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SECRETARY
PRESIDENTIAL ELECTION PETITION
COURT 2023

IN THE COURT OF APPEAL
(IN THE PRESIDENTIAL ELECTION PETITION COURT)
HOLDEN AT ABUJA

J.J EKPEROBE Esq

IN THE MATTER OF THE ELECTION TO THE OFFICE OF THE
PRESIDENT OF THE FEDERAL REPUBLIC OF NIGERIA
HELD ON 25TH FEBRUARY 2023

CA/PEPC/05/2023

PETITION No: PEPC/A/ /2023

BETWEEN:

1. ABUBAKAR ATIKU
2. PEOPLES DEMOCRATIC PARTY (PDP) } PETITIONERS

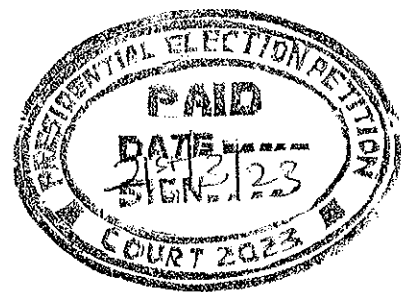
AND

1. INDEPENDENT NATIONAL ELECTORAL
COMMISSION (INEC)
2. TINUBU BOLA AHMED
3. ALL PROGRESSIVES CONGRESS (APC) } RESPONDENTS

PETITION

Petition - ₦1,000
Hearing fees - ₦2,000
Publication - ₦100
F/S - ₦500
Oath - ₦6,600
ETC - ₦2,230

₦12,430



DATED THIS 20TH DAY OF MARCH, 2023.

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THE PETITION

THE PETITION OF ABUBAKAR ATIKU, OF PLOT 121 ADETOKUNBO ADEMOLA CRESCENT, WUSE 2, ABUJA AND PEOPLES DEMOCRATIC PARTY OF WADATA PLAZA, PLOT 1970, MICHAEL OKPARA STREET, WUSE ZONE 5, ABUJA, AND WHOSE NAMES ARE SUBSCRIBED.

(A). PARTIES:

1. The 1st Petitioner, ABUBAKAR ATIKU, was a candidate at the election to the office of the President of the Federal Republic of Nigeria, which election held on Saturday, 25th February 2023 across the Federation of Nigeria. The

1st Petitioner, who had a right to vote and be voted for in the Election, was sponsored by the 2nd Petitioner and contested for the Election.

2. The Petitioners state that the 1st Petitioner has a right to be returned as duly elected at the Election.
3. The 2nd Petitioner, Peoples Democratic Party (PDP) is a duly registered political party in Nigeria and participated in the Election by sponsoring the 1st Petitioner as its Presidential candidate. The 2nd Petitioner is a corporate body, and for the Election, acted through and by means of its agents, State Coordinators and officials, who were reporting amongst themselves.
4. For the purposes of the Election, the Petitioners had agents in all the Polling Units, Ward Collation Centres, Local Government Collation Centres, and the State Collation Centres, in all the States of the Federation and the Federal Capital Territory as well as the National Collation Centre.
5. The Petitioners have the right to present this Petition, having participated in the Election.
6. The 1st Respondent is the body constitutionally and statutorily vested with the responsibility of organising and conducting elections in Nigeria, and was the body that conducted the Election, the subject matter of this Petition. All, each and every person who acted as Presiding Officers, Assistant Presiding Officers, Supervisory Presiding Officers, *ad-hoc* Staff in all the polling units/stations/points, Ward Collation Officers in all the Ward Collation Centres, Local Government Collation Officers in all the Local Government Area Collation Centres, all the State Collation Officers in all the State Collation Centres, the State Resident Electoral Commissioners, FCT Resident Electoral Commissioner, the Chief Returning Officer, and any other person(s) who acted in any capacity on behalf of the 1st Respondent

at the Election, including Information Communication Technology (ICT) Technical Election Officials, acted as agents of the 1st Respondent.

7. The 2nd Respondent was a candidate in the Election and sponsored by the 3rd Respondent.
8. The 3rd Respondent is a registered political party in Nigeria and is the political party that sponsored the 2nd Respondent as its candidate at the Election.
9. The Petitioners and the Respondents hereinabove specified are the parties interested in this Petition.

