

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI

CONSTITUTIONAL PETITION NO.

OF 2017

IN THE MATTER OF ARTICLE 1, 2, 3, 10, 19, 20, 23, 258 AND 259 OF THE CONSTITUTION
OF KENYA 2010.

AND

IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND
FREEDOMS UNDER ARTICLES 1, 27, 38 AND 50 OF THE CONSTITUTION OF KENYA.

AND

IN THE MATTER OF THE FRESH PRESIDENTIAL ELECTIONS UNDER AND
PURSUANT TO ARTICLES 138 AND 140(2) OF THE CONSTITUTION

AND

IN THE MATTER OF THE FRESH PRESIDENTIAL ELECTIONS SCHEDULED TO BE
HELD ON 26TH OCTOBER, 2017 PURSUANT TO ARTICLE 140 OF THE CONSTITUTION

BETWEEN

HON. DAVID PKOSING PETITIONER

VS

NATIONAL SUPPER ALLIANCE	1 ST RESPONDENT
ORANGE DEMOCRATIC MOVEMENT	3 RD RESPONDENT
WIPER DEMOCRATIC MOVEMENT - KENYA	3 RD RESPONDENT
FORD – KENYA PARTY	4 TH RESPONDENT
AMANI NATIONAL CONGRESS	5 TH RESPONDENT
HON. RAILA AMOLO ODINGA	6 TH RESPONDENT
HON. STEPHEN KALONZO MUSYOKA	7 TH RESPONDENT
HON. WYCLIFFE MUSALIA MUDAVADI	8 TH RESPONDENT
HON. MOSES MASIKA WETANGULA	9 TH RESPONDENT
INDEPENDENT ELECTORAL & BOUNDARIES COMMISSION (IEBC)	10 TH RESPONDENT
WAFULA CHEBUKATI	11 TH RESPONDENT
REGISTRAR OF POLITICAL PARTIES	12 TH RESPONDENT
THE HON. ATTORNEY GENERAL	13 TH RESPONDENT

NOTICE OF MOTION

(Under Rule 23 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013, and Articles 22, 23 and 163 of the Constitution of Kenya, 2010)

TAKE NOTICE that on the _____ day of _____ 2017 at 9 O'clock in the forenoon or so soon thereafter as they can be heard, Messrs Kinoti & Kibe Company, the advocates for the Petitioner/Applicant, will move this Court for **ORDERS:-**

1. **THAT** this Application be certified as urgent and be heard ex parte in the first instance.
2. **THAT** the Honourable Court be issued to order and give such directions as will ensure that the Petition herein is heard within ten days hereof and determined within 14 days hereof or at any rate by 19th October, 2017.
3. **THAT** the Honourable Court be pleased to issue such orders and directions to ensure the Petition herein is heard and determined as a matter of public interest and top most national priority.
4. **THAT** the costs of this Application be borne by the Respondents in any event.

ON THE GROUNDS THAT:

- a) Following the invalidation of the presidential elections held on 8th August, 2010, a fresh presidential election must be held by IEBC within 60 days from the date of invalidation. In this connection IEBC has declared that the fresh presidential elections shall be held on 26th October, 2017.
- b) The Petition herein concerns matters directly related to the fresh Presidential elections scheduled to be held on 26th October, 2017 and it should therefore be heard and determined at least seven days before the said election.
- c) The Applicant is apprehensive that a grand political conspiracy is afoot to prevent the IEBC as presently established under the law from conducting the fresh presidential elections in order for the 1st – 9th Respondent to secure power through a crisis triggered by failure to hold the fresh presidential election in accordance with Articles 138 and 140 of the Constitution.

**MENELIK ROAD
KILIMANI AREA
P.O. BOX 2478-00202
NAIROBI**

**WIPER DEMOCRATIC MOVEMENT - KENYA
CHUNGWA HOUSE
OTHAYA ROAD
P.O. BOX 403-00100
NAIROBI**

**FORD – KENYA PARTY
KIRKWOOD HOUSE, 2ND FLOOR
KENYATTA MARKET
OFF MBAGATHI WAY
NAIROBI**

**AMANI NATIONAL CONGRESS
LOYANGALANI,
OFF JAMES GICHURU ROAD
LAVINGTON, NAIROBI**

**HON. RAILA AMOLO ODINGA
C/O ORANGE DEMOCRATIC MOVEMENT
ORANGE HOUSE
MENELIK ROAD
KILIMANI AREA
P.O. BOX 2478-00202
NAIROBI**

**HON. KALONZO MUSYOKA
C/O WIPER DEMOCRATIC MOVEMENT - KENYA
CHUNGWA HOUSE
OTHAYA ROAD
P.O. BOX 403-00100
NAIROBI**

**HON. MOSES WETANGULA
C/O FORD – KENYA PARTY
KIRKWOOD HOUSE, 2ND FLOOR
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HON. WYCLIFFE MUSALIA MUDAVADI
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ANNIVERSARY TOWERS, 7TH FLOOR
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& BOUNDARIES COMMISSION
ANNIVERSARY TOWERS, 7TH FLOOR
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REGISTRAR OF POLITICAL PARTIES
LIONS PLACE, KARUNA CLOSE
WAIYAKI WAY, WESTLANDS
P.O. BOX 1131-00606
NAIROBI

THE HON ATTORNEY GENERAL
ATTORNEY GENERAL'S CHAMBERS
STATE LAW OFFICE
SHERIA HOUSE
NAIROBI

Note: if any party served does not appear at the time and place above-mentioned such orders will be made and such proceedings taken as the court may deem just and expedient.