

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 -10

JUSTUS NYANG'AYA..... 6TH RESPONDENT

FRANCIS WANDERI..... 7TH RESPONDENT

IRENE MASSIT..... 8TH RESPONDENT

WILLIAM SAMOEI RUTO..... 9TH RESPONDENT

AFFIDAVIT OF RAYMOND KIPROTICH BETT

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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REPUBLIC OF KENYA
IN THE DSUPREME COURT OF KENYA AT NAIROBI
PETITION NO. E005 OF 2022

BETWEEN

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

VERSUS

INDEPENDENT ELECTORAL AND BOUNDARIES

COMMISSION (IEBC)1ST RESPONDENT
WANYONYI WAFULA CHEBUKATI.....2ND RESPONDENT
BOYA MOLU.....3RD RESPONDENT
PROF. ABDI YAKUB GULIYE.....4TH RESPONDENT
JULIANA WHONGE CHERERA.....5TH RESPONDENT
JUSTUS NYANGAYA.....6TH RESPONDENT
FRANCIS WANDERI.....7TH RESPONDENT
IRENE MASIT.....8TH RESPONDENT
WILLIAM SAMOEI RUTO.....9TH RESPONDENT

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AFFIDAVIT OF RAYMOND KIPROTICH BETT

I RAYMOND KIPROTICH BETT a resident of Nairobi and of P.O. Box 90-00200
 Nairobi within the Republic of Kenya do make oath and state as follows:

1. **THAT** I am a male adult of sound mind conversant with the facts herein
 therefore competent to swear this affidavit. —20
2. **THAT** I have been shown and explained to by the 9th Respondent's
 advocates the Petition and affidavits in support thereof.
3. **THAT** I make false this Affidavit to respond to allegations regarding IP
 address <http://173.249.40.177/> —30
4. **THAT** I verily believe the untruths have been told to share up the
 narrative that there was manipulation of the results which is untrue.
5. **THAT** I am a graduate of University of Nairobi and certified Information
 Systems Auditor accredited by an international body namely Information

Systems Audit and Control Association (ISACA) and the immediate past president of ISACA, Kenya Chapter. I am also a certified Information Security Manager and certified Data Privacy solutions engineer with over ten years' experience in ICT. **Annexed herewith and marked "RKB1 a-c" are copies of my Membership Certificates**

6. **THAT** since early this year I was engaged on volunteer basis by the United Democratic Alliance Party (and subsequently Kenya Kwanza Alliance (KKA)) to be the lead Information Technology (IT) expert with a team of about twenty personnel. —10
7. **THAT** my colleagues and I attended training sessions and stakeholders' meetings organized by the Independent Electoral and Boundaries Commission (IEBC) including the one held on 9th June 2022. The said trainings and meetings were attended by representatives of all the four presidential candidates, media houses representatives and other stakeholders. **Annexed herewith and marked "RKB2" is a copy of the invite letter dated 7th June 2022** —20
8. **THAT** during the said trainings and meetings, the IEBC simulated the Results Transmission System which included an online public portal where the presiding officers and returning officers would upload the Presidential election results in Forms 34As, 34Bs and 34C. —30
9. **THAT** in relation to the 9th August 2022 General Election, my team and I were then tasked by the KKA to develop systems which would be used to

collect results from our polling stations agents deployed countrywide and transmission of the results to KKA's collation centre.

10. **THAT** the 9th Respondent's Chief Agent supplied me with details of all the polling stations agents and Constituency ICT consultant agents who had been engaged by the 9th Respondent.

11. **THAT** my team and I came up with a system that facilitated three modes of transmission of polling stations results namely:

a) Short Messaging System (SMS);

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b) Whatsapp; and

c) Android mobile application

12. **THAT** I confirm that Koech Geoffrey Kipngosos was engaged as part of my team and was tasked to develop the said **WhatsApp bot** mentioned at paragraph 9 (b) above.

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13. **THAT** using this platform all our validated agents could transmit presidential election results for that particular polling station by sending the declared figures for all the four presidential candidates and/or an image of Form 34A issued to our agents. The agents were required to take a photo of the original Form 34A.

14. **THAT** using the same system, the constituency ICT consultant agents could transmit the constituency presidential results on Form 34B through an *online web portal*. The online web portal is a *Sharepoint* owned and hosted by Microsoft available to any person on a subscription basis.

