

HIGH CO-T, CAPE COAST

SUIT NO.

1. EDWARD ARMAH

2. RANSFORD BOSOMTWE

ALBERT ACKON

4. RAZAK NURUDEEN

5. MOHAMMED IDDRISU ALL OF UNNUMBERED HSE, EKUMFI PLAINTIFFS/APPLICANTS

... DEFENDANTS/RESPONDENTS

**VRS** 

1. ROBERT KUTIN JNR

2. ISAAC ASIAMAH

- 3. SARAH NANA ARTHUR
- 4. PROF. DOMINIC FOBIH
- 5. FRANK HUTCHFUL
- 6. CHARLES KOFI ENTCHIL

ALL OF UNNUMBERED HOUSE, CAPE COAST

7. THE ELECTORAL COMMISSION PER CENTRAL REGIONAL DIRECTOR, CAPE COAST

# MOTION ON NOTICE FOR AN ORDER OF INTERLOCUTORY INJUNCTION PENDING THE FINAL DETERMINATION OF THE SUIT

MOTION ON NOTICE by Lawyer for Plaintiffs/Applicants herein praying this Court for an Order for interlocutory injunction restraining the Defendants/Respondents, their servants, assigns, privies, workmen, agents or any person claiming under or through them, howsoever described from taking any step(s) to hold, conduct, convene and/or organize or continue with the Regional Elections of the New Patriotic Party in the Central Region and for transmission of any results to the National Office of the party until the final determination of this suit in terms of the affidavit attached and for any further Order(s) as this court may deem fit to make in the premise.

COURT TO BE MOVED ON the Orday OF July 2022 at 9 O'clock in the forenoon or so soon thereafter as Lawyer for Applicants may be heard.

DATED AT CAPE COAST THIS 24<sup>TH</sup> DAY OF MAY, 2022.

BARRISTER - AT -LAW ADVISTRA CHAMBERS F13/12 JOHNSTON STREET CAPE COAST

LAWYER FOR PLĂINTIFFS/APPLICANTS

THE REGISTRAR HIGH COURT CAPE COAST

TO THE DEFENDANTS @ UNNUMBERED HSE, CAPE COAST

HIGH COT TI CAPE COAST

SUIT NO.

PLAINTIFFS/APPLICANTS

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ALL OF UNNUMBERED HOUSE, CAPE COAST

7. THE ELECTORAL COMMISSION
PER CENTRAL REGIONAL DIRECTOR, CAPE COAST

### **AFFIDAVIT IN SUPPORT**

- I, EDWARD ARMAH of Unnumbered Hse, Ekumfi, in the Central Region of the Republic of Ghana, make oath and say as follows:
  - That I am the 1<sup>st</sup> Plaintiff/Applicant and deponent herein and I have the authority of the other Plaintiffs/Applicants to depose to this affidavit on our collective behalf.
  - 2. That we are card bearing members of the New Patriotic Party, a political party registered under the laws of the Republic of Ghana (hereinafter called "the Party"), and also hold various polling stations positions and some cleared to context for executive positions at the Ekumfi Constituency of the New Patriotic Party in the Central Region of the Republic of Ghana. SEE EXHIBIT A

- 3. That the Respondents are members of the Regional Electoral Committee charged with the responsibility of organizing a credible regional election for the New Patriotic Party in the Central Region. The 1<sup>st</sup> Respondent is the current Regional Chairman of the party whilst the 4<sup>th</sup> and 5<sup>th</sup> Respondents are Chairman of the Council of Elders, and Research and Elections Director of the party in the Central Region respectively.
- 4. That pursuant to a successful organized Polling stations and Electoral area coordinators elections, the National office of the party put up a timetable for the conduct of the Constituency executives' elections in line with the long-established modalities for the conduct of elections in the party.
- That consequent to this, an election committee comprising the Chairman of council of Elders, Research and Elections officer among others, were established to ensure the conduct of the elections in a free and fair manner in accordance with the rules of the party.
- 6. That the Respondents, under the direction of the 1st Respondent are those charged with the responsibility to ensure that an election is organized in the Ekumfi constituency but they have refused and or failed to do so and this constitutes an omission or dereliction of duty contrary to laid down principles and the constitution for no justifiable reason to the best of Plaintiffs' knowledge.
- 7. That as at now, there is no pending issue or matter which should prevent the Respondents from smoothly conducting elections at the Ekumfi constituency and all resources needed for the organization and conduct of the elections are readily available at their disposal and therefore there is no justification for the neglect and refusal or omission to do the needful.
- 8. That the Ekumfi constituency elections are to be organized under the directives of the 1st to 8th Respondents as pivotal decision-makers of the Party in the Region but Respondents have deliberately refused to organize the constituency elections which they have a responsibility to oversee, but are rather frantically seeking to organize regional elections.
- That the refusal by the Respondent to organize constituency elections in the Ekumfi Constituency when there is no pending issue in the constituency is to deny the Applicants as constituency officers from voting in the impending regional elections.
- 10. That in the event of the conduct of the constituency elections in the Ekumfi Constituency, the elected constituency executives become a major part of the electorates for regional executives elections in the Central Region, which the Defendants are frantically organizing now and the failure to allow the elections at Ekumfi will disenfranchise not only the would be executives but their constituents as well.

