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

IN THE HIGH COURT FOR ZAMBIA **2026/HP/EP/016**
AT THE PRINCIPAL REGISTRY
HOLDEN AT LUSAKA
(Civil Jurisdiction)

IN THE MATTER OF: **THE PARLIAMENTARY ELECTION PETITION FOR MWENZO CONSTTUENCY NUMBER 88 SITUATE IN THE NAKONDE DISTRICT IN THE MUCHINGA PROVINCE OF THE REPUBLIC OF ZAMBIA HELD ON 13TH AUGUST 2026**

AND
IN THE MATTER OF: **ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA AS READ WITH SECTION 98 (C) OF THE ELECTORAL PROCESS ACT NUMBER 35 OF 2016**

AND
IN THE MATTER OF: **SECTION 83 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016**

AND
IN THE MATTER OF: **SECTION97 OF THE ELECTORAL PROCESS ACT NUMBER 35 OF 2016**

AND
IN THE MATTER OF: **SECTIONS 98, 99 AND 100 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016**

AND
IN THE MATTER OF: **THE SCHEDULE TO THE ELECTORAL PROCESS ACT NO 35 OF 2016**

AND
IN THE MATTER OF: **THE ELECTORAL (CODE OF CONDUCT) REGULATIONS 2011 STATUTORY INSTRUMENT NO.52 OF 2011**

AND
IN THE MATTER OF: **THE ELECTORAL COMMISSION OF ZAMBIA ACT NO. 25 OF 2016**

BETWEEN:
MUSINGWA NATHAN SIAME **PETITIONER**
AND
LUKA SIMUMBA **1ST RESPONDENT**
THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

LIST OF AUTHORITIES AND SKELETON ARGUMENTS IN SUPPORT OF PETITION

LIST OF AUTHORITIES

CASE LAW

1. Anderson Kambela Mazoka & Others v. Levy Patrick Mwanawasa & Others (2005) ZR 138 (SC)
2. Lewanika and Others v. Chiluba (1998) ZR 1 (SC)
3. Josephat Mlewa v. Eric Wightman (1996) ZMSC 29
4. Chrispin Siingwa v. Stanley Kakubo [2018] ZMCC 269
5. Shabula v. Monde [2018] ZMCC 16

STATUTORY PROVISIONS

6. The Constitution of Zambia, Chapter 1 of the Laws of Zambia
7. The Electoral Process Act No. 35 of 2016
8. The Electoral Commission of Zambia Act No. 25 of 2016
9. The Electoral (Code of Conduct) Regulations, 2011 (Statutory Instrument No. 52 of 2011)

MAY IT PLEASE THIS HONOURABLE COURT,

1. These are the skeleton arguments filed in support of the Petition; the Petition challenges the election of the 1st Respondent as Member of Parliament for the Mwenzo Constituency situate in the Nakonde District of the Muchinga Province of the Republic of Zambia following the election held on 13th of August 2026.

2. The Petition is grounded on widespread electoral malpractices, violence, intimidation, and gross non-compliance with the Electoral Process Act No. 35 of 2016, and the Electoral Code of Conduct, which irregularities were perpetuated by the 1st Respondent, his agents, and supporters, preventing the majority of voters from electing a candidate of their choice.

3. It is submitted that the 1st Respondent and his agents engaged in extensive corrupt and illegal practices contrary to **Part VIII of the Electoral Process Act No. 35 of 2016**. The Petitioner has pleaded that the 1st Respondent distributed money wrapped in pens, donated

building materials, and purchased voters' cards to disenfranchise non-sympathizers. **Section 81(1)** of the Electoral Process Act states as follows:

> ***(1) A person shall not, either directly or indirectly, by oneself or with any other person corruptly***
>
> ***(a) give, lend, procure, offer, promise or agree to give, lend, procure or offer, any money to a voter or to any other person on behalf of a voter or for the benefit of a voter in order to induce that voter to vote or refrain from voting or corruptly do any such act as aforesaid on account of such voter having voted or refrained from voting at any election; (b) give, lend or procure, offer, promise or agree to give, lend, procure, offer or promise, any money to a voter or for the benefit of a voter or to any other person or on behalf of that person on behalf of any voter or to or for any other person for acting or joining in any procession or demonstration before, during or after any election;***
> ***(c) make any gift, loan, offer, promise, procurement or agreement to or for the benefit of any person in order to induce the person to procure or to endeavour to procure the return of any candidate at any election or the vote of any voter at any election;***
> ***(d) upon or in consequence of any gift, loan, offer, promise, procurement or agreement, procure or engage, promise or endeavour to procure, the return of any candidate at any election or the vote of any voter at any election;***
>
> ***(e) advance or pay or cause to be advanced or paid any money to or for the use of any other person with the intent that such money or any part thereof shall be expended in bribery at any election, or knowingly pay or cause to be paid any money to any person in***

discharge or repayment of any money wholly or partially expended in bribery at

any election;

(f) before or during any election, receive or contract for any money or loan for oneself or for any other person for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any election;

(g) after any election, receive any money on account of any person having voted or refrained from voting or having induced any other person to vote or refrain from voting at any election; or

(h) convey or transfer or be concerned with the conveyance or transfer of any property, or pay or be concerned with the payment of any money, to any person for the purpose of enabling that person to be registered as a voter, thereby to influence that person's vote at any future election, or pay to or be concerned with the payment of any money on account of any voter for the purpose of inducing that person to vote or refrain from voting.

