

THE REPUBLIC OF KENYA
IN THE SUPREME COURT OF KENYA AT NAIROBI
PRESIDENTIAL ELECTION PETITION NO. 5 OF 2022

BETWEEN:

RAILA AMOLO ODINGA.....1ST PETITIONER
MARTHA WANGARI KARUA.....2ND PETITIONER

VERSUS

INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION.....1ST RESPONDENT
WANYONYI WAFULA CHEBUKATI.....2ND RESPONDENT
BOYA MOLU.....3RD RESPONDENT
PROF. ABDI YAKUB GULIYE.....4TH RESPONDENT
JULIANA WHONGE CHERERA.....5TH RESPONDENT
JUSTUS NYANG'AYA.....6TH RESPONDENT
FRANCIS WANDERI.....7TH RESPONDENT
IRENE MASSIT.....8TH RESPONDENT
WILLIAM SAMOEI RUTO.....9TH RESPONDENT

THE 9TH RESPONDENT'S REPLYING AFFIDAVIT OF DENNIS ITUMBI

DATED at NAIROBI this26TH.....day of.....August.....2022


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Kithure Kindiki & Associates
ADVOCATES FOR THE 9TH RESPONDENT

DRAWN & FILED BY:

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AFFIDAVIT OF DENNIS ITUMBI

I, **DENNIS ITUMBI**, a male adult and ordinarily resident in Nairobi County, within the Republic of Kenya, care of P.O Box 35269 00100 Nairobi **Do**

HEREBY MAKE OATH AND STATE THAT:

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1. I am competent to swear this Affidavit, in response to issues alleged about me. I am a Kenyan citizen, ID number is 22219988.
2. I am a digital strategist and I have supported the campaigns of the 9th Respondent. I often make reports on social media regarding information I have gathered. I call my communications the Hustler Nation Intelligence Bureau ("**HNIB**").
3. The 9th Respondent's supporters were and continue to be referred to as the Hustler Nation.

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4. I know that during the **9th August election**, the HNIB and our supporters, the Hustler Nation, successfully ran an effective and real time, 24-hour parallel Tally Centre. I was not personally involved in the tallying. The information was obtained from the 1st Respondent's portal which the public was allowed access as well as from our agents stationed at the polling stations.
5. The Kenya Kwanza Alliance's intention was not to declare any results of the election, as that role is clearly the preserve of the 2nd Respondent who is the National Returning Officer, but simply to calculate the results of the Presidential vote as they came in from our polling station agents. In this way we could be continually apprised of the situation. -10
6. Setting up and developing this tallying center was a product of real time tests and lessons learned over time. These initiatives were not new for the general election. Rather, we started testing and developing the concept during the by-elections held in the last year: from Msambweni in Kwale, Juja in Kiambu, Bonchari in Kisii, Kiambaa in Kiambu, and Kabuchai in Bungoma and Matungu in Kakamega. -20
7. For the general election held on 9th August 2022 the Kenya Kwanza Alliance adopted the process I explain hereunder.
 - a. The coalition engaged and deployed over 46,000 polling station agents. To manage these polling stations, the coalition engaged over 4,600 managers who were responsible for 10 polling stations each.

- b. The managers reported to the Mashinani Hustler Nation Coordinators. There were 290 Mashinani Hustler Nation Coordinators, meaning one in each constituency.
- c. The coalition further engaged 4,600 *bodas bodas* to transport the managers to collect the hard copy Form 34As from their polling stations, immediately they were signed by the Presiding Officers.
- d. These forms were eventually brought to the UDA Party Headquarters – Hustler's Plaza on Ngong Road. The forms were used to compare with the results being verified and announced at Bomas.

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8. I have been shown an Affidavit by John Mark Githongo (Githongo) in Support of the Raila Odinga Petition sworn on 21st August, 2022. Githongo alleges that he met with an unnamed whistleblower, who purports to have revealed details of his involvement with a 'large scale, well-orchestrated fraudulent scheme that enabled them to interfere with and compromise the IEBC electoral data transmission system and manipulate the presidential election results' in favor of the 9th Respondent. Githongo has termed this "Uchaguzi Tallying" and claims that it involved editing Form 34As which had been electronically transmitted through the IEBC portal, before re-uploading a manipulated version.

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9. Githongo's narration and whistle-blower account is a fantasy and fictional story with shadowy imaginary characters and locations. At paragraph 9 of his Affidavit, Githongo provides a hearsay

account of a supposed team of 56 people based in Karen with a team of 10 supervisors who could access, enter and manipulate IEBC entries. Further he alleges that I was one of the supervisors was. Neither I, nor any team which I am aware of was involved in accessing, entering or manipulating the IEBC entries. There was no such tallying system which received data or images from the KIEMS kits, manipulated it, and then uploaded it to the IEBC system.

10. At paragraph 9(e), Githongo claims that I was involved in this process alongside, (1) DAVIS CHIRCHIR (2) KIBYEGON, (3) MORRIS MUTEGI, (4) BABY SERGE, and (5) JACKSON KANDI. I do not know any of these individuals other than Davis Chirchir. While I do know him from various interactions over the years, he and I did not work together in any capacity on issues of tallying during this election period.

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11. Contrary to the Githongo Affidavit, the Kenya Kwanza Alliance had no tallying center in Karen. It did not hire any computer scientists for any role. I do not believe that the team doing tallying at Hustler Plaza on Ngong Road had any direct contact with or knowledge of the team doing tallying at the WSR Presidential Secretariat in Westlands. These operated as two independent centers to aid in our own results tabulation efforts.

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12. All that is deponed to herein is true to the best of my knowledge,
information and belief.

SWORN at **NAIROBI** By the said
DENNIS ITUMBI on this**26th**....day
of**August**2022

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| **Deponent**
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BEFORE ME

REBECCA WANYAMA
ADVOCATE &
COMMISSIONER FOR OATHS
P.O. Box 3695 - 00200, NAIROBI
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26/08/2022

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