- 11. That it is the constituency executives and other constituency leaders who choose Regional executives. This means that where there are no constituency elections, such constituency will not be part of electing regional executives. This is the hardship that the Respondents are subjecting the Ekumfi constituency to.
- 12. That the refusal by the Respondents to organize constituency elections in the Ekumfi Constituency when there is no pending issue in the constituency is to deliberately deny the Applicants from voting in the impending regional elections and this amounts to discrimination and a breach of the fundamental principles of democratic representation enshrined in the constitution.
- 13. That the Respondents have intentionally and without cause refused to organize the constituency elections for the basic reason of preventing Applicants from being eligible to exercise their franchise in the impending regional elections and given that votes from the Ekumfi Constituency have always been crucial in deciding who becomes a regional executive of the party in the Central Region this situation must not be allowed to stand.
- 14. That as a result of the role that votes from Ekumfi Constituency play in regional elections, some regional candidates and other interested parties either seek to court or prevent Ekumfi Constituency from being the 'kingmakers' in such regional elections depending on the alliances of such candidates and interested parties.
- 15. That the actions of the Respondents are clearly to prevent Ekumfi electorates from exercising their basic right to vote for the mere fact that they do not seem to find favour with the electorates at the Ekumfi Constituency thus the orchestration of these unlawful and communist tactics is to prevent the realization of the right to vote of the people of Ekumfi in the upcoming regional elections slated for May 27 to 29<sup>th</sup> 2022.
- 16. That the Respondents employed the same tactics to refuse other constituencies such as Twifo Ati-Morkwa and Lower Heman Denkyira constituency which is a clear indication that it is in the nature of the Respondents to perpetrate actions calculated to undermine the enjoyment of constitutionally guaranteed rights. And that if not restrained, the Defendants will further ensure that many other Constituencies will be disenfranchised as well.
- 17. That since there is no matter restraining the holding of elections in the Ekumfi Constituency, Respondents cannot hide under any majority caveat to disenfranchise the electorates in the Ekumfi Constituency in blatant breach of the constitution of the party and total disregard for settled democratic principles.
- 18. That the Respondents cannot claim to have the right to deny legitimate individuals from voting in the impending regional elections by refusing to organize the constituency elections at Ekumfi as the right to vote is conferred by and

- entrenched in the constitution and not dependent on the whims and caprices of any one individual.
- 19. That this infringement on the basic rights of the Applicants will invariably affect almost about seventeen (17) or more people who would have been eligible to vote in the impending regional elections and by extension, all other voters who would have chosen these representatives to vote on their behalf at the regional level.
- 20. That the Respondents who are clearly aware of this fact are bent on disenfranchising such people in order to satisfy their parochial interest of continuing to stay in power since Applicants several petitions to register their displeasure and seek for more information on the constituency elections including the voters register have fallen on deaf ears and the Respondents have consciously decided not to respond and rather seek to organize the regional elections. SEE EXHIBIT B AND C
- 21. That the 1st to 6th Respondents have conspired with the 7th Respondent who ought to be a disinterested party and a neutral referee to deny the Plaintiffs of the right to vote in the regional elections.
- 22. That when elected individuals, in this case the Respondents, seek to perpetrate illegality with impunity, the court is clothed with all the power to call such individuals (Defendants) to order to ensure the respect of basic rights accorded to people, in this case the Plaintiffs.
- 23. That in the circumstance, the Court must restrain the Respondents from going ahead with the central regional elections until the Ekumfi Constituency election is organized and until the constituency is given a voice in the impending regional elections.
- 24. That the Respondents will proceed with their unlawful conducts to organize the regional elections if not restrained by this Court. Further to that the Applicants and the party as a whole will suffer irreparable injury should they proceed with the illegality as Applicants cannot be compensated by way of cost.
- 25. That it shall be just and convenient to grant this instant application in order to avoid irreparable damage to the Applicants

26. Wherefore I swear to the affidavit in support.

SWORN TO AT CAPE COAST THIS 25 15

DAY OF MAY, 2022.