(2) A person who contravenes any provision of subsection (1)commits an offence.

4. Further **Section 97(c) of the Electoral Process ACT** expressly states that an election of a candidate shall be void if it is proved that any corrupt practice or illegal practice was committed with the knowledge and consent or approval of the candidate or their election agent.

5. The Supreme Court of Zambia in the landmark case of ***Lewanika and Others v. Chiluba (1998) ZR 1*** established that for an election to be nullified based on malpractices, it must be shown that the winning candidate or their agents were directly involved, or that the malpractices were so widespread as to affect the general outcome. The facts pleaded

including the 1st Respondent's direct distribution of bribes and movement with armed individual squarely satisfy the requirement of direct knowledge and participation.

6. Furthermore, the intimidation of voters using hired individuals and the display of firearms at polling stations such as Ntindi, Yolo, and Chiyanga constitute undue influence under the EPA. Such acts severely compromised the freedom of the electorate.

7. **My Lady/Lord, Section 97(1) of the** Electoral Process Act dictates that an election shall be void if it is not conducted in accordance with the principles laid down in the Act and such non-compliance affected the result.

8. The Petitioner has adduced that the 1st Respondent's supporters remained within the prohibited 100-meter radius, campaigned openly on polling day, and barged into polling stations (Tenga, Mwenzo, and Mukalizi) unaccredited during both voting and counting. This is in direct violation of the **Electoral (Code of Conduct) Regulations, SI No. 52 of 2011**.

9. Additionally, the 2nd Respondent's presiding officers and agents failed to maintain the integrity of the polling stations, tolerating the flashing of NRPUP symbols and failing to adequately protect the Petitioner's polling agents from being forced out. The failure of the 2nd Respondent to enforce the law facilitated an environment where the electoral process was hijacked.

10. The ultimate test in Zambian electoral jurisprudence is whether the established anomalies affected the outcome of the election. As enunciated in ***Anderson Kambela Mazoka & Others v. Levy Patrick Mwanawasa & Others (2005) ZR 138***, an election will not be nullified for mere irregularities unless those irregularities prevented the majority of voters from electing the candidate of their choice. **5.2** We submit that the widespread violence and intimidation orchestrated by the 1st Respondent created severe voter apathy and disenfranchisement. Out of approximately 36,457 registered voters in Mwenzo Constituency, only 13,359 cast their votes. In the border polling stations alone, out of 15,086 registered voters, only about 2,000 voted due to fear instilled by armed elements. **5.3** The declared margin of victory (9,002 votes for the 1st Respondent against

4,075 for the Petitioner) cannot be viewed in isolation. When armed individuals patrol polling stations and agents are violently expelled during vote counting, the integrity of the tabulation itself is fatally compromised. The result, therefore, cannot be said to reflect the true, uncoerced democratic will of the people of Mwenzo Constituency.

11. My Lady/Lord, the Petitioner has demonstrated that the Parliamentary Election for Mwenzo Constituency was characterized by violence, bribery, and grave statutory breaches that were heavily concentrated and orchestrated by the 1st Respondent. **6**

12. We pray that this Honourable Court finds merit in this Petition, declares the election of Luka Simumba null and void *ab initio*, and condemns the Respondents to costs.

WE OBLIGE AND HUMBLY SUBMIT.

Dated at Nakonde the _____ day of _____ 2026

Per: _____

Messrs L. M. Chikuta Legal Practitioners
Plot No. 19, Elm, Road, Woodlands
P.O. Box RW 50896
Lusaka.
Advocates for the Petitioner
Email: office@lmclegal.co.zm

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

2026/HP/EP/016

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

IN THE MATTER OF: **THE PARLIAMENTARY ELECTION PETITION FOR MWENZO CONSTITUENCY NUMBER SITUATE IN THE NAKONDE DISTRICT IN THE MUCHINGA PROVINCE OF THE REPUBLIC OF ZAMBIA HELD ON 13TH AUGUST 2026**

AND

IN THE MATTER OF: **ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA AS READ WITH SECTION 98 (C) OF THE ELECTORAL PROCESS ACT NUMBER 35 OF 2016**

AND

IN THE MATTER OF: **SECTION 83 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016**

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IN THE MATTER OF: **THE ELECTORAL COMMISSION OF ZAMBIA ACT NO. 25 OF 2016**

BETWEEN:

MUSINGWA NATHAN SIAME **PETITIONER**

AND

LUKA SIMUMBA **1ST RESPONDENT**

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

AFFIDAVIT VERYFING FACTS IN PETITION

I, MUSINGWA NATHAN SIAME, of Kasichila Village, Mwenzo, Nakonde District, Muchinga Province of the Republic of Zambia do hereby **MAKE OATH** and **SAY** as follows:

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

2. That I am the Petitioner in this matter herein, thus competent to swear to the contents of this my affidavit from facts and matters that are either within my personal knowledge, in which case they are true, or have been learnt by me through perusal of documents and by discussion with my various agents in the polling stations, in which case they are true to the best of my knowledge and belief.

