constitution and the Electoral Act because the elections in Nyimba South Constituency were held in an atmosphere that was not free and fair, due to widespread malpractices, vote buying, bribery, violence, corruption and so forth.

24. **THAT** I beseech this Honorable Court to grant the reliefs sought in the Petition hereof.

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

SWORN by the said OLIPA PHIRI)
At Lusaka the 28 day of Aug, 2026)

Deponent's Signature

BFEORE ME: .....
COMMISIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
28 AUG 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/012

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

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026.

IN THE MATTER OF: ARTICLE 73 (1) AND ARTICLE 45(2) (A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 31 OF 2026).

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97(2), 98(C), 99(A), 100 (2) (A), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT) ACT, 2026].

AND

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA M. PHIRI — PETITIONER

AND

MACKSON C. KAPANTHA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

CERTIFICATE OF EXHIBITS

These are the true and correct copies of the exhibits referred to in the Affidavit of one **OLIPA M. PHIRI** now produced and shown to me marked "OP/1".

Dated at Lusaka this 28 day of Aug ,2026.

BEFORE ME: _____
COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
28 AUG 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/012

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 SEP 2026
PRINCIPAL REGISTRY 5
P.O. BOX 50067, LUSAKA

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026

IN THE MATTER OF: ARTICLE 73(1) AN ARTICLE 45(2)(A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 36 OF 2026)

IN THE MATTER OF: SECTION 81, 83, 87, 89, 96, 97(2) 98(C), 99(A), 100(2)(A) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 THE PROCESS (AMENDMENT) ACT, 2026

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA PHIRI — PETITIONER

AND

MACKSON C. KAPANTHA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

AFFIDAVIT IN OPPOSITION TO AFFIDAVIT VERIFYING FACTS

I, **MACKSON KAPANTHA,** a Zambian National of Ngozi Farm, Chipembe Stores, Nyimba in the Eastern Province of the Republic of Zambia **DO HEREBY** make **OATH** and **SAY** as follows:

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

2. That I am the 1st Respondent herein and thus competent to swear this my Affidavit from facts within my personal knowledge and belief.

3. That I have had sight of the Petitioner's Affidavit Verifying Facts, sworn by the Petitioner, Olipa Phiri, and wish to respond as follows hereunder.

4. That from the onset I wish to state that I was duly elected as Member of Parliament for Nyimba South, in an election that was held freely and fairly, and which result reflects the true intention of the majority as to who their preferred candidate was.

5. That I verily believe that the Petitioner's affidavit contains gross allegations of alleged malpractice allegedly undertaken by myself on election day therefore I wish to state on the date of the election I attended to cast my vote at my polling station following which I returned home to wait out the vote counting process and declarations of the results.

6. That in responding directly to the Petitioner's allegations raised in the Affidavit Verifying Facts, I wish to state as follows:

7. That Paragraphs 1-8 are not in dispute.

8. That I deny the contents of Paragraph 9 in their entirely as I never participated nor did my agents participate in any illegal and corrupt practices throughout the entire election, and as a result I was declared as the duly elected as Member of Parliament for Nyimba South.

9. That further to the above it would have been impossible for me to conduct campaigns in all the eight wards and 55 polling stations in Nyimba South Constituency, as the same are widespread and impossible to reach in a single day.

10. That I deny the contents of Paragraph 10 in their entirety as the elections held in Nyimba South were conducted in full compliance with all laws and regulations.

11. That the contents of Paragraph 11 are denied as all polling staff and stakeholders were presented with copies of the Gen20 forms for the election, which were signed by the relevant stake holders who chose to do so.

12. That I deny the contents of Paragraph 12 in their entirety as no votes or ballot papers were misplaced and or swapped so as to manipulate the votes in my favour. I verily believe that the declaration of results expresses a true account of the votes cast in the election.

13. That in response to Paragraph 13 at no given time did the Petitioner or his agents contest any of the results declared at the polling stations, leading to my final declaration as the duly elected Member of parliament for Nyimba South.

14. That I vehemently deny the contents of Paragraph 14 as neither did myself nor any of my agents engage in vote buying by distributing money, food, or pens to electorates.

15. That further to the above the said Shelly Sakala was a candidate for election as Council Chairperson who was engaged in a campaign separate from my own.