DEPONENT

BEFORE ME

COMMISSIONER FOR OA

HIGH COUNT, CAPE COAS

SUIT NO

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... DEFENDANTS/RESPONDENTS

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ALL OF UNNUMBERED HOUSE, CAPE COAST

 THE ELECTORAL COMMISSION PER CENTRAL REGIONAL DIRECTOR, CAPE COAST

CERTIFICATE OF EXHIBITS

Coast do certify that Exhibits A, B and C were duly sworn before me.

DATED AT CAPE COAST THIS DAY OF MAY 2022

BEFORE ME

REGISTRAN OF HIGH COUR

Cape Coax

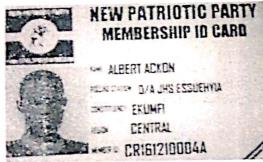
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Referred To In The Affidavit Of Sworn Before Me Un S S 20 Registras

High Court Cape Coast



Razak Nurudeen Pooling Station Secretary Akosti D/A Primary Tel: 0242829920



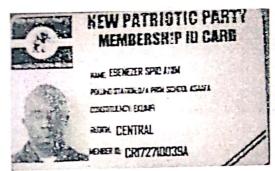
Albert Ackon Pooling Station Organizer Saakwaa Market Shed Tel: 0247954396



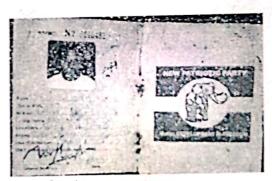
Mohammed Idrisu
Pooling Station Youth Organizer
D/A Primary School Eyisam
Tel: 0240968616



Edward Armah Aspiring for; Constituency Secretary Tel: 0248253019



Ebenezer Anim Spio Aspiring for; Constituency assistant Secretary Tel: 046111836



Ransford Bossomtwe
Aspiring for;
Constituency 2nd Vice Chairman
Tel: 0244764005

EXH B"

AGGRIEVED ASPIRING CONSTITUECY EXECUTIVES POST OFFICE BOX 4, EKUMFI ESSARKYIR.

Referred To In The Affidavit Of Registres

Sworn Before Me On S. Registres

High Court, Cape Coast

11TH MAY, 2022.

THE CHAIRMAN,
NATIONAL APPEALS COMMITTEE
ACCRA.

DEAR SIR,

#### REQUEST FOR A CERTIFIED DELEGATES REGISTER AND DATE FOR THE EKUMPI NPP CONSTITUENCY

#### EXECUTIVES ELECTIONS - 2022.

We the undersigned aspiring Constituency Executives write to further request for the underlined items above to enable us to exercise our franchise to elect our Executives.

Since Stelfa Donkoh has fulfilled the condition set cut by the Regional Appeals Committee and final clearance has been given to him to contest the election for the chairmanship. Any further hold on our election to elect Constituency Executives to steer the affairs of the party in Ekurnfi is a heavy burden on us financially and emotionally.

Our suspicion of a premeditated scheme to disqualify Stelfa Donkoh which we have an audio of a constituency elections committee panel member (Francis Nketia) bragging to a plot is becoming a reality. Also it is rumored that there is a planned scheme to postpone the Ekumfi Constituency Executive election until after the Regional Executive Election.

We are therefore, appealing to your good office to intervene on our behalf and our great party. We are trusting on the patriotism and the rule of law on which our party is founded upon for the right thing to be done to save the party in Ekumfi.

Counting on your usual cooperation and looking forward to hearing from you very seon.	:
Yours faithfully,	a
Alhaji Kojo Osam Anderson Activity	istoria.
Galactic Andrew Colored	
Edward Armah Hon. Nasir / Hon. Nasir	
Mustapha Amed Anderson Mary Andam (1774)	
Samuel Kuntu Takvie Condition Kofi Odoom Kofi Odoom	
and the contract of the contra	

Barnabas Sam	OTO OL

Araba Woode\_\_\_\_

Ext C

Referred to in the Affidavit of the form.

Sworn Defore Ma On A. Registras

High Court, Cape Coast

5th May, 2022

BOX 4 EKUMFI

The Chairman

Election Committee 'NPP'

Ekumfi

Dear Sir,

### REQUEST FOR VOTERS REGISTER

We the underlisted aspirants of the new patriotic party, Ekumfi Constituency request for the voter's register which will be used for the constituency elections as part of requirement to aid our campaign.

This will help to district our campaign to the appropriate or prospective voter and also to ensure a clean voting exercise on the day of the elections.

Counting on your usual proactiveness.

Your Patriots.