3. That I was a candidate in the Parliamentary election for the Mwenzo Constituency situate in the Nakonde District of the Muchinga Province of the Republic of Zambia having duly filed my nomination in May, 2026. Under the sponsorship of the United Party for National Development (UPND), for the 13th of August, 2026 General elections. Therefore, I believe to have a valid claim to have had a right to be elected to the position of Member of Parliament for the aforesaid constituency at the aforementioned elections.

4. That I initiate these proceedings to petition the 1st and 2nd Respondents, through this Hounarable Court, as a member of the public and as participant in the 13th August, 2026 General Election, seeking redress of my grievance regarding the manner in which the aforesaid elections were conducted.

5. That Mwenzo Parliamentary Constituency consists of seven (7) Wards, namely: Ikumbi ward, Musyani Ward, Popomozi Ward, Ng'umba Ward, Luchinde Ward, Mulalo Ward and Mwanga Ward with 62 Polling Stations and with a total of about 36,457 registered voters.

6. That the Mwenzo Parliamentary Constituency is wholly in Nakonde District and was engulfed by violence and a variant nature of electoral malpractices and other conduct proscribed by the Electoral Code of Conduct perpetuated by the 1st Respondent herein and his agents and supporters who included National Restoration Party for Unity and Prosperity (NRPUP).

7. That two (2) political parties validly filed their nominations for the said elections, namely: The United Party for National Development (UPND) whose candidate was

MUSINGWA NATHAN SIAME (male); the National Reconciliation Party for Unity and Prosperity (NRPUP) whose candidate was **LUKA SIMUMBA** (male).

8. That The On Saturday the 15th day of August 2026 the Returning Officer declared the Respondent Luka Simumba as duly elected Member of Parliament for the Mwenzo Parliamentary Constituency. The results of the Mwenzo Parliamentary Elections were as follows: -

    i) **LUKA SIMUMBA** of the National Reconciliation Party for Unity and Prosperity NRPUP received Nine Thousand and two (9,002) of the valid votes cast;

    ii) **MUSINGWA NATHAN SIAME** of the United Party for National Development (UPND) received Four Thousand and Seventy-Five (4,075) of the valid votes cast;

    iii) 282 votes were rejected as invalid;

    iv) Total number of votes cast were 13,359

9. That the above election results are as was given to me by the Council Secretary whom being an agent for the 2nd Respondent.

10. That the campaigns in Mwenzo constituency were characterized by violence, electoral malpractices (that was included but was not limited to vote buying, donation of building materials and food supplies in various areas across the constituency, Intimidations of voters and Poll staff and the Petitioner's Polling agents, barging into polling stations without accreditations among others), undue influence that resulted from threats, intimidation of polling staff, polling agents and voters and violence and buying of votes by the NRPUP candidates that included the 1st Respondent herein which acts were done throughout Mwenzo Constituency.

11. That the Petitioner shall state that due to the foregoing, the election was not conducted in accordance with the Constitution, the Electoral Process Act, the Electoral Code of Conduct, applicable regulations, the official election timetable, and the lawful directions of the Commission. The Petitioner pleads that violence, the other aforesaid malpractices are and were capable of interfering with the free exercise of the franchise

at all material times during the campaign period and at polling stations on the election day in Mwenzo Constituency. More particularly, the Petitioner states that the incidents were as follows:

(a) At identification and training of the Poll Staff, the 1st Respondent interfered with this part of the electoral process by demanding inclusion of his own people.

(b) The 1st Respondent, his agents and/or Supporters did on 13th August, 2026, while the electoral process was still ongoing, engage in violence and other electoral malpractices against people going to vote within hundred meters from the polling stations where the voters were intimidated and forced to vote for **LUKA SIMUMBA** while other eligible voters were stopped from entering the polling station to vote when suspected to be more neutral. Furthermore, voters were bribed by giving them money, gifts and promises to influence their votes to vote for **LUKA SIMUMBA**.

(c) The 1st Respondent and his agents and supports engaged in harassment and intimidation of Poll Staff for the 2nd Respondent if they dared to objectively handle the elections by being transparent.

(d) The 1st Respondent was distributing gifts such as pens wrapped with money to voters before the voters could go in to cast their votes at various polling stations while subtly telling them that inside the polling station, there were cameras that would show how they would have voted and promised punishment against any dissidence.

(e) The 1st Respondent hired foreigners and some Zambian nationals who were instilling fear in voters along the border polling stations such as Ntindi, Yolo and Chiyanga polling stations, where the Petitioner had support, with the result that out of the total registered voters of about 15,086, only about 2000 voted.