16. That I deny the contents of Paragraph 15 as in fact it is the Petitioner who established what she describes as Polling Station Management Committees which comprised of her agents who were distributing pens and instructing voters to vote for the Petitioner on the election.

17. That I deny the contents of Paragraph 16 and as neither did myself nor my agents engage in vote buying by the distribution of pens and food to the electorates on voting day or any other day throughout the campaign and election period.

18. That further in response to Paragraph 16 I have not control over any Police officer as I am merely a civilian, and I have never been a part of the Zambia Police Service.

19. That I verily believe that Paragraph 17 is false in every aspect, and utterly malicious as neither did myself nor my agents engage in any acts of intimidation against voters or stakeholders in the election on the date of the election.

20. That in response to Paragraph 18 and 19 I wish to state that neither myself nor my agents engaged voters on the polling today and instructed them to vote for myself, or uttered falsehoods against the Petitioner and her party President, neither was I present at the said polling station on voting day

21. That I deny the contents of Paragraph 20 as my campaign message was largely based on the development, I seek to bring to Nyimba South constituency and its electorate regardless of their individual party affiliations and political bias.

22. That further to the above and in response to Paragraph 21, I have never used the death of President Edgar Lungu as a campaign tool to my advantage as have extreme respect for the late and his family.

23. That I vehemently deny the contents of Paragraph 22 as I verily believe that the declaration of my election as Member of Parliament for Nyimba South truly and accurately reflects the majority choice of the people of Nyimba South constituency, who freely cast their votes in the said election.

24. That Paragraph 23 is denied as I verily believe that the election held in Nyimba South was done sull in full conformity with all relevant laws and regulations.

25. That I verily believe that the Petitioner is not entitled to any of the reliefs set out in the Petition.

26. That I verily believe this is a ripe case in which this Honourable Court should dismiss the Petition.

27. That I depose to the foregoing paragraphs verily believing the same to be true and correct to the best of my knowledge and belief.

SWORN by the said)

MACKSON KAPANTHA)

at Lusaka this 7 day)

of Sept 2026)

_____

DEPONENT

BEFORE ME: _____

COMMISSIONER FOR OATHS

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

2026/HP/EP/12

IN THE HIGH COURT OF ZAMBIA
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(CIVIL JURISDICTION)

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026

IN THE MATTER OF: ARTICLE 73(1) AND ARTICLE 45(2)(a) AND (b) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 OF THE LAWS OF ZAMBIA, AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026, (SI NO. 31 OF 2026)

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97 (2) 99 (A), 100 (2) (A) OF THE ELECTORAL PROCESS ACT NO. 35 OF 2016, AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT ACT, 2026)

BETWEEN:

OLIPA PHIRI PETITIONER

AND

MACKSON C. KAPANTHA 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA 2ND RESPONDENT

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
07 SEP 2026
PRINCIPAL REGISTRY 6
P.O. BOX 50067, LUSAKA

2ND RESPONDENT'S AFFIDAVIT IN OPPOSITION TO THE ELECTION PETITION

I, Patrick Tembo, a Zambian National of house number 25, Airstrip, in the Nyima District of Eastern Province of the Republic of Zambia, **DO HEREBY MAKE OATH** and **SAY** as follows:

1. That my particulars and residential address are as stated above.
2. That I am an agent of the 2nd Respondent and was the Returning Officer for Nyimba South Constituency in Nyimba District, the subject matter of this petition, whereof I am authorized and competent to swear to this my affidavit.
3. That I have studied the Petitioners affidavit in support of petition and respond that I have no knowledge of the matters personal to the Petitioner contained therein and accordingly.
4. That I admit that parliamentary elections for Nyimba South Constituency were held on 13 August 2026.