(B). HOLDING OF THE ELECTION, SCORES OF CANDIDATES, PERSON RETURNED

10. The Petitioners state that the Election took place on **Saturday, 25th February 2023**.
11. Four (4) days after the Election, specifically on Wednesday, **1st March 2023**, the 1st Respondent announced the following as the purported scores of the candidates for the Election, namely: -

| S/No | CANDIDATE | PARTY | SCORES |
|------|----------------------------|-------|--------|
| 1. | IMUMOLEN IRENE CHRISTOPHER | A | 61,014 |
| 2. | AL MUSTAPHA HAMZA | AA | 14,542 |
| 3. | SOWORE OMOYELE STEPHEN | AAC | 14,608 |
| 4. | KACHIKWU DUMEBI | ADC | 81,919 |
| 5. | SANI YABAGI YUSUF | ADP | 43,924 |

| | | | |
|-----|-------------------------------|------------|-------------------|
| 6. | TINUBU BOLA AHMED | APC | 8,794, 726 |
| 7. | UMEADI PETER NNANNA CHUKWUDI | APGA | 61,966 |
| 8. | OJEI PRINCESS CHICHI | APM | 25,961 |
| 9. | NNAMDI CHARLES OSITA | APP | 12,839 |
| 10. | ADENUGA SUNDAY OLUWAFEMI | BP | 16,156 |
| 11. | OBI PETER GREGORY | LP | 6,101, 533 |
| 12. | MUSA MOHAMMED RABIU KWANKWASO | NNPP | 1,496, 687 |
| 13. | OSAKWE FELIX JOHNSON | NRM | 24,869 |
| 14. | ABUBAKAR ATIKU | PDP | 6,984, 520 |
| 15. | ABIOLA LATIFU KOLAWOLE | PRP | 72,144 |
| 16. | ADEBAYO ADEWOLE EBENEZER | SDP | 80,267 |
| 17. | ADO-IBRAHIM ABDULMALIK | YPP | 60,600 |
| 18. | NWANYANWU DANIEL DABERECHUKWU | ZLP | 77,665 |

12. The Petitioners state that the 1st Respondent wrongly returned the 2nd Respondent as the winner of the Election, allocating to him **8, 794, 726** votes while ascribing to the 1st Petitioner **6, 984, 520** votes.
13. The 1st Respondent also declared the following as its summary of the purported results:

| | | |
|----|-----------------------------------|------------|
| A. | TOTAL NUMBER OF REGISTERED VOTERS | 93,469,008 |
| B. | TOTAL NUMBER OF ACCREDITED VOTERS | 25,286,616 |
| C. | TOTAL NUMBER OF VALID VOTES | 24,025,940 |
| D. | TOTAL NUMBER OF REJECTED VOTES | 939,278 |
| E. | TOTAL NUMBER OF VOTES CAST | 24,965,218 |
| F. | PERCENTAGE TURN OUT | 27.05% |

14. The Petitioners hereby plead and shall rely on **Form EC8D(A)** (being the summary of final collation of results) and **Form EC8E** (being the final declaration of result) issued by the 1st Respondent, not only to show the purported scores as recorded by the 1st Respondent, but also to show the invalidity of the scores as recorded therein. Notice is hereby given to the 1st Respondent to produce the original copies of these documents at the hearing of this Petition. The Petitioners further state that on the face of the Form EC8D(A), there are calculation errors as shown and contained in the Report of the Statisticians which the Petitioners shall rely upon, and which is herein pleaded.
15. The Petitioners plead and also rely on the Reports and evidence by their Experts, including Statisticians, Forensic Examiners and other Experts pursuant to the Orders for Inspection, Examination and Production of election materials granted to the Petitioners by this Honourable Court.

(C). GROUND OF THE PETITION:

16. The Petitioners state that the grounds upon which this Petition is based are as follows:
- (a). The election of the 2nd Respondent is invalid by reason of non-compliance with the provisions of the Electoral Act, 2022.
 - (b). The election of the 2nd Respondent is invalid by reason of corrupt practices.
 - (c). The 2nd Respondent was not duly elected by majority of lawful votes cast at the Election.
 - (d). The 2nd Respondent was at the time of the Election not qualified to contest the Election.

(D). FACTS OF THE PETITION:

GROUND ONE: THE ELECTION OF THE 2ND RESPONDENT IS INVALID BY REASON OF NON-COMPLIANCE WITH THE PROVISIONS OF THE ELECTORAL ACT, 2022.