(f) The 1st Respondent, his agents and his supporters moved with weapons at polling stations while intimidating voters and polling staff. In some

places, known persons who moved together with the first Respondent while monitoring elections were moving while exposing guns by their waists.

(g) The 1st Respondent's polling agents and supporters remained within 100 meters of each polling station after voting while openly campaigning for the 1st Respondent and the other NRPUP candidates vying for election by the electorate in the constituency at the material time.

(h) The Petitioner states that for some polling stations, police were called in to help the situation by the ECZ polling staff to avert the ongoing illegalities.

(i) In some instances, the 1st Respondent's polling agents and supporters who remained at the polling Station after voting stormed into the polling stations in numbers without accreditation and/or authorization, to the detriment of the other innocent participants including the Petitioner herein.

(j) The 1st Respondent's electoral agents and supporters threatened to attack some agents for the Petitioner whom they forced out of the polling stations eventually, leaving the station not adequately manned to cover inter-alia the Petitioner's interests, in some instances, in full view of the police officers engaged as poll staff.

(k) The 1st Respondent and his agents and supporters, breached the electoral code to the Petitioner's detriment when he and his supporters barged into polling stations to manipulate the electoral process, namely by 09:00/10:00hrs during voting at Tenga and Mwenzo polling stations in Musyani Ward and around, 20:00/21:00hrs in Mukalizi, Mulalo Ward, during the counting of votes.

(l) The incidents pleaded above created fear and insecurity, deterred or disrupted the free participation of voters and/or agents, and affected or may have affected the integrity of the election and the result. The

Petitioner will rely on witness testimony, polling-agent testimony and other testimony, police or other official reports, photographs and/or recordings lawfully obtained, and the Commission's election materials.

(m) In some polling stations, the 2nd Respondent tolerated, by its agents, very well-known media persons to be flashing the NRPUP symbol inside and around the polling station without restraint, a thing that caused concerned parties to escalate the matter to management for their removal.

12. That the aforesaid acts of illegalities specifically and/or particularized in the foregoing paragraphs above were carefully targeted and widespread and affected the majority voters in all the wards that constitute Mwenzo Constituency.

13. That there was widespread non-compliance both of the Electoral Process Act and the Electoral Code of Conduct as the 1st Respondent, his agents and supporters and his sponsoring Party the NRPUP disrupted the electoral process and tempered with the counting, tabulation, transmission and/or aggregation of votes which affected the integrity of election and consequently the final result.

14. That the Petitioner pleads that the declared result cannot safely be said to reflect the will of the people under the circumstances and cannot be accepted as such without running the danger of injustice being occasioned against the Petitioner herein.

15. That the scale and extent of violence, intimidation and other malpractices aforesaid was so rampant and widespread on voting day and was of such unbelievable proportion that it resulted in the prevention of the majority of voters from voting for a candidate whom they preferred.

16. That as a result of the acts of violence and intimidation unleashed by the 1st Respondent by himself and by his agents and supporters that characterized the Parliamentary election, electorates feared for their safety and the act affected the smooth running of the electoral process and apathy among others was occasioned to the detriment of the Petitioner.

17. That on the Election Day, the 1st Respondent's sponsoring party NRPUP ensured cattle and chickens were slaughtered and nshima cooked at various points in the entire constituency and dished to electorates as they awaited voting on the long queue. They were also allowed by NRPUP to queue for food even after voting.

18. That the use of bribery, obstruction of voters from entering into polling stations to cast their votes uninhibited, campaigning at Polling stations by displaying party symbols within the polling station and the surrounding vicinity on the polling day by the 1st Respondent and his NRPUP sponsoring party heavily and negatively influenced the voters not to vote for a candidate of their choice.

19. That I crave the indulgence of this Honourable Court to grant me the reliefs sought

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

SWORN by the said)
MUSINGWA NATHAN SIAME)
At this 28 day of Aug 2026)

_____
DEPONENT

BEFORE ME: _____
COMMISSIONER FOR OATHS

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

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

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

2026/HP/EP/016

IN THE MATTER OF:	**THE PARLIAMENTARY ELECTION PETITION FOR MWENZO CONSTTUENCY SITUATE IN THE NAKONDE DISTRICT OF THE MUCHINGA PROVINCE OF THE REPUBLIC OF ZAMBIA HELD ON 1 3TH AUGUST 2026**
AND	
IN THE MATTER OF:	**ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA AS READ WITH SECTION 98 (C) OF THE ELECTORAL PROCESS ACT NUMBER 35 OF 2016**
AND	
IN THE MATTER OF:	**SECTION 83 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016**
AND	
IN THE MATTER OF:	**SECTION 97 OF THE ELECTORAL PROCESS ACT NUMBER 35 OF 2016**
AND	
IN THE MATTER OF:	**SECTIONS 98, 99 & 100 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016**
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AND	
IN THE MATTER OF:	**THE ELECTORAL (CODE OF CONDUCT) REGULATIONS 2011 STATUTORY INSTRUMENT NO.52 OF 2011**
AND	
IN THE MATTER OF:	**THE ELECTORAL COMMISSION OF ZAMBIA ACT NO. 25 OF 2016**