5. That the election was conducted pursuant to Electoral Commission of Zambia constitutional and statutory mandate.
6. That I admit that the 1st Respondent was declared duly elected Member of Parliament for Nyimba South Constituency, subject to the official electoral record.
7. That that the said declaration was lawful or regular.
8. THAT the election results were not in any way manipulated, swapped or unlawfully altered.
9. THAT they was no irregularity perpetrated by the 2nd Respondents officials or occurred in the manner alleged by the Petitioner.
10. THAT the Petitioner's allegations concerning alleged bribery, distribution of money, and other inducements are allegations against the 1st Respondent, his agents, supporters and other named individuals, and the 2nd Respondent has no basis to admit those allegations.
11. THAT as far as I am concerned there were no intimidation, threats and inflammatory statements at various polling stations known to me nor perpetrated by the 2nd Respondent, its officers or officials.
12. THAT the 2nd Respondent, its officers or officials never acted with the intention of unlawfully favouring the 1st Respondent.
13. THAT the petitioner's alleged irregularities, even if established, will not automatically demonstrate that the declared result was not a true reflection of the votes lawfully cast.
14. THAT the 2nd Respondent did not fail in its constitutional or statutory duty in the conduct, counting, collation or declaration of the election.
15. THAT in the premises, the Petitioner's allegations against the 2nd Respondent are unsubstantiated and the Petition ought to be dismissed insofar as it seeks relief against the 2nd Respondent.
16. THAT I swear this Affidavit in good faith believing the facts stated herein to be true and correct to the best of my knowledge, information and belief.

SWORN BY THE SAID)
PATRICK TEMBO)
AT LUSAKA THIS)
....7... DAY OF ....Sept.... 2026)

DEPONENT

BEFORE ME: _____
COMMISSIONER FOR OATH

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

IN THE HIGH COURT FOR ZAMBIA 2026/HP/EP/012

AT THE PRINCIPAL REGISTRY

HOLDEN AT LUSAKA

(Civil Jurisdiction)



IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026.

IN THE MATTER OF: ARTICLE 73 (1) AND ARTICLE 45(2) (A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 31 OF 2026).

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97(2), 98(C), 99(A), 100 (2) (A), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT) ACT, 2026].

AND

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA PHIRI PETITIONER

AND

MACKSON C. KAPANTHA 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA 2ND RESPONDENT

PETITIONER'S AFFIDAVIT IN REPLY TO THE 2ND RESPONDENT'S AFFIDAVIT IN OPPOSITION TO AFFIDAVIT VERIFYING FACTS IN THE PETITION

(Nyimba South Parliamentary Constituency)

I, OLIPA PHIRI of Plot No. 468, Riverside, Nyimba in the Nyimba District of Eastern Province of the Republic of Zambia DO make OATH and say as follows:

1. THAT my full name and address are as stated above.

2. THAT I am a Zambian National.

3. THAT I am the Petitioner in the above matter by virtue of which I am competent to swear to this my Affidavit.

4. THAT I have read what purports to be the 2nd Respondent's Affidavit in Opposition to Affidavit Verifying Facts dated 7th September, 2026 in relation to Nyimba South Election Petition and I respond as here below:

5. THAT the contents of paragraphs 1, 2, 3, 4, 5 and 6 of the 2nd Respondent's said Affidavit are not in issue.

6. THAT contrary to the assertion contained in paragraphs 7 of the 2nd Respondent's Affidavit in Opposition, the election of the 1st Respondent as a Member of Parliament for Nyimba South Constituency was not free and fair due to widespread corrupt and illegal practices and intimidation instigated at the instance of the 1st Respondent. The said wrongdoings were of such a scale or nature that it adversely affected a fair outcome of the election as the electorates were prevented to freely and fairly chose a candidate of their choice.

7. THAT in addition, I shall state that the 2nd Respondent failed or neglected to allow my polling station agents to access the Gen-20 Form as required by the Electoral Regulations that the said Form should have been given to my polling agents immediately after counting of votes at every polling station duly signed by all the participating polling agents. The decision by the 2nd Respondent not to allow my polling agents to access the said form rendered the declaration of the 1st Respondent as Member of Parliament for Nyimba South Constituency flawed, irregular, null and void.

8. THAT in response to the contents of paragraphs 8, 9, 10, 11 and 12, I repeat the contents of paragraphs 6 and above and my Affidavit Verifying Facts dated 28th August, 2026 to the extent that the 1st Respondent's election as Member of Parliament for Nyimba South Constituency was marred with widespread results manipulations, swapping, corrupt and illegal practices, and intimidation and as a result it adversely affected the outcome of the election. The misconduct

was sufficiently widespread to prevent, or potentially prevent the majority of voters from electing their preferred candidate.