(1). FAILURE BY THE 1ST RESPONDENT TO ELECTRONICALLY TRANSMIT THE ELECTION RESULTS:

17. The Petitioners aver that the Election was not conducted in accordance with the provisions of the Electoral Act 2022, and other extant laws and that the non-compliance substantially affected the result of the Election, in that the 2nd Respondent ought not to have been declared or returned as the winner of the Election.
18. The Petitioners state that the Election was not conducted in compliance with the provisions of Sections 47(2) & (3), 60(1), (2) & (5), 64(4)(a) & (b), 64(5), (6), (7) & (8), 71 and 73 of the Electoral Act, Paragraphs 3.3.0 and 3.4.0 of the 1st Respondent's published Manual for Election Officials

2023 ("INEC Manual" or "Manual"), and Paragraphs 19, 35, 38, 40, 41, 42, 43, 47, 48, 50, and 62 of the 1st Respondent's published Regulations and Guidelines for the Conduct of Elections 2022 ("INEC Regulations" or "Regulations" or "Regulations and Guidelines").

19. The Petitioners state that several months and weeks leading to the Election, the 1st Respondent through its Chairman Mahmood Yakubu, had repeatedly assured the general public that the February 2023 general election would be the best election ever, with the guaranteed use of the Bi-Modal Voters' Accreditation System ("BVAS") and real-time and direct uploading of the polling unit results to INEC's electronic collation system and Results Viewing Portal ("IREV") which were technological innovations in the electoral system that would ensure the transparency of the elections against all forms of manipulation. The 1st Respondent's Chairman and its other principal officers including Mr. Festus Okoye, the National Commissioner for Information and Voters Enlightenment, at various times and fora, gave serial undertakings, representations and assurances that the results from the polling units shall be transmitted real time via the BVAS to the electronic collation system and the IREV for public viewing and that such transmission shall be the basis for collation at the various collation levels up to the national collation and return at the Election.
20. The Petitioners state that contrary to the undertakings, representations and assurances made by the 1st Respondent, the 1st Respondent proceeded on the 1st day of March 2023 to wrongly return the 2nd Respondent as the winner of the Election when the outcome (herein being challenged) and the results from the polling units including the total number of accredited voters in the respective polling units were yet to be transmitted to the 1st Respondent's Electronic Collation System and the 1st

Respondent's Result Viewing Portal (IREV) as stipulated by the Electoral Act, 2022 and the INEC Guidelines and Manuals and expressly guaranteed to the electorate by the 1st Respondent.

21. The Petitioners aver that the 1st Respondent had received generous funding from the Federal Government of Nigeria, having informed the public that the 2023 election cost the country the sum of N355 billion. The 1st Respondent had submitted a budget of N305 billion, out of which a whopping sum of N117 billion was earmarked for the procurement of electronic accreditation and transmission devices, including the Bi-Modal Voters' Accreditation System (BVAS) a new voter enrolment and voter accreditation device designed to combine the functions of the Direct Data Capture Machine, the Z-Pad, the Smart Card Reader and the portal, IREV a world-wide web portal designed for real time viewing of election results uploaded from polling units. The 1st Respondent and its Chairman irrevocably committed the 1st Respondent to the deployment and use of the BVAS technology in both accreditation and transmission of the accreditation data and election results from the polling units to the electronic collation system and IREV Portal. Meanwhile, the 1st Respondent had touted the BVAS machine as the election "game changer".
22. The Petitioners further state that the 1st Respondent had prescribed through its various Regulations, Guidelines and Manual, the manner of accreditation, collation and transmission vide its technological device, the BVAS, pursuant to the Electoral Act. The Petitioners shall contend at the hearing of this Petition, that the mandatory requirements of the 1st Respondent in relation to electronic accreditation, collation, and transmission are as set out below:

- (1). Accreditation of voters shall be by way of Bimodal Voter Accreditation System (BVAS).
 - (2). To electronically transmit or transfer the results and the accreditation data from polling units direct to the electronic collation system as prescribed by the 1st Respondent.
 - (3). Uploading of results shall be with the BVAS to the 1st Respondent's results Viewing Portal (IReV) directly and in real-time, as prescribed by the 1st Respondent.
 - (4). Collation and authentication of the results and accreditation data from the polling units at the various collation levels up to the national collation centre shall be with the aid of the Results Verification System.
23. The Petitioners shall lead oral and documentary evidence at the hearing in proof of the fact that (a) the result of the Election as announced by the 1st Respondent and especially the votes wrongly allocated to the 2nd Respondent do not represent the lawful valid votes cast; and (b) lawful votes were deliberately and massively deducted from the 1st Petitioner's scores by the 1st Respondent to facilitate the return of the 2nd Respondent.
24. The Petitioners state that the 1st Respondent failed to comply with its own Guidelines and representations to transmit results and accreditation data directly and real-time to the IReV and its electronic collation system/storage device before the hasty return and announcement of the 2nd Respondent as the winner of the Election on the 1st day of March 2023.