BETWEEN:

MUSINGWA NATHAN SIAME	**PETITIONER**
AND	
LUKA SIMUMBA	**1ST RESPONDENT**
THE ELECTORAL COMMISSION OF ZAMBIA	**2ND RESPONDENT**

AFFIDAVIT IN OPPOSITION

I **MONDE MUWANA** a Zambian National of No. 5344, Burma residential of Lusaka Province of the Republic of Zambia do hereby **MAKE OATH** and **SAY** as follows:

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

2. That I am a Legal Assistant of Messrs. L M Chikuta Legal Practitioners, Advocates seized with conduct of the matter herein on behalf of the Petitioner and thus competent to swear this my affidavit from facts and matters that are within my personal knowledge, in which case they are true, and have been leant by me through perusal of documents herein and by discussions with my Principal herein, in which case they are true to the best of my knowledge and belief.

3. That I have carefully read the affidavit in Support of the Notice to raise a Preliminary Objection by the 1st Respondent and Respond as herein below; -

4. The contents of paragraphs 2 and 3 of the said affidavit are not disputed serve to say that did not break any rule of practice or procedure.

5. That contrary to contents of paragraph 4 herein, what is correct is that the petition has not yet been accompanied by the List and Bundle of documents and that these are matters that can still be resolved at the stage the Court is giving orders for directions.

6. That contrary to contents of paragraph 5 of the affidavit sworn on behalf of the 1st Respondent, the petition has pleaded material facts and not evidence.

7. That further, I am advised by counsel seized with conduct of the matter that the Court sat to hear a matter that raised among others the need to have the Petition dismissed for failure to pay security for costs by the Petitioner which arguments were made by the Deponent and nothing was done to bring these arguments although available at the time.

8. That the 1st Respondent has decided to bring in piecemeal the claims herein in contravention of the law.

9. That this matter is under the circumstances an abuse of Court process and should not be entertained by this Court.

10. That this Court has authority also to make orders as to make orders as to when timelines when the said documents may join or accompany the Petition.

11. That in the circumstances, the matter is liable to be dismissed for want.

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

SWORN by the said)
MONDE MUWANA)
at Lusaka the 16)
day of Sept **2026)**

Deponent

BEFORE ME: _____
COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
16 SEP 2025
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/016

IN THE MATTER OF: **THE PARLIAMENTARY ELECTION PETITION FOR WUSAKILE CONSTTUENCY SITUATE IN THE KITWE DISTRICT OF THE COPPERBELT PROVINCE OF THE REPUBLIC OF ZAMBIA HELD ON 1 3TH AUGUST 2026**

AND
IN THE MATTER OF: **ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA AS READ WITH SECTION 98 (C) OF THE ELECTORAL PROCESS ACT NUMBER 35 OF 2016**

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IN THE MATTER OF: **SECTION 83 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016**

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BETWEEN:

MUSINGWE NATHAN SIAME **PETITIONER**

AND

LUKA SIMUMBA **1ST RESPONDENT**

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

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

AFFIDAVIT IN SUPPORT OF EX-PARTE SUMMONS FOR AN ORDER FOR EXTENSION OF TIME TO EFFECT SERVICE AND FOR LEAVE TO EFFECT SUBSTITUTED SERVICE

I, MONDE MUWANA of Plot No. 5344 Burma Residential in the city and province of Lusaka in the Republic of Zambia **DO HEREBY MAKE OATH** and **SAY** as follows:

1. That I am a Zambian National
2. That my particulars are as stated above.

3. That I am a Legal Assistant at L.M Chikuta Legal Practitioners herein being Advocates for the Petitioner in this matter, by virtue thereof competent to depose to this my affidavit from facts within my personal knowledge and belief.
4. That the Petition in this matter was filed in this Honorable Court on the 28th day of August 2026.
5. That despite diligent efforts, personal service of the Petition on the Respondent has not been possible.
6. That on the 2nd day of September, 2026 at approximately 16:00 hours, attempt was made to serve the Respondent at Kabwata Police where he was held custody but the officers refused to receive the Petition and referred me to the their Headquarters Office.
7. That the Headquarters Office of the Police refused to assist with service and instead informed us that the 1st Respondent would on the 4th day of September instant be going to appear before the High Court in Chambers and we would do well to intercept him there and serve him with the Court process.
8. That on the said day, further attempts to serve the 1st Respondent at the High Court were made but Police and the Respondent's Agents (advocates) hindered us from proceeding with serving the 1st Respondent.
9. That at the holding cells at Court, further attempts were made to serve the 1st Respondent through police there proved futile as the said request by police there was entirely refused by the 1st Respondent.
10. That further attempts were made to effect service through the 1st Respondent's Advocate who were representing him in the Habeas Corpus application before a High Court Judge but refused to accept service on behalf of the 1st Respondent stating that he had no instructions to do so.
11. That we further tried to reach out to the Zambian Police Headquarters Office Headquarters Office again on the 4th of September 2026 and we were told we could serve him the documents at the police station, but at that time, it was already passed working hours and we could not issue service on the weekend.
12. That on the 7th day of September 2026, I tried to serve at Kabwata Police Station the said Court process but I was informed that the 1st Respondent had been released on the weekend and is no longer in police custody.
13. That we have tried to allocate the 1st Respondent but we have not been successful as we could not get hold of his known residential address.