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15. **THAT** this system enables you to collect, store, view, arrange and/or sort the data which has already been fed into the system. In this case, the data/results could be sorted and viewed either on the basis of polling station or constituency or county and/or national point of view.

16. **THAT** once the IEBC started uploading the Form 34As, my team engaged about 250 clerks to assist in comparing and verifying the Form 34As received from our agents through the SharePoint platform and the Forms uploaded in the IEBC online portal. The said clerks would then be required to download each of the Form 34As from the IEBC online portal. —10

17. **THAT** my team had also developed another system for purposes of collating the election results for each presidential candidate. The 250 clerks engaged for purposes of comparison of the Forms, also assisted in entering the verified results for each candidate from the Form 34As to this system. The system would automatically collate the results for each candidate and collated data could be sorted and viewed on the basis of either polling station or constituency or county and/or nationally. —20

18. **THAT** I have been shown paragraphs 62 to 67 of the Petition dated 21st August 2022 and I wish to state that the mentioned IP address <http://173.249.40.177/> was the Kenya Kwanza Alliance's IP address for testing our platform for data collection (mentioned above) on Microsoft Windows server. The KKA acquired this IP address for purposes of development, testing and training. This was done before moving the —30

platform to an actual live server environment for deployment and actual use. This is a normal windows server that is used for hosting applications during development and testing. Simply put, this IP address was a dummy platform and not the actual production system which was finally used.

19. **THAT** KKA eventually settled substantively on another IP addresses for actual use. This IP addresses was a composition and combination of up to four IP addresses lumped together including IP address <http://20.13.160.204>; <http://20.123.48.0> and <http://20.13.160.155>. These composite IP addresses changed automatically from time to time to secure the site. The public address these site was URL link <https://nyumbanibiz.sharepoint.com>

—10

20. **THAT** in further answer to paragraphs 63 to 69 of the Petition, I wish to explain that:

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- i) The Petitioners have conveniently avoided to give the alleged IEBC's IP address that they purport to have been used to "dump" the allegedly manipulated Form 34As reflected in the IEBC public portal;
- ii) The KKA's IP address that was used for development, testing and training (<http://173.249.40.177/>) and other IP addresses that were used after the system was substantially deployed to collect, collate and verify Form 34As had no interface with the IEBC server and/or portal.

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- iii) I reiterate that Microsoft Sharepoint is a publicly available subscription service available to anyone worldwide. It has no linkage to IEBC server and/or IEBC online public portal.
- iv) However, it should be noted that after all stakeholders' consultations the IEBC granted limited read access to all the four presidential candidates' chief agents through "**API**". The limited read access was to enable the presidential candidates through their agents to read and download Form 34As **only**. Through this api, the chief agent was able to do bulk downloads. We however tried to use this API but we did not manage to do so, given the it was supplied only 2 days to the election.

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Annexed herewith and marked "RKB3" is an email o dated 7th August 2022 from IEBC to all Chief agents.

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21. **THAT** I have also been shown the Further Affidavit of Benson Wesonga referred at paragraph 67 of the Petition. The same does not demonstrate nor particularize how the alleged "staging" of Form 34As was done using IP address <http://173.249.40.177/>.

22. **THAT** to add to that, the conclusion drawn in the Further Affidavit by Benson Wesonga is unfounded as no supporting evidence, material and/or image is annexed, to justify his attempt to connect the laptop of Koech Geoffrey Kipngosos with any IEBC server and/or portal or the alleged "hacking", "staging" and/or "dumping".

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Emails: pmlawchambers12@gmail.com
awele@awelejackson.co.ke
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ochiengogingaadvocates@gmail.com

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This is the Exhibit marked RKB1A referred to in the annexed Affidavit of Raymond Kiprotich Bett sworn before me this 26th day of August, 2022, Nairobi in the Republic of Kenya

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REBECCA WANYAMA
ADVOCATE &
COMMISSIONER FOR OATHS
P.O. BOX 2856, NAIROBI
P.N.05/10222/17

RKB
26/08/2022



ISACA hereby certifies that

Raymond Kiprotich Bett

has successfully met all requirements and is qualified as a Certified Information Security Manager; in witness whereof, we have subscribed our signatures to this certificate.