Name	Aspirants position	Contact	Signature : 1
Ebouozer Spio	ASSISTANT EECRETART	02/11/826	0
Edward	Secretary	0248257019	Stilling
A rales word	Mones og	0244102279 Brizes	He.
Alhaji Kojo Osam Anderson	1st vice chairman	16 MEYS 65 284	(iish
Ransford Egya Bosomtwi Mustapha Ahma	Ind we edding	-7 - 11 0 1	100
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Samuel Kuntu Takyie	Youth Cryanizer	खपडराने ४२	- Artholita
Colestina J Anderson	Featurer	0249 64274	-A-4:
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HIGHEOURI, CAPE COAS

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7. THE ELECTORAL COMMISSION PER CENTRAL REGIONAL DIRECTOR, CAPE COAST

#### STATEMENT OF CASE

My Lord in compliance with Order 25 r 1(4) of the High Court (Civil Procedure) Rules, 2004 (C147), this statement of case is filed for and on behalf of the Applicants in support of the Motion for an Order of interlocutory Injunction filed by the Plaintiffs.

### **APPLICANTS' CASE**

This is an application by the Plaintiffs/Applicants praying this honourable court for an order of interlocutory injunction restraining the Defendants/Respondents herein, their servants, assigns, privies, agents, workmen or any person claiming through or under

them from taking any steps to hold, conduct, convene or organize the regional election of the New Patriotic Party in the Central Region and for transmission of any acclaimed results to the National office until the final determination of this suit.

The Applicants contend that the Respondents have literally, without justification refused to organize the constituency elections for the Ekumfi Constituency even though there is no issue preventing the organization and holding of such elections in the constituency. The effect of this refusal by the defendants is that, the Ekumfi constituency will not be able to partake in the regional elections of the party which is also being organized by the defendants.

Again, the applicants posit that the defendants have so refused to organize the constituency elections basically to disenfranchise the Ekumfi constituency. This, according to the applicants is against their basic rights as humans in general and as members of the new patriotic party. Thus, the applicants pray for the court to injunct the impending regional elections that the Respondents are organizing. The reason being that, the applicants have a right to vote in that election which right is exercisable if/when the constituency elections are conducted. The defendants being conscious of this, have willfully decided not to organize the constituency elections but rather go on with the regional elections. The applicants consider the commission and omission by the defendants as a communist inferior tactics to trample upon the Applicants' right to vote.

## APPLICABLE LAW FOR GRANT OF INTERLOCUTORY INJUNCTION

The Court's power to grant Interlocutory Injunction as well as the Procedures to be used by the applicants and respondents are provided for in Order 25 Rule 1 (1-12) of the High Court (Civil Procedure) Rule 2004 (CI 47).

The specific power of the Court to grant Interlocutory Injunction is provided for in Order 25 Rule 1(1) as follows:

"The Court may grant an Injunction by an Interlocutory Order in all cases in which it appears to be convenient"

Thus, the court, where the case appears to be just and satisfy convenience, may grant an injunction by an interlocutory order. Here, the case is just and convenient when the applicant is able to establish that there are serious questions to be tried, an irreparable damage will be occasioned on the applicant and such damage cannot be remedied by the award of damages, and again that the balance of convenience tilts in his favour.

My Lord, the governing principles in granting Interlocutory Injunction is enunciated by the House of Lords in the case of <u>America Cyanamid Company</u> Vs. <u>Ethicon Limited</u>; (1975) AC396 that there are mainly three (3) questions which should guide your Lordship as to whether or not the plaintiffs in the suit are entitled to the grant of a Interlocutory Injunction against the Defendants.

### These three (3) questions are:

- 1. Whether the plaintiff has legal rights to be protected, in other words, plaintiff's claim is not frivolous and vexations.
- 2. Whether the balance of convenience will be in favor of the plaintiff. In other words, will the Plaintiff suffer more inconvenience if the Application is not granted?
- 3. Whether damages will be adequate compensation for the Plaintiff at the end of the litigation.

# 1. WHETHER THE PLAINTIFF HAS LEGAL RIGHTS TO BE PROTECTED.

My Lord, it is our submission that the Court will grant an Order of Injunction only to support a legal or equitable right. It is our well-considered position that on pleadings, the Affidavit in support of Plaintiffs' application discloses legal and equitable rights recognizable at law deserving the protection of this Honorable Court.

The right to vote is a basic right accorded everyone of sound mind. Indeed, as members of the New Patriotic Party they have the right to select their leaders and in this manner through voting. The right to vote in regional elections for regional executives of the party is exercised after constituency elections are held and executives are chosen therefrom. This means that if a person would want to prevent another or a group of people from

exercising that right, such person only needs to ensure that constituency elections will not be held. This, according to the applicants, is what the respondents are doing.