25. The Petitioners contend that by the combined provisions of the Electoral Act, the INEC Regulations and Guidelines and the INEC Manual, the votes collated at the polling units are to be electronically transmitted with the Bimodal Voter Accreditation System (BVAS) directly and real-time to the INEC electronic collation system and IReV portal.
26. To underscore the relevance of real-time electronic transmission of the results and accreditation data from the polling units to the IReV Portal and the INEC electronic collation system, the 1st Respondent itself stated thus in its Manual for Election Officials 2023 (paragraph 2.9.0):

"Electronic Transmission/Upload of Election Result and Publishing to The INEC Result Viewing (IReV) Portal:

"One of the problems noticed in the electoral process is the irregularities that take place between the Polling Units (PUs) after the announcement of results and the point of result collation. Sometimes results are hijacked, exchanged, or even destroyed at the PU, or on the way to the Collation Centers. It becomes necessary to apply technology to transmit the data from the Polling Units such that the results are collated up to the point of result declaration.

"The real-time publishing of polling unit-level results on IReV Portal and transmission of results using the BVAS demonstrates INEC's commitment to transparency in results management. This commitment is backed by Sections 47(2), 60(1, 2 & 5), 64(4a & 4b) and 64(5) of the Electoral Act 2022, which confers INEC with the power to transmit election results electronically. The system minimizes human errors and delays in results collation and improves the accuracy, transparency, and credibility of the results collation process."

27. In furtherance of the commitment to real-time electronic transmission of the polling units results to the electronic collation system and the IReV portal, the 1st Respondent in its Regulations and Guidelines for the Conduct of Elections, 2022 (paragraph 38), provided thus:-

"On completion of all the Polling Unit voting and results procedures, the Presiding Officer shall:

(i). Electronically transmit or transfer the result of the Polling Unit, direct to the collation system as prescribed by the Commission.

(ii). Use the BVAS to upload a scanned copy of the EC8A to the INEC Result Viewing Portal (IReV), as prescribed by the Commission."

28. The Petitioners state that Section 47(2) of the Electoral Act, makes it mandatory for the Presiding Officer appointed by the 1st Respondent to use technological device (in this case, the BVAS device) for the accreditation of voters at the polling unit. In compliance with the foregoing, the 1st Respondent in paragraph 18(a) of its Regulations and Guidelines, applicable to the conduct of the election, prescribed that a person intending to vote shall be verified to be the same person on the Register of Voters by the use of the Bimodal Voter Accreditation System (BVAS). The Petitioners aver that it is the same BVAS device deployed by the 1st Respondent for accreditation of voters at the polling units during the conduct of the said Election, that was to be used by the 1st Respondent to electronically transmit from the polling units, the result of the election at the polling units together with the accreditation data including the total number of accredited voters in the respective polling units.

29. The Petitioners further state that Section 64(4) & (5) of the Electoral Act 2022 makes it mandatory for any Collation Officer or the Returning Officer

at the various collation levels for any election to collate and announce the result of an election, subject to his or her verification and confirmation that the (a). number of accredited voters stated on the collated result are correct and consistent with the number of accredited voters recorded and transmitted directly from the polling units; and (b). the voters stated on the collated result are correct and consistent with the votes recorded and transmitted directly from polling units.

