

REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA AT NAIROBI
ELECTION PETITION NO. 1 OF 2017

BETWEEN

H. E. RAILA AMOLO ODINGA.....1ST PETITIONER
H. E. STEPHEN KALONZO MUSYOKA.....2ND PETITIONER

AND

INDEPENDENT ELECTORAL AND
BOUNDARIES COMMISSION.....1ST RESPONDENT
THE CHAIRPERSON OF INDEPENDENT
ELECTORAL AND BOUNDARIES
COMMISSION.....2ND RESPONDENT
H. E. UHURU MUIGAI KENYATTA.....3RD RESPONDENT

AND

MICHAEL WAINAINA MWAURA.....INTENDED RESPONDENT / AMICUS CURIAE

AFFIDAVIT IN SUPPORT OF ENJOINMENT MOTION

I, **MIRIAM M. MUTUA**, an adult female of sound mind resident in the Republic of Kenya within Nairobi County, and of Post Office Box Number 2002-00200 Nairobi do hereby make oath and state as follows:

1. I was a running mate of PROF. MICHAEL WAINAINA MWAURA and I support the annexed Motion seeking to be enjoined in these proceedings as amicus curiae/ Respondent opposing the Petition (but subject to his name only appearing in the proceedings since I was the Presidential candidate), in as much as we are directly affected by the pleas sought by the Petitioners.

2. I was his running mate as an **Independent Presidential candidate** in the August 8th 2017 Presidential Poll, having garnered 13,257 votes as declared by the IEBC on August 11th 2017.
3. In consequence of the declaration of the 3rd Respondent, His Excellency the Honourable Uhuru Muigai Kenyatta as the winner of the Presidential election, my Presidential candidate and I accepted the electoral outcome results declared by the 2nd Respondent, and unequivocally accepted the results without qualification or disclaimer.
4. We called a Press conference and informed the electorate and our Supporters of the fate of our candidature. Indeed, my Presidential candidate has annexed to his affidavit and marked as exhibit **"PW 2"** a copy of the concession speech in proof.
5. As such team of independent Candidates I believe that it is imperative for the Court to afford us an opportunity to table material that brings to bear objectivity in the process of adjudicating the issues.
6. The fact that we are not affiliated to Political parties unlike the main protagonists herein, entitles this Court to open up the forum for Independent candidates to equally articulate their faith in the IEBC to conduct credible elections, otherwise our democratic experience will continue being dominated by Political Parties in spite of our Constitution affording independent candidates an opportunity to express political ideas outside the sphere of political parties.
7. As indeed stated by my Presidential candidate in his deposition, the provisions of Rule 22 of The Supreme Court (Presidential Election Petition) Rules 2017 have been shown and explained to me governing the joinder of a Respondent to the Petition such as now sought. I invoke the same in support.

8. I have also carefully perused the evidence contained in all the affidavits presented by the Petitioners and aver that (with respect) and it has been the consensus with my Presidential candidate that we have found absolutely no merit in the Petition that would warrant an annulment of the August 8th 2017 Presidential poll.
9. In the circumstances I would urge (with respect) this Honourable Supreme Court to so find.
10. I pray that the plea for enjoinder be made as prayed.
11. What is deposed to herein above is true and within my personal knowledge, save what is based on information and belief, the bases and the sources of which I have duly indicated.

SWORN BY THE SAID, **MIRIAM M. MUTUA**
AT NAIROBI ON THIS 23RD DAY OF AUGUST 2017

BEFORE ME

COMMISSIONER FOR OATHS

DRAWN & FILED BY:

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