The applicants therefore have legal rights which rights are to exercise their franchise. The right to vote is so fundamental that it is enshrined in the constitution, 1992 and no person is clothed with legitimacy to take away such right from anyone as the respondents are doing in this matter.

# 2. BALANCE OF CONVENIENCE

My Lord, we submit that in considering whether or not the Court should grant an interlocutory injunction, it is the duty of the Court to weigh the injury and damages that the plaintiff will suffer if the Order is refused and he eventually emerges victorious at the end of the trial against the injury the Defendant will suffer if the Order is granted.

In weighing the balance of convenience, it is the duty of the applicant to demonstrate a number of factors, among which are, that there is a right that ought to be protected at law or equity, that greater and irreparable hardship will be occasioned by the refusal of the application, that the application is not frivolous or vexatious and that compensation may not be adequate remedy. See the following case: OWUSU V OWUSU ANSAH [2007-200] SCGLR 870 AT 875, VANDERPUYE V NARTEY [1977] 1 GLR 428

It is our humble submission that from the pleadings and affidavit filed the applicant has demonstrated all these requirements. The right to vote is so fundamental that same is protected by the 1992 constitution of the Republic of Ghana and as such the Court will do more Justice in granting this application than in refusing it, particularly when the Respondents are determined in their unlawful ways.

As was pointed out by Lord Diplock in <u>American Cyanamid and Co V. Ethicon</u>

<u>Ltd (1975) AC 396</u>, the rule is that the Court must be satisfied that the Plaintiff's case is not frivolous and once that has been established the governing consideration is the balance of convenience.

The Supreme Court in the case of Odonkor & Ors V. Amartei (1987 – 88) 1 GRR 578 @ 581 stated as follows:

"the purpose of Interim Orders is as much as possible to hold the balance evenly between the parties pending a final resolution of matters in difference between them, and also to ensure that at the end of the day the successful party does not find that his victory brings him more problems than blessings"

In Beddow V Beddow (1878) 9 Ch. 89; Bramwell V Halcomb (1836) 40. E.R. 1110; Preston V Luck (1884) 27 Ch. D 497 @ 5506 per Cotton LJ.; Lardan V Attorney General (1957) 3 WALR 55; Punjabe Bros V Namih (1958) 3 381; Vanderpuye V Nartey (1977) 1 GLR 428, CA; Pountey V Doegah (1987-88) 1 GLR 111, CA; Centracor Resources Led V Boohene & Ors [1992-93] GBR part 4 1512; Anaman V Osei Tutu [1976] 1 GLR 111 @ 114; the courts established through these cases that injunction would be granted where it appears that it will not only be just but also convenient. Thus, the injunctive relief will be considered after reflecting on the relative convenience and otherwise which might result to parties from either granting or withholding the injunction, and if the court is satisfied that there is a serious question to be tried between the parties.

The Applicants' position is that the court will grant an application for injunction where the court has satisfied itself that the case is not frivolous, vexatious and there is a serious question to be tried. Again, the court must weigh one need against the other for the purposes of determining where the balance of convenience lies before granting an interlocutory application.

In Odonkor V. Amartei (1992) 1 GLR 577, the court has established that the basic purpose of interlocutory orders is to hold the balance of convenience evenly between the parties pending the final resolution of matters in difference between them, and also to ensure that at the end of the day, the successful party did not find that his victory was empty or one that brought him more problems than blessings. See Musicians Union of Ghana v Abraham [1982-83]; Pountney v Doegah (1987-88) 1 GLR 111.

In this matter, the balance of convenience tilts to the applicants favour. Indeed the right to vote is shrined in the 1992 Constitution and all that the applicants are seeking is for

the court to protect their right to vote in the regional election which right must first be enforced through the organization of the constituency elections at Ekumfi.

As polling station and electoral area executives, the applicants have an accrued right to vote in constituency elections and the regional elections after a successful constituency polls. Based on the fact that there is no problem in the Ekumfi constituency, be it apparent or otherwise, the defendants must as a matter of respecting the rights of the applicants, first organize the Ekumfi constituency elections before the regional elections.

The Applicants' rights are further enforced in the recent case of Justice Abdulai v Attorney General, Civil Motion No. J1/07/2022 where the Supreme Court per Kulendi JSC emphasized that the right to vote is fundamental and crucial and that any action which seeks to disenfranchise has rippling effects on others. In this matter, disenfranchising the Applicants also means disenfranchising the whole Ekumfi Constituency and this is unfair as it is illegal.