30. The 1st Respondent in acknowledgment of the foregoing provisions of Section 64(4) of the Electoral Act, provided in paragraph 48(a) of its aforesaid election to the effect that an election result shall only be collated if the Collation Officer ascertains that the number of accredited voters tallies with the number recorded in the BVAS and that the votes scored by the political parties on the result sheet are correct and agree with the result that was electronically transmitted or transferred directly from the polling unit. By Section 64(5) of the Electoral Act, a collation officer or returning officer shall use the "data of accreditation" (which includes the number of accredited voters) "recorded and transmitted directly from each polling unit" and "the votes and results of the election recorded and transmitted directly from each polling unit" to collate and announce the result of an election if a collated result at his or a lower level of collation is disputed or correct to be incorrect.
31. The Petitioners further state that in paragraph 48(b) of its aforesaid Guidelines and Regulations, the 1st Respondent provided in similar vein, that if a Collation or Returning Officer determines that a result from a lower level of collation is not correct, he/she shall use the result that was electronically transmitted or transferred directly from that lower level to collate and announce the result. Further, Sections 64(6), (7) and (8) of

the Electoral Act 2022, made it mandatory that disputes as to the result of the election being collated, can only be resolved by the Collation Officer or Returning Officer by reference to the polling unit results and the accreditation data (which includes the number of accredited voters) electronically transmitted from the polling units.

32. The Petitioners contend that notwithstanding the foregoing, the uploading and transmission to the electronic collation system and the IReV portal by the 1st Respondent of the results of the Senate and House of Representatives took place seamlessly while that of the Presidential Election did not.
33. The Petitioners contend and shall lead evidence to show that contrary to the original design of the BVAS machine to upload data directly to the electronic collation system and the IReV portal, the 1st Respondent contrived and installed an intervening third-party device (Device Management System) which, in its ordinary usage, is meant to secure and administer the 1st Respondent's technological ecosystem for the elections but as it relates to the Presidential Election, was used to intercept the results, quarantine and warehouse same, and filter them before releasing same to the IReV Portal. The 1st Respondent used the said Device Management System to manipulate the Election results in favour of the 2nd and 3rd Respondents.
34. The Petitioners state and shall lead expert evidence to show the critical components of the 1st Respondent's Information and Communications Technology (ICT), including but not limited to the Bimodal Voter Accreditation System (BVAS) which is an Android Device manufactured by Emperor Technologies China and supplied to the 1st Respondent by Activate Nigeria Limited. The Voter Accreditation System (VAS) which is

the software that is used on the BVAS was previously designed and configured in-house and installed on the BVAS by the ICT Team of the 1st Respondent headed by Mr. Chidi Nwafor. The VAS was subsequently handed over to Emperor Technology China prior to the Presidential Election and they then preconfigured and installed the software on the BVAS before supplying the devices to the 1st Respondent through Activate Nigeria Limited. As it relates to the IReV, the INEC Result Viewing Portal (IReV) is a web-based data entry and aggregation portal designed also by Chidi Nwafor's team and is hosted on Amazon Web Service (AWS). The server system for the device and the portal are hosted on Amazon Web Service (AWS) [URL:dashboard.ivasportal.com/dash](https://dashboard.ivasportal.com/dash).

35. The Petitioners contend that some months proximate to the Elections, the 1st Respondent caused to be transferred its in-house ICT expert, Chidi Nwafor, from its ICT Department to the 1st Respondent's office in Enugu as an "Administrative Secretary", and brought in an IT Consultant, Mr. Suleiman Farouk, who introduced a third-party mechanism that was installed and made to intermediate between the BVAS and the IReV Portal, known as Device Management System (DMS). The DMS is a software that allows INEC's IT Security Consultant, Mr. Suleiman Farouk, to remotely control, monitor and filter data that is transmitted from the BVAS devices to the electronic collation system and the IReV platform. Meanwhile, the 1st Respondent engaged an appointee of the 2nd Respondent to man and oversee the sensitive ICT Department of the 1st Respondent for the purpose of the Election.
36. The Petitioners aver strongly that the 1st Respondent, having set the parameters, did not ensure compliance with the electronic transmission of

accreditation data and results in this Election to create opportunity for manipulation of figures to the advantage of the 2nd and 3rd Respondents.

37. The Petitioners will lead evidence at the hearing to show that there were no technical "glitches" that prevented the upload and transmission of the polling units results and the accreditation data of the Presidential Election to the electronic collation system and the IReV portal but what happened was the non-adherence to the system through a command and control element activated by a pre-programmed design to limit user-privileges of the front-end users of the BVAS machines at the polling units with respect to Presidential Election results while releasing user privileges in respect of the National Assembly election windows, by selectively withholding correct passwords and/or issuing wrong passwords through the use of the Device Management System equipment aforesaid.
38. The 1st Respondent had admitted its failure to electronically transmit the polling units results of the Election and the total number of accredited voters in the respective polling units to the electronic collation system and the IReV platform but surprisingly attributed same to "glitches".
39. The Petitioners contend that there was no failure of "server", as the "server" was cloud-based and virtual and was hosted on and by Amazon Web Service (AWS). The Petitioners shall call evidence to show that the "server" being cloud-based, in the event of any unlikely challenge, Amazon Web Service would have seamlessly switched to another server without hitch, being autoscaling groups with multiple network reception and offline upload options.
40. The Petitioners contend that the technology system deployed by the 1st Respondent underwent Quality Assurance Tests ("QAT") before acquisition