14. That I am informed by Counsel seized with conduct of the matter herein and verily believe the same to be true that upon contacting counsel (Mr Kayula) who represented the 1st Respondent in the said Habeas Corpus application, he advised that the 1st Respondent may be served with the Petition on the same 7th September, 2026 or the following day when he goes for swearing in at Parliament buildings.
15. That when we engaged with some employees at Parliament, we were advised that service of such documents could only be done with leave of the Speaker of the National Assembly.
16. That during the Court hearing, I am reliably informed by my principal and verily believe the same to be true that the Court was informed of this challenge and of the intention to make this application.
17. That it has since become apparent that service of Court process is being evaded by the 1st Respondent who shall, unless by order of this Court herein sought, refuse to be subjected to the proceedings herein.
18. That we further tried to contact the Respondent on the following contact number; 0977817012 which number we believe to belong to the 1st Respondent but we could not get through as the same was unreachable.
19. That the prescribed deadline to effect service on the Respondent fell on the 7th day of September 2026.
20. That the inability to effect service within time has not been due to any delay or default on the part of the Petitioner, but entirely owing to the Respondent's circumstances and evasion upon being made aware of the existence of a petition.
21. That I am informed by the advocate seized with conduct of the matter herein and verily believe the same to be true that we as a law firm were contacted by a Mr. Timothy Sapato on his 0976114305 number, who indicated he was the lawyer for the 1st Respondent on behalf of the party and sought to be served with petition but thereafter refused to receive the same, thereby causing the aforesaid turn of events and the consequential delay in making this application.
22. That although the 1st Respondent was brought to the knowledge of the proceedings herein, he has refused to receive the same and subject himself to the jurisdiction of this Honourable Court.
23. That I verily believe that the Respondent can be brought to bear with these proceedings if service is effected by substituted means, namely:

    (a) Publication in a daily newspaper of wide circulation in Zambia; and

(b) Electronic transmission via email / messaging application to [Email/Phone Number via WhatsApp messaging] and/or

(c) By affixing copies of the said processes on a conspicuous part of the Respondent's last known place of residence.

24. That it is in the interests of justice that this application is allowed and that leave be granted to serve the Respondent by substituted service out of time the Court process herein and the notice of hearing returnable this Thursday.
25. That the 2nd Respondent has already been served with the said Court process. Now produced and shown to me marked **"MM/1"** is copy of the said letter of service.
26. That the Petitioner's Application for an Order for Leave to Serve Court Process by means of Substituted Service out of time is with merit.
27. That I sincerely believe that this application is made in accordance with the law and no injustice will be created.
28. That I further believe that if the application is denied, an awkward position will be created where persons will deliberately avoid service to doge legal proceedings without restraint.
29. That the facts deposed to herein are true and correct to the best of my knowledge, information, and belief.

SWORN by the said)
MONDE MUWA)
At Lusaka this 8 day of SEPTEMBER 2026)

DEPONENT

BEFORE ME: _____
COMMISSIONER FOR OATHS

REPUBLIC OF ZAMBIA
HIGH COURT OF ZAMBIA
08 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/016

IN THE MATTER OF:	**THE PARLIAMENTARY ELECTION PETITION FOR WUSAKILE CONSTTUENCY SITUATE IN THE KITWE DISTRICT OF THE COPPERBELT PROVINCE OF THE REPUBLIC OF ZAMBIA HELD ON 1 3TH AUGUST 2026**
AND	
IN THE MATTER OF:	**ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA AS READ WITH SECTION 98 (C) OF THE ELECTORAL PROCESS ACT NUMBER 35 OF 2016**
AND	
IN THE MATTER OF:	**SECTION 83 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016**
AND	
IN THE MATTER OF:	**SECTION 97 OF THE ELECTORAL PROCESS ACT NUMBER 35 OF 2016**
AND	
IN THE MATTER OF:	**SECTIONS 98, 99 AND 100 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016**
AND	
IN THE MATTER OF:	**THE SCHEDULE TO THE ELECTORAL PROCESS ACT NO. 35 OF 2016**
AND	
IN THE MATTER OF:	**THE ELECTORAL (CODE OF CONDUCT) REGULATIONS 2011 STATUTORY INSTRUMENT NO.52 OF 2011**
AND	
IN THE MATTER OF:	**THE ELECTORAL COMMISSION OF ZAMBIA ACT NO. 25 OF 2016**

BETWEEN:

MUSINGWE NATHAN SIAME — **PETITIONER**

AND

LUKA SIMUMBA — **1ST RESPONDENT**

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

REPUBLIC OF ZAMBIA HIGH COURT OF ZAMBIA 08 SEP 2026 PRINCIPAL REGISTRY P.O. BOX 50067, LUSAKA

CERTIFICATE OF EXHIBITS

Messrs. L.M. Chikuta Legal Practitioners
Plot No. 4880, Elm Road
Woodlands P.O Box RW 50896
Lusaka, Zambia.
Email: office@lmclegal.co.zm
Advocates for the Petitioner

These are the exhibits referred to as **"MM/1"**in the Affidavit in Support by one **MONDE MUWANA** affirmed before me.

