

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

**BETWEEN**

H. E. RAILA AMOLO ODINGA.....1<sup>ST</sup> PETITIONER  
H. E. STEPHEN KALONZO MUSYOKA.....2<sup>ND</sup> PETITIONER

AND

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

AND

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

**AFFIDAVIT IN SUPPORT OF URGENCY**

I, **J. HARRISON KINYANJUI**, an Advocate of this Supreme Court of Kenya, and all other Courts subordinate to the Supreme Court, resident in Nairobi County within the Republic of Kenya and of Post Office Box Number 10024 GPO Nairobi do hereby make oath and state as follows:

1. I am an Advocate of the High Court of Kenya practicing as such by dint of a 2017 Current Practising Certificate under the name and style of M/S J. Harrison Kinyanjui & Co. Advocates. I make this deposition in this capacity.
2. As such Advocate, I have been instructed by the Applicant, PROF. MICHAEL WAINAINA MWAURA to lodge and prosecute the annexed Motion seeking his enjoinder in these proceedings as amicus curiae/ Respondent opposing the Petition subject to this Court's terms and directions.

3. In furtherance of this engagement, he has formally appointed and instructed me, a copy of which instruction letter I annex hereto marked as exhibit "JHK 1".
4. I am aware that very thin timelines are afforded by the Constitution and the law to the Court and parties in the petition to adjudicate on interlocutory applications hence it is imperative to deal with the annexed Motion urgently.
5. I am also aware that His Lordship the Honourable the Chief Justice issued directions on the Petition to the effect that any party wishing to be enjoined ought to do so by close August 25<sup>th</sup> 2017, hence the urgency arising.
6. MICHAEL WAINAINA MWAURA the Applicant herein was an Independent Candidate in the August 8<sup>th</sup> 2017 Presidential election and thus seeks to be forthwith enjoined as a Respondent/amicus Curiae, or in such capacity as this Honourable court may direct.
7. As his Advocate on record I informed him that it was imperative that he demonstrates he has solid bases for being so enjoined and hence he has already drawn up a response to the Petition in opposition thereto.
8. He has sought that upon being so enjoined, his said Replying Affidavit sworn on August 23<sup>rd</sup> 2017 and which he has instructed me to lodge herewith be considered as part of his pleading (aside from a formal Answer to Petition which the Court may direct him to file).
9. Such a Replying Affidavit can be deemed as properly filed and service thereof be effected on the Respondents forthwith under such terms and directions as this Honourable Supreme Court shall make.

10. The Applicant is a relevant party having been an Independent Presidential candidate in the August 8<sup>th</sup> 2017 Presidential Poll, and having garnered 13,257 votes as declared by the IEBC on August 11<sup>th</sup> 2017.
11. As such an independent Candidate it is imperative for the Supreme Court to afford the Applicant an opportunity to table material that brings to bear objectivity in the process of adjudicating the issues.
12. I believe that the enjoinder sought will aid and assist this Court view the involvement of such an independent candidate in the general conduct and process of the Presidential election sought to be impugned, hence the plea is based on meritorious grounds.
13. In the circumstances I certify that this Honourable Supreme Court's urgent intervention is imperative, and to be ready for the Case Management convention.
14. 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.

AFFIRMED BY THE SAID, **J. HARRISON KINYANJUI**

AT NAIROBI ON THIS 23<sup>RD</sup> DAY OF AUGUST 2017

BEFORE ME

COMMISSIONER FOR OATHS

DRAWN & FILED BY:

J. HARRISON KINYANJUI & CO. ADVOCATES,

ST. ELLIS , 4<sup>TH</sup> FLOOR, SUITE 416,

WABERA STREET, P.O. BOX 10024-00100 (G.P.O.) N A I R O B I, KENYA.