### 3. ADEQUATE COMPENSATION

It is trite learning that where damages can adequately compensate a party the Honorable Court should not grant an Order of interim injunction however strong the Plaintiff's case may be. Please see <u>Garden Cottage Foods Ltd Vrs Milk Marketing Board</u> (1984) A.C 130

We submit respectfully that no amount of money can adequately compensate the Plaintiffs if they are denied the opportunity to vote in the regional elections as we will have a situation where illegitimate persons will be occupying these sensitive positions. The recent unreported Supreme Court's majority decision of Injuncting the Assin North parliamentary candidate of the National Democratic Congress comes to mind. In any case the rules of the party over-rides any individual's interest and therefore appropriate that the right thing is done.

Here, before the court grants an application for interlocutory injunction, the court also looks at the injury or violation of the party's right for which he could not be adequately compensated in damages recoverable in the action. In **Punjabi Brothers v Namih** 

(1958) 3 WALR 381; Preston v Luck (1884) 27 Ch. D 497 @ 5506 per Cotton LJ, the courts consider whether there are rights to be protected, the need to protect the status quo and then that an irreparable damage shall be caused to the applicant if such right is not protected.

Again, in Welford Quarcoo V Attorney General & Another [2012] 1 SCGLR 259, the Supreme Court per Date Bah JSC held that the applicant for an interlocutory injunction must establish that there is a serious question to be tried, that he or she would suffer irreparable damage which cannot be remedied by the award of damages unless the injunction is granted.

In Thorne V British Broadcasting Corporation [1957] 1 WLR 1104 as cited in Owusu V Owusu-Ansah & Another [2007-2008] 2 SCGLR 870 and the earlier case of Vanderpuye V Nartey [1977] 1 GLR 428 @ 432, the court held that;

The governing principle should be whether on the face of the affidavits there is the need to preserve the status quo in order to avoid irreparable damage to the applicant and provided his claim is not frivolous or vexatious. The question for consideration in that regard resolves itself into whether on balance greater harm would be done by the refusal to grant the application than not. It is not whether a prima facie case however qualified and with whatever epithet, has been made.

In this regard, the Applicants are being prevented by the Respondents from exercising their right to vote for no justifiable reason. If the court allows the respondents to continue with the regional elections without the applicants getting the opportunity to participate, thereby being disenfranchised, then the resulting damage to the applicants cannot be remedied. Thus, it will be inadequate for the court to later order the respondents to pay damages as compensation. On this bases, adequate compensation cannot be arrived at to make up for the loss the applicants will incur if the court refuses to grant the injunction.

#### CONCLUSION

The jurisdiction to grant injunctions is wholly discretionary which the court has always exercised with caution and in strict consideration of the factors to be met before same is granted. In the foregoing, the applicants have demonstrated that all the factors so established by the courts are adequately satisfied in this matter. As a result, the applicants pray that the court grants the application in the interest of justice. My Lord, we strongly contend that it will best serve the interest of Justice for the instant application to be granted for the proper thing to be done.

DATED THIS 24th DAY OF MAY, 2022 @ ADASTRA CHAMBERS, CAPE COAST.

LAWYER FOR PLAINTIFFS/APPLICANTS

THE REGISTRAR
HIGH COURT
CAPE COAST

TO THE DEFENDANTS @ UNNUMBERED HSE, CAPE COAST



# WRIT OF SUMMONS

(Order 2 rule 3(1))

WRIT ISSUED FROM..

XXXXXXXX 200. x. SUIT No. C12 66

IN THE HIGH/

COURT OF JUSTICE

**PLAINTIFFS** 

BETWEEN

- EDWARD ARMAH
- 2. RANSFORD BOSOMTWE
- 3. ALBERT ACKON
- 4. RAZAK NURUDEEN
- MOHAMMED IDDRISU

ALL OF UNNUMBERED HSE. **EKUMFI** 

**VRS** 

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- 2. ISAAC ASIAMAH
- 3. SARAH NANA ARTHUR
- 4. PROF. DOMINIC FOBIH
- **DEFENDANTS**

SEALED .

IGH COURT, CAP

- 5. FRANK HATCFUL
- 6. CHARLES KOFI ENCHILL

ALL OF UNNUMBERED HOUSE, CAPE COAST

7. THE ELECTORAL COMMISSION PER CENTRAL REGIONAL DIRECTOR, CAPE COAST

> The defendant may appear hereto by filing a notice of appearance either personally or by a lawyer at Form 5 at the Registry of the Court of issue of the writ at
>
> A defendant appearing personally may, if he desire give notice of appearance by post.

\*State name, place of residence or business address of plaintiff if known (not P.O. Box number).