Dated at Lusaka this 8 day of Sept 2026

BEFORE ME _____

COMMISSIONER FOR OATHS

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

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

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

2026/HP/EP/016

IN THE MATTER OF: **THE PARLIAMENTARY ELECTION PETITION FOR MWENZO CONSTTUENCY SITUATE IN THE NAKONDE DISTRICT OF THE MUCHINGA PROVINCE OF THE REPUBLIC OF ZAMBIA HELD ON 1 3TH AUGUST 2026**

AND
IN THE MATTER OF: **ARTICLE 73 (1) OF THE CONSTITUTION OF ZAMBIA AS READ WITH SECTION 98 (C) OF THE ELECTORAL PROCESS ACT NUMBER 35 OF 2016**

AND
IN THE MATTER OF: **SECTION 83 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016**

AND
IN THE MATTER OF: **SECTION 97 OF THE ELECTORAL PROCESS ACT NUMBER 35 OF 2016**

AND
IN THE MATTER OF: **SECTIONS 98, 99 & 100 OF THE ELECTORAL PROCESS ACT NO.35 OF 2016**

AND
IN THE MATTER OF: **THE SCHEDULE TO THE ELECTORAL PROCESS ACT NO 35 OF 2016**

AND
IN THE MATTER OF: **THE ELECTORAL (CODE OF CONDUCT) REGULATIONS 2011 STATUTORY INSTRUMENT NO.52 OF 2011**

AND
IN THE MATTER OF: **THE ELECTORAL COMMISSION OF ZAMBIA ACT NO. 25 OF 2016**

BETWEEN:

MUSINGWA NATHAN SIAME **PETITIONER**

AND

LUKA SIMUMBA **1ST RESPONDENT**
THE ELECTORAL COMMISSION OF ZAMBIA **2ND RESPONDENT**

SKELETON ARGUMENTS AND LIST OF AUTHORITIES IN OPPOSITION TO NOTICE TO RAISE PRELIMINARY ISSUES

LIST OF AUTHORITIES

1. *The High Court, (Election Petition) Rules, Statutory Instrument No. 31 of 2016*
2. *S.P. Mulenga Associates International & Another v First Alliance Bank Zambia Limited' (SCZ Appeal No. 123 of 2013),*
3. *Black's law's Dictionary*

MAY IT PLEASE THIS HONOURABLE COURT,

1. This Preliminary issue is basically framed on the basis that the Petitioner did not file together with the Petition the list and description of Documents to be relied on, bundles of documents and that the Petition contains evidence.
2. That contrary to the position that the Petitioner needed to file the said documents together with the Petition as alleged by the 1st Respondent, we shall take the view in these submission that the position of the law is not to that effect as soon shall be shown.
3. The 1st Respondent has also alleged that the Petition contains arguments which position we dispute.
4. To traverse these issues, we shall rely on the following;
    a. Multiplicity of action and abuse of Court process;
    b. Offer our understand of the provisions of Rule 9 sub-rule 3(d) of the High Court, (Election Petition) Rules, Statutory Instrument No. 31 of 2016.
    c. Provide our understanding of what is in the Petition.

Abuse of Court Process.

4. My lady, this matter recently came up for hearing on an application by the Petitioner for leave to amend the skeleton arguments and to file the attendant documents and for leave to

pay security for costs into Court. The 1st Respondent informed Court that they were going to object and ask that the matter be dismissed for having offended the rule to pay within 5 days. At the time this argument was being put, the argument found in paragraph 4 of the affidavit that the Petition contains argument, was also available for them to make but they did not. It is our submission that deciding to bring a matter that was also available is an afterthought and intended to wear down the Petitioner with piecemeal litigation for matters that were clearly present to this Court, even assuming that they were entitled to the reliefs sought herein, which is denied they are.

5. My lady, the Law proscribes piece meal litigation against the same litigant over the same set of facts that are available to a party, but for whatever reason known only to them but was not brought at the 1st opportunity they had to do so. We submit that this 1st opportunity was available when they made submissions on alleged irregularities to pay for security for costs. The decision to bring this application is there for an attempt to have a second bite at a cherry in breach of the law.

6. My lady, the gist of the 1st Respondent's arguments in that application was that this Petition was incompetently before this Honourable Court and thereby denying the jurisdiction of the Court to hear and determine the matter. It is our considered view that the same question is being brought before this Honourable Court but today using another limb under the guise of; list and description of Documents to be relied on, bundles of documents and that the Petition contains evidence of Documents. They have relied on the Order 14A Rule 1, whose effect is not different from what was being sought when they were opposition the Petition. It is our submission that if the 1st Respondent had addressed their minds to all matters including this matter, they could have addressed this Court on the issue of dismissal based on this ground.