and deployment. The 1st Respondent is hereby given notice to produce the QAT Report that was prepared by PricewaterhouseCoopers (PWC) as well as the Report of Vulnerability Assessment & Penetration Testing (VAPT) by Consultant Suleiman Farouk of Sulfman Consulting Limited and all other subsequent and related reports on the system. The Petitioners contend that the so-called "glitch" was a bypass to tilt and switch the results of the Presidential Election in favour of the 2nd and 3rd Respondents.

41. The Petitioners shall subpoena PricewaterhouseCoopers (PWC) to produce Quality Assurance Report and to testify; subpoena Activate Technologies Limited - BVAS Supplier and Emperor Technology Limited (also known as Shenzhen Emperor Technology Company Limited) - the BVAS Manufacturers to produce relevant supply documents and to testify. The Petitioners shall also subpoena Sulfman Consulting Ltd to produce the Vulnerability Assessment & Penetration Testing (VAPT) Report and to testify. The Petitioners shall also subpoena expert witnesses in respect of the electronic collation system and the IReV portal.
42. The Petitioners shall also subpoena Kaspersky Endpoint Security (of Thurhill Office Park, Bekker Road, Midrand, South Africa) that provided the system security for the BVAS and e-transmission system deployed by the 1st Respondent to produce relevant documents and data as well as testify on the system security. The Petitioners shall also subpoena Globacom Nigeria Limited, the internet provider for the system deployed by the 1st Respondent which internet was disconnected from the BVAS machines before transmission. The Petitioners shall further subpoena Infrastructure Concession Regulatory Commission (ICRC), with office at FCDA, Area 11, Abuja, which conducted due diligence on the e-transmission system deployed by the 1st Respondent using full business case that had inputs

from Emperor Technology Limited and issued "Certificate of No Objection" for the system to be deployed. The Petitioners shall further subpoena National Institute of Technology Development Agency (NITDA), with office at Gimibiya Street, Area 11, Abuja, the government agency which tested the technology in issue before deployment in Nigeria and issued relevant permits, certifications, and licences for its deployment.

43. The Petitioners further state that as of 1st March 2023, when the 1st Respondent returned the 2nd Respondent as the winner of the Election, the entire results and accreditation data from the polling units had not been transmitted and uploaded to the 1st Respondent's electronic collation system/storage device, created/acquired by the 1st Respondent itself for the purpose of electronically collating the results of the Election.
44. The Petitioners state that for more than 18 days after the Election, and as of the date of filing this Petition, the 1st Respondent's IReV Portal showed that the 1st Respondent had failed to upload the entire accreditation data and polling units results of the Presidential Election. The Petitioners have applied to the 1st Respondent for and shall rely on certified true copies of the BVAS Reports and the data and logs of and from the electronic collation system, and same shall be relied upon at the hearing. The Petitioners plead and rely on the Reports of Forensic Experts and ICT Experts on the BVAS Report, the logs, and data from the electronic collation system and the IRev Report and all data arising from and connected with the Election. The Petitioners shall rely on the evidence of Statisticians, Forensic Examiners, and other Experts, detailing the data analysis on the votes on all levels of collations, from the polling units to the final return.
45. The Petitioners shall also call evidence of statisticians, forensic examiners, fingerprint and ICT experts at the hearing of the Petition to establish that

the figures/scores awarded the 2nd Respondent were not the product of valid votes actually cast but were mere allocation by the 1st Respondent, and the summation of the result declared is inconsistent with and cannot be reconciled with the number of duly accredited voters. The Petitioners plead and shall rely on BVAS reports, the results sheets of the polling units, wards, local governments, States and the national manually collated results and electronic video recordings of several acts of infractions of the electoral process by the Respondents.