9. **THAT** further, the 2nd Respondent failed or regretted to stop the 1st Respondent and his agents and party members from conducting some campaigns on the voting day and distributing the pens and fritters (within the polling premises) that were used to induce the voters to vote for the 1st Respondent.

10. **THAT** in response to the contents of paragraphs 13, 14 and 15 of the 2nd Respondent's Affidavit in opposition dated 07th September, 2026, I reiterate that based on the above serious and widespread corrupt practices, illegal practices or other misconduct occurred in connection with the election of the Respondents as Member of Parliament for Nyimba South Constituency, his declaration as duly elected Member of Parliament was null and void and the 2nd Respondent regrettably conducted the Nyimba South election in violation of its Constitutional and Statutory mandate

11. **THAT** I beseech this Honorable Court to grant the reliefs sought in the Petition hereof.

12. **THAT** the contents of this Affidavit are true and correct to the best of my knowledge, information and belief.

SWORN by the said **OLIPA M. PHIRI**)_ _____
At Lusaka the 14 day of Sept 2026) Deponent's Signature

Before Me: _____
Commissioner for Oaths

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
14 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/012

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

IN THE MATTER OF: AN ELECTION PETITION RELATING TO THE PARLIAMENTARY ELECTION FOR NYIMBA SOUTH CONSTITUENCY IN EASTERN PROVINCE OF THE REPUBLIC OF ZAMBIA, HELD ON 13TH AUGUST, 2026.

IN THE MATTER OF: ARTICLE 73 (1) AND ARTICLE 45(2) (A) AND (B) OF THE CONSTITUTION OF ZAMBIA, CHAPTER 1 THE LAWS OF ZAMBIA AS AMENDED BY ACT NO. 2 OF 2016

IN THE MATTER OF: PART III AND RULE 9 (1) AND (2) OF THE HIGH COURT (ELECTION PETITION) RULES, 2026 (SI NO. 31 OF 2026).

IN THE MATTER OF: SECTIONS 81, 83, 87, 89, 96, 97(2), 98(C), 99(A), 100 (2) (A), OF THE ELECTORAL PROCESS ACT NO. 36 OF 2016 AS AMENDED BY ACT NO. 12 OF 2026 [THE ELECTORAL PROCESS (AMENDMENT) ACT, 2026].

AND

IN THE MATTER OF: THE ELECTORAL PROCESS (CODE OF CONDUCT) REGULATIONS, 2016

BETWEEN:

OLIPA PHIRI — PETITIONER

AND

MACKSON C. KAPANTHA — 1ST RESPONDENT

ELECTORAL COMMISSION OF ZAMBIA — 2ND RESPONDENT

PETITIONER'S AFFIDAVIT IN REPLY TO THE 1ST RESPONDENT'S AFFIDAVIT IN OPPOSITION TO THE PETITIONER'S AFFIDAVIT VERIFYING FACTS IN THE PETITION

I, OLIPA M. PHIRI, of Plot No. 468, Riverside, Nyimba in the Nyimba District of Eastern Province of the Republic of Zambia DO make OATH and say as follows:

1. THAT my full name and address are as stated above.

2. THAT I am a Zambian National.

3. THAT I am the Petitioner in the above matter by virtue of which I am competent to swear to this my Affidavit.

4. THAT I have read what purports to be the 1st Respondent's Affidavit in Opposition to the Affidavit Verifying Facts in relation to Nyimba South Constituency Parliamentary Election Petition and I respond as here below:

5. THAT the contents of paragraphs 1, 2 and 3 are not in issue.

6. THAT contrary to the assertion contained in paragraph 4 of the 1st Respondent's said Affidavit, I shall state that the election of the 1st Respondent as a Member of Parliament for Nyimba South Constituency was not free and fair as it was marred by widespread corrupt and illegal practices and intimidation instigated at the instance of the 1st Respondent. The said wrongdoings were of such a scale or nature that it adversely affected a fair outcome of the election as the electorates were prevented to freely and fairly chose a candidate of their choice.

7. THAT the contents of paragraphs 5, 6, 7 and 8 are within the peculiar knowledge of the 1st Respondent save I will repeat the contents of paragraph 6 above with the addition that the said widespread corrupt or illegal conducts were connected to the 1st Respondent or his agents and or party members whom he directly or indirectly authorised.