7. My lady. We fear that if and when this matter is dismissed, they will go and look for another ground, the basis of which the dismissal must stand, thereby re-litigating the same matters that would have already litigated upon.

8. My Lady, is trite Law in Zambia that were a subject matter of litigation had already been litigated upon, and the party who should benefit from such litigation did not bring similar matters at the time of such litigation, such a party is precluded from coming back again and asking the Court to litigate that aspect only because they did not litigate it the first instance when it was available to be litigated upon.

9. My lady, in **S.P. Mulenga Associates International & Another v First Alliance Bank Zambia Limited' (SCZ Appeal No. 123 of 2013),** the Supreme Court emphasized the rationale of the doctrine in the following terms:

> ***"We wish to make it plain that res judicata means that an issue has been adjudicated upon. The rationale for res judicata is that there must be an end to litigation. Its purpose is to support the good administration of justice in the interest of both the public and the litigants by preventing abusive and duplicative litigation. The twin principles of res judicata are often expressed as being: (1) the public -J 14- interest that courts should not be clogged by redeterminations of the same disputes and (2) the private interest that it is unjust for a man to be vexed twice with litigation on the same subject matter. It is critical, therefore, that parties to litigation bring forward their whole cases at once."***

10. My Lady, we further submit that even the question of evidence being that matter of Order 14A Rule 1, we submit that if it truly were so, it is covered under the principles of *Res-judicator* as the same would have brought the same to not determining it at first instance.
11. That we therefore submit from the onset that this Honourable Court is functus officio and cannot be brought back for re-litigation before this Honourable Court purely based on the fact that the reliefs being sought is under Order 14A Rule1.
12. This evidenced in the 1st Respondent's submission which argue that failure to do things complained of in the affidavit renders the Petition being liable to be dismissed with costs to the 1st Respondent.
13. My Lady, once one ground that needed to deal with dismissal is argued, the other grounds must also have been brought to bear. So that this Court when determining one, should have also considered the other grounds which at the same time were available to be argued. Failure to do so renders those ground which were available to be argued re-judicator.

My Lady, even assuming that our submission above was to be untainable at law, which we deny it is, a look at the provisions of Rule 9 sub rule 3(d) talks about the need for the said Documents to accompany the Petition. The word accompany has been defined in **black's law's Dictionary** as;

> "...***something that attends, goes along with, <u>or is joined to another thing</u> as an incident, adjunct, or subordinate part. In legal usage, it refers to documents, facts, or items that are filed, submitted, or presented together with a principal document or proceeding".***

14. My Lady, from the above we submit that accompanying does not entirely mean going at the same time or starting at the same time because one of the definition that is there is joining. It presumes that something started earlier, and something joins later.

15. My Lady, a person in Zambia may accompany a person travelling from South Africa in Zambia to go for a meeting in Cairo, Egypt. Such a person cannot be said to have not accompanied the other for a meeting only because he joined the other from Lusaka. Clearly, that term "Accompany" does not mean that the starting point is the same but proposes that by the end of the journey, they must have been together, (in this case at the end of closing the pleadings).

16. My Lady, in the case in Casu, the pleadings have not closed and the said documents can join the said documents were only filed and served on 14th September, 2026.

17. My Lady, this preliminary issue was raised even before this Honourable Court gave its Orders for Direction. We submit that the Orders for Direction can also be a point at which the said documents can be joined to accompany the documents they support. The said law does not say that the documents must be filed together, instead, the Law says the said Documents must accompany and the word accompany does not propose a starting point but that when all is said and done, those documents must form part of the record.

18. My Lady, that even under this arm, the application herein is still faulty and is liable to be dismissed.

Evidence in the Petition

19. My lady it is denied that the Petition has adduced any evidence. That even assuming that it did so, since the application is intended to ensure that this Petition is dismissed as seen in the conclusion in the skeleton arguments, the leg should also fall because it has already been litigated upon and the same should have been brought up when the matter first came.

20. My Lady, in the totality, we submit that this application is frivolous, vexatious and should be dismissed to allow this honourable court to proceed to give Orders for direction that it had intended to give.

21. My Lady, we shall restrain ourselves from asking for costs considering the nature of the matter it being one of public interest.

WE HUMBLY SUBMIT.

Dated at Lusaka this _____ day of _____ 2026

Per: _____

Messrs L. M. Chikuta Legal Practitioners
Plot No. 19, Elm, Road, Woodlands
P.O. Box RW 50896
LUSAKA.
Email: office@lmclegal.co.zm
Advocates for the Petitioner.

To: Messrs. Kayula & Associates
Plot No. 100/18A, Lechwe Park
Off Joel Kapilikisha Road, Kabulonga
P.O. Box 50737
Lusaka
Advocates for the 1st Respondent

Messrs Roy Mwala & Co
Legal Practitioners
Plot 4987, Block B First Floor, LA Complex
LA Boulavard, Long Acres Lusaka
Advocates for the 2nd Respondent