\*\*State name, place of residence or business address of defendant (not P.O. Box number).

FORM I



# WRIT OF SUMMONS

(Order 2 rule 3(1))

IN THE HIGH

**BETWEEN** 

**AND** 

Plaintiffs\*

Defendants\*

ACTION having been commenced against you by the issue of this writ by the above-EDWARD ARMAH & 4 ORS

UARE HEREBY COMMANDED that within EIGHT DAYS after service of this writ on you inclusive of the day of service you do cause an appearance to be entered for you.

AND TAKE NOTICE that in default of your so doing, judgment may be given in your absence without further notice to you.

Dated this 25 day of

2002

Chief Justice of Ghana Anin Heboah

NB: This writ is to be served within twelve calendar months from the date of issue unless, it is renewed within six calendar months from the date of that renewal.

The defendant may appear hereto by filing a notice of appearance either personally or by a lawyer at Form 5 at the Registry of the Court of issue of the writ at A defendant appearing personally may, if he desire give notice of appearance by post.

\*State name, place of residence or business address of plaintiff if known (not P.O. Box number).

\*\*State name, place of residence or business address of defendant (not P.O. Box number).

FORM I

SUIT NO.

... PLAINTIFFS

... DEFENDANTS

1. EDWARD ARMAH

2. RANSFORD BOSOMTWE

3. ALBERT ACKON

- 4. RAZAK NURUDEEN
- MOHAMMED IDDRISU

ALL OF UNNUMBERED HSE, **EKUMFI** 

**VRS** 

1. ROBERT KUTIN JNR

2. ISAAC ASIAMAH

- 3. SARAH NANA ARTHUR
- 4. PROF. DOMINIC FOBIH
- 5. FRANK HUTCHFUL
- 6. CHARLES KOFI ENCHILL

ALL OF UNNUMBERED HOUSE, CAPE COAST

7. THE ELECTORAL COMMISSION PER CENTRAL REGIONAL DIRECTOR, CAPE COAST

### STATEMENT OF CLAIM

- 1. The Plaintiffs are card bearing members of the New Patriotic Party, a political party registered under the laws of the Republic of Ghana (hereinafter called "the Party"), and also hold various polling station positions at the Ekumfi Constituency of the New Patriotic Party in the Central Region of the Republic of Ghana.
- 2. The Defendants are Regional Executives and members of the Regional Electoral Committee charged with the responsibility of organizing a credible regional election for the New Patriotic Party in the Central Region. The 1st Defendant is the current Regional Chairman of the party whilst the 4th and 5th Defendants operates individually as Chairman of the Council of

Elders, and Research and Elections Director of the party in the Central Region respectively. The 6<sup>th</sup> Defendant is the Regional representative appointed to supervise the conduct of the constituency election at Ekumfi.

- 3. The Plaintiffs say that pursuant to a successful organized Polling stations and Electoral area coordinators elections, the National office of the party put up a timetable for the conduct of the Constituency executives' elections in line with the long-established modalities for the conduct of elections in the party.
- 4. The Plaintiffs say that consequent to this, the election committee comprising the Chairman of council of Elders, Research and Elections officer among others, were established to ensure the conduct of the elections in a free and fair manner and in accordance with the rules of the party.
- 5. The Plaintiffs contend that the elected executives at the electoral area level as well as other executives form the bases of the electorates for the Constituency elections as the elected persons of the various electoral areas will be the only persons who can pick forms and vote as the Constitution of the New Patriotic Party determines.
- 6. The Plaintiffs further say that the Defendants, under the direction of the 1<sup>st</sup> Defendant are those charged with the responsibility to ensure that an election is organized in the Ekumfi constituency, but they have refused and or failed to do so and this constitutes an omission or dereliction of duty contrary to laid down principles and the constitution for no justifiable reason to the best of Plaintiffs' knowledge.
- 7. The Plaintiffs further aver that the Ekumfi constituency elections are to be organized under the directive of the central regional office of the Party of which the defendants are the decision-makers and are charged with the sole duty of ensuring adherence to this fundamental exercise in the protection of the right to vote and to further the development and growth of democratic principles in the party, and by necessary extension the country as a whole.
- 8. The Plaintiffs aver that as at now, there is no pending issue or matter which should prevent the Defendants from smoothly conducting elections at the Ekumfi constituency and all resources needed for the organization and conduct of the elections are readily available at their disposal and therefore there is no justification for the neglect and refusal or omission to do the needful.
- 9. The Plaintiffs again say that in the event of the conduct of the constituency elections in the Ekumfi Constituency, the elected constituency executives

become a major part of the electorates for regional executives' elections in the Central Region which the Defendants are frantically organizing now and the failure to allow the elections at Ekumfi will disenfranchise not only the would-be executives but their constituents as well.