Requirements include prerequisite professional experience; adherence to the ISACA Code of Professional Ethics and the CISM continuing professional education policy; and passage of the CISM exam.

CISM-1843696 14 December 2018 31 January 2025
Certificate Number Date of Certification Expiration Date



D. Samuel
ISACA Chief Executive Officer

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This is the Kikuyu marked RKB1B referred to in the annexed affidavit of Raymond Kiprotich Bett
Sworn before me this 26th day of August 22 Nairobi
A. W. Nyambura
Commissioner for Oaths

REBECCA WANJAMA
ADVOCATE &
COMMISSIONER FOR OATHS
P.O. Box 2491 - GPO, NAIROBI
P. 152510233/17

[Signature]
26/08/2022

CISA Certified Information Systems Auditor.
An ISACA® Certification

ISACA hereby certifies that

Raymond Kiprotich Bett

has successfully met all requirements and is qualified as a Certified Information Systems Auditor; in witness whereof, we have subscribed our signatures to this certificate.

Requirements include prerequisite professional experience; adherence to the ISACA Code of Professional Ethics and the CISA continuing professional education policy; and passage of the CISA exam.

CISA-14117225	11 July 2014	31 January 2024
Certificate Number	Date of Certification	Expiration Date

ISACA. *[Signature: D. Samuel]*
ISACA Chief Executive Officer

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This is the exhibit marked RKB1C referred to in the annexed affidavit of Raymond Kiprotich Bett sworn before me this 26th day of August 2022 Nairobi in the Republic of Kenya

REBECCA WANYAMA
ADVOCATE &
COMMISSIONER FOR OATHS
P.O. Box 2295 - 00100, NAIROBI
P. 011/12221/17

Rebecca Wanyama
26/08/2022



ISACA hereby certifies that

Raymond Kiprotich Bett

has successfully met all requirements and is qualified as a Certified Data Privacy Solutions Engineer; in witness whereof, we have subscribed our signatures to this certificate.

Requirements include meeting the eligibility requirements for professional experience; adherence to the ISACA Code of Professional Ethics and the CDPSE continuing professional education policy.

CDPSE-2115265 31 March 2021 31 January 2025
Certificate Number Date of Certification Expiration Date



DA Samuel
ISACA Chief Executive Officer

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INDEPENDENT ELECTORAL AND BOUNDARIES COMMISSION



REF. NO: IEBC/DVEPC/07/06/2022 (15)

RKB-2
This is the Exhibit marked
referred to in the annexed affidavit of
declaration
Raymond Kiprotich Bett
Sworn before me this 26th
Declared August 22, 2022 Nairobi
day of August 20, 2022
in the Republic of Kenya
Commissioner for Oaths

7th June, 2022

H. E. Dr. William Samoei Ruto
0725 – 679328
NAIROBI

REBECCA WANYAMA
ADVOCATE &
COMMISSIONER FOR OATHS
P.O. Box 3695 - 00100, NAIROBI
P.103/14233/17

[Signature]
26/08/2022

Dear Dr. Ruto

RE: INVITATION TO THE SIMULATION OF ELECTION TECHNOLOGY

—10

The Independent Electoral and Boundaries Commission has deployed various election technologies for the purpose of upcoming general election. These technologies include Biometric Voter Registration (BVR), Candidates Registration Management System (CRMS), Electronic Voter Identification (EVI), and Results Transmission System (RTS), among others.

As a legal requirement, the technology to be used during election requires testing and simulation at least sixty (60) days before election.

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As an important stakeholder in this process you are hereby invited to the simulation of the RTS to be held at the Bomas of Kenya on Thursday 9th June 2022 from 2.00 pm.

For more information about this event kindly contact our Director in charge of Voter Education and Partnerships, Mr. Rasi Masudi using email address rmasudi@iebc.or.ke or through mobile no. 0722373127.

We look forward to engaging with you during this important occasion.