46. The Petitioners state that Section 47(3) of the Electoral Act makes it mandatory for the 1st Respondent to cancel and reschedule an election in any polling unit where the BVAS or other technological device deployed for accreditation of voters fails to function, but notwithstanding, the 1st Respondent concluded the said Election, purported to collate the result of the Election and declared the 2nd Respondent wrongly as the winner of the said election without the prescribed electronic transmission of the results of the Election at and from the various polling units and the accreditation data from the respective polling units (including the number of accredited voters in the said polling units), to the INEC Electronic Collation System and to the INEC Result Viewing Portal (IREV).
47. The Petitioners contend that the 1st Respondent's inability to utilize the technological device (BVAS) deployed by the 1st Respondent for the electronic transmission of the polling units results of the Election along with the accreditation data, amounts to a programmed failure of the said technological device to function which failure is attributable to the Respondents. The Petitioners contend that the 1st Respondent in the face of the obvious failure of the BVAS to function at the respective polling

units, ought to have cancelled the election and reschedule same to take place within 24 hours as required by Section 47(3) of the Electoral Act.

48. The Petitioners further aver that by reason of the non-electronic transmission of the polling units results of the election and accreditation data from the respective polling units at the time of the collation of the results of the Election, all the Collation Officers at the various levels of collation of the results including the 1st Respondent's Chairman who as the Returning Officer for the said Presidential Election conducted the final collation of the results of the Election, failed to carry out the mandatory verification and confirmation that was incumbent on them pursuant to the provisions of Section 64(4) of the Electoral Act.
49. The Petitioners contend that by reason of the foregoing, there could not have been any valid and lawful collation and announcement of the result of the Election under the Electoral Act, without the prior electronic transmission from the polling units to the INEC Electronic Collation System and IReV portal using the BVAS, of the results of the election at the respective polling units together with the accreditation data therefrom which includes the total number of accredited voters in the polling units. The Petitioners shall therefore contend during the hearing of the Petition that the collation of the Election result and announcement of same without the prior electronic transmission of the results of the Election at and from the respective polling units, and the incorrect manual collation of the results without the use of and authentication with the electronic collation system at the various collation levels up to the national collation center, are invalid, unlawful, and null and void.
50. The Petitioners contend that the 1st Respondent is in clear breach of the provisions of the law under Sections 60 and 64(4) and (5) of the Electoral

Act 2022 by failing to use the BVAS to transmit the Election results at the polling units and the accreditation data therefrom to the electronic collation system and the IRev Portal. Despite the failure to so transmit and several complaints for review, the 1st Respondent's Chairman refused all entreaties and applications for the suspension of the collation exercise and a review of the complaints before declaring a winner of the Election and repeatedly off-handedly dared the Petitioners to go to Court.

51. The Petitioners contend that contrary to the provisions of the 1st Respondent's Regulations and Manual which stipulate the transmission of both accreditation data and the polling units results from the BVAS directly and real-time to the electronic collation system and the IReV portal, the 1st Respondent introduced a device manager called Collation Support and Results Verification System (CSRVS), with which the results from the polling units were quarantined prior to transmission to the IReV portal, leaving room for the 1st Respondent to upload wrong results.
52. The Petitioners shall vehemently contend during the hearing of the Petition that the entire Presidential Election conducted on the 25th day of February, 2023 together with the collation of the results of the said Election and the announcement and declaration and return of the 2nd Respondent as the winner of the said Election are unlawful, illegal, wrongful, null and void by reason of the failure of the 1st Respondent to comply with the aforesaid conditions precedent for the conduct of valid election.
53. The Petitioners plead and shall rely on the CTC of the Press Release issued by the 1st Respondent dated the 11th day of November, 2022, wherein INEC as a public institution stated thus:

"Our attention has been drawn to reports in a section of the media of alleged plans by the Commission to rig the 2023 General Election by abandoning the direct and real-time electronic upload of Polling Unit results to the INEC Result Viewing (IREV) Portal by the Registration Area Technical Support Staff (RATECHSS). The claim is patently false. The Commission has repeatedly reassured Nigerians that it will transmit results directly from the Polling Unit as we witnessed in Ekiti and Osun. ...The public is advised to ignore the reports. The Bimodal Voter Accreditation System (BVAS) and IREV have come to stay for voter accreditation and uploading of Polling Unit results in real-time in Nigeria."