- 10. The Plaintiffs thus say that constituency executives and other constituency leaders choose Regional executives. This means that where there are no constituency elections, such constituency will not be part of electing regional executives which will amount to discrimination and a breach of the fundamental principles of democratic representation.
- 11. The Plaintiffs say that the Defendants have deliberately decided and/or refused to organize any constituency elections in the Ekumfi Constituency of the Party for their own parochial interest to the detriment of law-abiding members of the party in good standing.
- 12. The Plaintiffs aver that the refusal by the Defendants to organize constituency elections in the Ekumfi Constituency when there is no pending issue in the constituency is to deny the Plaintiffs from voting in the impending regional elections.
- 13. The Plaintiffs aver that the Defendants have intentionally and without cause refused to organize the constituency elections for the basic reason of preventing Plaintiffs from being eligible to exercise their franchise in the impending regional elections and given that votes from the Ekumfi Constituency have always been crucial in deciding who becomes a regional executive of the party in the Central Region, this situation must not be allowed to stand
- 14. The Plaintiffs again contend that as a result of the role that votes from Ekumfi Constituency play in regional elections, some regional candidates and other interested parties either seek to court or prevent Ekumfi Constituency from being the 'kingmakers' in such regional elections depending on the alliances of such candidates and interested parties.
- 15. The Plaintiffs further say that the actions of the Defendants are clearly to prevent Ekumfi electorates from exercising their basic right to vote for the mere fact that they do not seem to find favour with the electorates at the Ekumfi Constituency and this communist inferior tactics employed by the Defendants to prevent the Ekumfi electorates their basic right whilst going ahead with the regional elections is as unlawful as it is grotesque.
- 16. The Plaintiffs again say that the Defendants have employed the same tactics to refuse other constituencies such as Twifo Ati-Morkwa constituency which is a clear indication that it is in the nature of

- Defendants to perpetrate actions calculated to undermine the enjoyment of constitutionally guaranteed rights.
- 17. The Plaintiffs contend that since there is no matter restraining the holding of elections in the Ekumfi Constituency, Defendants cannot hide under any majority caveat to disenfranchise the electorates in the Ekumfi Constituency.
- 18. The Plaintiffs again say that the Defendants cannot claim to have the right to deny legitimate individuals from voting in the impending regional elections by refusing to organize the constituency elections at Ekumfi.
- 19. The Plaintiffs aver that this infringement of their basic rights by the Defendants will invariably affect almost about seventeen (17) people who would have been eligible to vote in the impending regional elections.
- 20. The Plaintiffs say that the Defendants who are clearly aware of this fact are bent on disenfranchising such people in order to satisfy their parochial interest of continuing to stay in power.
- 21. The Plaintiffs aver that they have written several petitions to register their displeasure and sought for more information on the constituency elections including the voter's register, but the Defendants and other powers that be within the party hierarchy have consciously decided not to respond and rather seek to organize the regional elections.
- 22. The Plaintiffs say that the 1<sup>st</sup> to 6<sup>th</sup> Defendants have conspired with the 7<sup>th</sup> Defendant who ought to be a disinterested party and a neutral referee, to deny the Plaintiffs the right to vote in the regional elections.
- 23. The Plaintiffs aver that when such individuals, in this case the Defendants, seek to perpetrate illegality with impunity, the court is clothed with all the power to call such individuals (Defendants) to order to ensure the respect of basic rights accorded to people, in this case the Plaintiffs
- 24. Wherefore the Plaintiffs claim as per the reliefs endorsed on the writ;
  - a. A Declaration that the organization of the Central Regional Executive elections of the New Patriotic Party without the participation and involvement of the Ekumfi constituency of the party is unlawful but and not in consonance with the constitution of the party.
  - b. An Further order setting aside any election organized by Defendants to elect new executive members of the New Patriotic Party in the Central Region of the Republic of Ghana.

- c. An Order of perpetual Injunction restraining the Defendants, their agents or assigns, any individual or group of persons whose legitimacy emanates from any regional election organized by the defendants, from holding themselves as Central Regional executives of the New Patriotic party.
- d. Any other order as this Honourable court may deem appropriate.

DATED AT CAPE COAST THIS 24th DAY OF MAY 2022.

LAWYER FOR PLAINTIFFS MICHAEL MONNIE SLN eCEN 00263/22

THE REGISTRAR HIGH COURT CAPE COAST

TO THE DEFENDANTS @ UNNUMBERED HSE, CAPE COAST