Yours Sincerely

—30

[Signature]
W. W. CHEBUKATI
CHAIRMAN



Raymond Bett <betraymond@gmail.com>

Fwd: TESTING FILES FOR INTEGRATION TO FORMS PORTAL

2 messages

This is the Exhibit marked "RKB-3" referred to in the annexed affidavit of declaration

Kithure Kindiki <akithurekindiki@gmail.com>
To: "betraymond@gmail.com" <betraymond@gmail.com>

Raymond Kiprotich Bett
Sworn
Declared before me this 26th day of August 2022
In the Republic of Kenya
Commissioner for Oaths

7 August 2022 at 19:42



[Signature]
26/08/2022

----- Forwarded message -----

From: **Salome Oyugi** <SOyugi@iebc.or.ke>
Date: Sun, Aug 7, 2022 at 6:48 PM
Subject: Re: TESTING FILES FOR INTEGRATION TO FORMS PORTAL
To: akithurekindiki@gmail.com <akithurekindiki@gmail.com>, paulgatundu@gmail.com <paulgatundu@gmail.com>, Kimani Alex <alkimani@gmail.com>, saitabaokanchory@gmail.com <saitabaokanchory@gmail.com>
Cc: Hussein Marjan <hmarjan@iebc.or.ke>, Michael Ouma <Mouma@iebc.or.ke>, Chripine Owiye <cowiye@iebc.or.ke>

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Further to my previous email, please find the address of the website with JSON and image file.
<https://api.iebc.or.ke/>

Salome Oyugi

ACI Arb, Dip. KSL, LL.M. UON; LL.B. (Hons) M.U.K;
Manager, Political Parties & Campaign Financing
Independent Electoral & Boundaries Commission (I.E.B.C)
Anniversary Towers, Off University Way | P.O. Box 45371-00100, Nairobi-Kenya
Telephone: +254 (0) 20 276 9253 | Mobile: +254 721 520 940
Email: ednasal2000@yahoo.com | Website: www.iebc.or.ke

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From: Salome Oyugi <SOyugi@IEBC.OR.KE>
Sent: Sunday, August 7, 2022 2:40 PM
To: akithurekindiki@gmail.com <akithurekindiki@gmail.com>; paulgatundu@gmail.com <paulgatundu@gmail.com>; Kimani Alex <alkimani@gmail.com>; saitabaokanchory@gmail.com <saitabaokanchory@gmail.com>
Cc: Hussein Marjan <hmarjan@IEBC.OR.KE>; Michael Ouma <Mouma@iebc.or.ke>; Chripine Owiye <cowiye@IEBC.OR.KE>
Subject: Fw: TESTING FILES FOR INTEGRATION TO FORMS PORTAL

Good Afternoon All.
Your appointment as Chief Agents of your respective Presidential Candidates refer.

Please find attached herein the sample json files and manual for using the files to be shared throughout the results transmission process as previously discussed. —30

The password is to be shared separately upon your confirmation of receipt of the files as annexed herewith.

Salome Oyugi

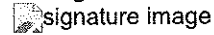
ACI Arb, Dip. KSL, LL.M. UON; LL.B. (Hons) M.U.K.
Manager, Political Parties & Campaign Financing
Independent Electoral & Boundaries Commission (I.E.B.C)
Anniversary Towers, Off University Way | P.O. Box 45371-00100, Nairobi-Kenya
Telephone: +254 (0) 20 276 9253 | Mobile: +254 721 520 940
Email: ednasal2000@yahoo.com | Website: www.iebc.or.ke

From: Michael Ouma <Mouma@iebc.or.ke>
Sent: Friday, August 5, 2022 3:18 PM
To: Salome Oyugi <SOyugi@IEBC.OR.KE>
Cc: Hussein Marjan <hmarjan@IEBC.OR.KE>; Marjan <marjan.hussein@gmail.com>
Subject: TESTING FILES FOR INTEGRATION TO FORMS PORTAL

Good afternoon Salome,
 Please find attached the sample json files and manual for using the files to be shared throughout the results transmission. Please share with the political parties.

You will share the password for the file separately.

Regards,
Michael Ouma
Director Information Communication and Technology

Salome Oyugi
 Manager Field Services


This e-mail and its attachments are intended for the above named only and may be confidential. If they have come to you by error you must not copy or show them to anyone, nor should you take any action, other than to notify the sender.

Raymond Bett <bettraymond@gmail.com>
 To: grono@iansoftltd.com, edmond.korir@agilebiz.co.ke

7 August 2022 at 19:57

[Quoted text hidden]

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