8. THAT further I shall state that the 1st Respondent was seen at Lupala, Nyimba Primary School and Kapakasa polling stations distributing flitters, pens and nshima and were being told to vote for the 1st Respondent in consideration of receiving the said flitters, pens and nshima. It is therefore, not true for the 1st Respondent to say that after voting at Chipembele Hall in Ngozi ward he went home to sit and wait for the declaration of the votes in the election. The truth is that the 1st Respondent was seen going round all the polling stations enticing people to vote for him on the polling day. There now produced and shown to me marked **"OP/1-a"** are true copies of the pictures showing the 1st Respondent, his agents namely White Lungu, Samuel Banda and the Councillor for Vizimumba ward soliciting for votes on voting day at Lupala polling station while the voters were on the queue waiting to cast their votes.

9. THAT the contents of paragraphs 9 and 10 are within the peculiar knowledge of the 1st Respondent save to state that the corrupt practices, illegal practices or other misconduct with respect to Nyimba South Constituency were widely committed by the 1st Respondent himself, his agents and or Party members, who acted with direct or indirect instructions from the 1st Respondent herein.

10. THAT contrary to the assertion contained in paragraph 11, I will restate the fact that my polling agents at Nyimaba Primary 3, Chipembe Community 1 and 2, Kasasamula, Chipilinyuma, Mombe 1 and 2, Mayawa, Kampala 1 and 2, Nyimba Boarding 3, Lupala 2 and 3 and Mkoma polling stations, were denied access to Gen-20a and all efforts to have a Gen 20a Forms were deliberately ignored by the Presiding Officer who is the 2nd Respondent's agents. The said 2nd Respondent's agents only released the Gen 20a after the declaration of the Presidential vote in favour of Mr. Hakainde Hichilema of the UPND.

11. THAT with respect to the contents of paragraphs 13 and 14, I will reiterate that the 1st Respondent and the persons mentioned in my Affidavit verifying facts (who are his agents or Party members) were engaged in corrupt and illegal practices that included bribery; giving electorates pens, nshima, biscuits, soft drinks and salt amongst other prohibited electoral practices. The 1st Respondent and his known agents and party members were seen on widespread scale distributing pens and food to the electorates on the voting day to entice them to vote for the 1st Respondent, an act which I verily believe is against the permitted electoral practices.

12. THAT in response to paragraph 15, I will reiterate that despite the said Shelly Sakala being a candidate for election as Council Chairperson for Nyimba District Council, she worked with the 1st Respondent in committing electoral malpractices and bribery including the distributing pens, fritters (vitumbuwa) and Nshima to the Electorates in order to entice them to vote for the 1st Respondent and herself.

13. THAT I deny the contents of paragraph 16 of the 1st Respondent's Affidavit in Opposition as they are untrue and misleading. I never distributed any pens at any polling station because that is a duty reserved for the 2nd Respondent and therefore, I could not interfere.

14. THAT in response to the contents of paragraphs 17, 18, 19, 20, 21, I repeat the contents of paragraphs 6, 7, 8, 9 and 10 above and my Affidavit verifying facts dated 28th August, 2026 to the extent that the 1st Respondent's election as Member of Parliament for Nyimba North Constituency was marred with widespread corrupt and illegal practices, and intimidation and as a result it adversely affected the outcome of the election. The misconduct was sufficiently widespread to prevent, or potentially prevent the majority of voters from electing their preferred candidate.

15. THAT in response to the contents of paragraph 22, I will reiterate that the 1st Respondent's campaign messages were based on character assassination, hate speech against me and my party UPND that the 1st Respondent widely described as being evil grouping and responsible for delayed or non-burial of the late Republican President Mr. Edgar Chagwa Lungu because he was Nsenga from Eastern Province.

16. THAT in response to the contents of paragraphs 23, 24 and 25, I reiterate that based on the above serious and widespread corrupt practices, illegal practices or other misconduct that occurred in connection with the election of the 1st Respondent as Member of Parliament for Nyimba South, his declaration as duly elected Member of Parliament was null and void.

17. THAT I beseech this Honorable Court to grant me the reliefs sought in my Petition hereof.

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

SWORN by the said **OLIPA M. PHIRI**)
At Lusaka the 11th day of September 2026)

_____
Deponent's Signature

Before Me: _____
Commissioner for Oaths

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