54. The Petitioners state that the Election failed the integrity test stipulated by the Electoral Act and does not reflect the will of the electorate. The Election has been rated nationally and internationally as the worst election in the history of Nigeria given the failure by the 1st Respondent, *inter alia*, to transmit and upload in real-time and directly to the 1st Respondent's electronic collation system and IREV portal the scores of the parties from the polling units before the announcement of final results by the 1st Respondent on Wednesday, 1st day of March 2023. The Petitioners hereby plead reports of international bodies and accredited observers in respect of the Election.

55. The Petitioners plead and rely on the 1st Respondent's Manual for Election Officials 2023 and the data and logs from the electronic collation system, and notice is hereby given to the 1st Respondent to produce same at the trial. The Petitioners plead and shall rely on and play at the trial, the video demonstration by the 1st Respondent of the deployment of BVAS machine for authentication of accreditation and for transmission of data.
56. The Petitioners hereby plead and shall rely on the entire report, logs, and data from the BVAS as stored in the 1st Respondent's electronic collation system and servers as of 1st March 2023, notice to produce whereof is hereby given to the 1st Respondent. The Petitioners also will rely on the data in the 1st Respondent's central server for the period between 25th February 2023 and 1st March 2023 and hereby also give notice to the 1st Respondent to produce same before this Honourable Court at the hearing of this Petition.
57. Before the Election, the 1st Respondent had previously conducted three governorship elections successfully, in Anambra, Ekiti and Osun States and Area Council Elections in the FCT, Abuja. In the three States the 1st Respondent uploaded results directly and real-time from the polling units to the IReV. In the FCT Area Council election the 1st Respondent uploaded the results within an hour of the close of election. In Osun State, by midnight of the day of the governorship election the 1st Respondent had uploaded all the results from the polling units to the IReV. In all these instances, the 1st Respondent deployed the BVAS for the accreditation of the voters and transmission of the results.

58. The Petitioners state that in the Presidential Election of 25th February 2023, the 1st Respondent failed to transmit the results and accreditation data directly and real-time from the polling units to the electronic collation system and the IReV portal. Twelve hours after the conclusion of the Election at the respective polling units, there was no uploading whatsoever of the results and accreditation data therefrom by the 1st Respondent from the BVAS to the electronic collation system and the IReV.
59. The Petitioners aver that the 1st Respondent belatedly claimed that there was a "glitch" that made the BVAS to fail to transmit results of the Presidential Election from the polling units to its electronic collation system and IReV portal. The Petitioners hereby plead, and the 1st Respondent is hereby put on notice to produce at the trial the event logs/time stamps, as they relate to the Presidential Election, of (a) the BVAS; and (b) the electronic collation system.
60. The Petitioners state that the National Assembly election and the Presidential election were conducted simultaneously on 25th February 2023 at the same locations using the same BVAS machines for both accreditation of voters and transmission of the respective polling unit results of both elections.
61. The Petitioners further state that while the polling units results of the National Assembly were transmitted directly and real-time to the IReV from the BVAS, the purported results of the Presidential Election were not transmitted directly and real-time to the electronic collation system and the IReV portal. The 1st Respondent did not commence the transmission of the polling unit results for the Presidential election until the declaration of results.

62. The Petitioners further aver that, unlike the instant Election, the off-cycle elections that were conducted by the 1st Respondent in Anambra, Ekiti and Osun States and the Area Council Elections in the FCT, Abuja, did not suffer any "glitch" and the results from the polling unit in those elections were not quarantined prior to being uploaded to the electronic collation system and the IReV.
63. The Petitioners state that as at the 20th day of March 2023 the 1st Respondent was yet to fully upload the polling unit results for the Presidential election from the polling units to its electronic collation system and IReV portal. The Petitioners hereby plead and shall rely and found upon the data and logs from the electronic collation system and BVAS and notice is hereby given to the 1st Respondent to produce the said data and logs at the hearing of this Petition.
64. The Petitioners state that the 1st Respondent wrongly quarantined the Election results from the polling units to enable interference with the results contrary to the repeated representations made by the officials of the 1st Respondent that the results would be transmitted directly and real-time to the 1st Respondent's electronic collation system and IReV portal. The 1st Respondent had earlier made representations through its officers that the device manager was procured to ensure that the information in the BVAS is in synchronisation with the 1st Respondent's electronic collation system/storage device.
65. The Petitioners contend that the failure of the BVAS to transmit the results and accreditation data from the polling units directly and in real-time to the 1st Respondent's electronic collation system and IReV portal made it impossible for the Petitioners to challenge timeously, at the earliest