

IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT OF GHANA
ACCRA - A.D. 2026

Filed on..... 19/5/26.....
at 1:30am/pm
..... Registrar
SUPREME COURT OF GHANA

SUIT NO:

WRIT TO INVOKE THE ORIGINAL JURISDICTION OF THE SUPREME COURT PURSUANT TO ARTICLES 2(1) AND 130(1) OF THE CONSTITUTION OF GHANA, 1992, AND UNDER RULE 45(1) OF THE SUPREME COURT RULES, 1996 (C.I. 16) AS AMENDED.

BETWEEN: J1/16/2026

AUSTIN KWABENA BRAKO-POWERS }
DIGITAL ADDRESS: GS-0356-7433 }
TUBA, WEIJA - ACCRA } **=== (PLAINTIFF)**

AND

THE ATTORNEY-GENERAL }
LAW HOUSE, MINISTRIES, ACCRA } **=== (DEFENDANT)**

IN THE NAME OF THE REPUBLIC OF GHANA, you are hereby commanded within fourteen days after the service on you of the statement of the Plaintiff's case, inclusive of the day of service, that you are to file or cause to be filed for you a statement of the defendant's case in an action at the suit of:

AUSTIN KWABENA BRAKO-POWERS
DIGITAL ADDRESS: GS-0356-7433
TUBA, WEIJA - ACCRA

1. Nature of Reliefs Sought is as follows:

The Plaintiff respectfully seeks the following reliefs:

- i. **A declaration that Section 208(1) of the Criminal Offences Act, 1960 (Act 29), which criminalises the publication of statements, rumours, or reports "likely to cause fear and alarm to the public or disturb the public peace," is vague, overly broad, and imposes unjustifiable restrictions on freedom of speech, expression, and media freedom guaranteed under Articles 21(1)(a) and (b) and 162(1), (2), (4) and (5) of the Constitution, 1992, and is therefore null, void, and of no effect.**

- ii. A declaration that Section 208(2) of the Criminal Offences Act, 1960 (Act 29), which places the burden on an accused person to prove that reasonable measures were taken to verify the accuracy of a publication, violates the constitutional presumption of innocence guaranteed under Article 19(2)(c) of the Constitution, 1992, and is therefore unconstitutional, null, void, and of no effect.
- iii. A declaration that Section 208(2) of the Criminal Offences Act, 1960 (Act 29) is inconsistent with and in contravention of Articles 21(1)(a) and 162(1) of the Constitution of the Republic of Ghana, 1992, in that it expressly removes the defence of honest belief in the truth of a publication from persons charged under Section 208(1), thereby subjecting journalists, media practitioners, and members of the public to criminal liability for the publication of statements that are subsequently found to be inaccurate notwithstanding the absence of deliberate or reckless falsehood, and producing a severe and unconstitutional chilling effect upon the freedom of speech, expression, and the press, and is accordingly void.
- iv. A declaration that the continued prosecution, threat of prosecution, or investigation of any person under Section 208 of the Criminal Offences Act, 1960 (Act 29) for the publication or reproduction of any statement, rumour, or report in the exercise of the constitutionally guaranteed freedoms of speech, expression, or the press is unconstitutional, unlawful, and void as being inconsistent with Articles 21(1)(a) and (b) and 162(1), (2), (4) and (5) of the Constitution, 1992.
- v. A declaration that the continued operation of Section 208 of the Criminal Offences Act, 1960 (Act 29), to the extent that it is overbroad, vague, and subjective, is incompatible with Ghana's obligations under international human rights law, including the International Covenant on Civil and Political Rights, specifically Articles 2(3), 14(2) and (3)(g), 17, and 19, to which the Republic of Ghana is a State Party, and which, by virtue of Article 40 of the Constitution of the Republic of Ghana, 1992, Ghana is obliged to uphold.
- vi. A declaration that Section 76(1) of the Electronic Communications Act, 2008 (Act 775), in so far as it criminalises the sending of a "false or misleading" electronic communication without defining with sufficient precision the scope, meaning,

and threshold of “false or misleading”, is inconsistent with Article 19(11) of the Constitution, 1992 and is therefore void to that extent.

- vii. A declaration that Section 76(1) of Act 775 must be construed narrowly, consistent with Articles 21(1)(a) and 19(11) of the Constitution, 1992, to apply only to knowingly false communications that are intentionally transmitted with the purpose of endangering life or disrupting life-saving services, and not to negligent, mistaken, or opinion-based electronic communications.
- viii. A declaration that Section 76(2) of the Electronic Communications Act, 2008 (Act 775), which imputes knowledge of falsity to a person who fails to take reasonable steps to verify a communication, is inconsistent with and in contravention of Articles 19(2)(c), 21(1)(a), and 162 of the Constitution, 1992, and is therefore null, void, and of no effect.
- ix. A declaration that Section 76(2) of the Electronic Communications Act, 2008 (Act 775) is inconsistent with and in contravention of Article 19(2)(c) of the Constitution of the Republic of Ghana, 1992, in that it unlawfully reverses the burden of proof on the mental element of knowledge by deeming an accused person to have known that a communication was false or misleading solely on the basis that the accused failed to take reasonable steps to verify its accuracy, thereby violating the constitutional presumption of innocence, and is accordingly void.
- x. An order striking down Sections 208(1) and (2) of Act 29, and Sections 76(1) and (2) of Act 775 as unconstitutional and unenforceable.
- xi. Such further or other relief or reliefs as this Honourable Court may deem just, equitable, and appropriate in the circumstances of this case, having regard to the fundamental importance of the constitutional rights at stake and the public interest in the vindication of the rights and freedoms guaranteed under the Constitution of the Republic of Ghana, 1992.

2. The Capacity in which Plaintiff is bringing the action is as follows:

The Plaintiff herein, a citizen of Ghana, invokes the original jurisdiction of this Honourable Court pursuant to Articles 2(1) and 130(1) of the Constitution of

the Republic of Ghana, 1992, for the enforcement and interpretation of the Constitution. The Plaintiff is acting not only in his own interest, but also in the general interest of Ghanaians, to safeguard the freedoms and rights of all Ghanaians guaranteed in the 1992 Constitution.

a. Address for Service of Plaintiff:

AUSTIN KWABENA BRAKO-POWERS,

DIGITAL ADDRESS: GS-0356-7433

TUBA, WEIJA – ACCRA

b. Address for the Service of Plaintiff's Counsel:

MICHAEL AKOSAH

ADU-GYAMFI & ASSOCIATES,

PAMPASO – ADUM, KUMASI

3. The names and addresses of persons affected by the Writ are as follows:

THE ATTORNEY-GENERAL

ATTORNEY-GENERAL'S DEPARTMENT,

LAW HOUSE, MINISTRIES – ACCRA

DATED AT ADU-GYAMFI & ASSOCIATES, PAMPASO, ADUM – KUMASI
THIS ^{19th}..... DAY OF MAY 2026.

MICHAEL AKOSAH
BARRISTER & SOLICITOR
AFRICANA CHAMBERS
(ADU-GYAMFI & ASSOCIATES)
37 PAMPASO RD, ADUM-KSI

.....
MICHAEL AKOSAH
LAWYER FOR PLAINTIFF
SOLICITORS LICENSE NO: eGAR02615/26

THE REGISTRAR
SUPREME COURT,
ACCRA

AND FOR SERVICE: ON THE ABOVE-NAMED DEFENDANT.