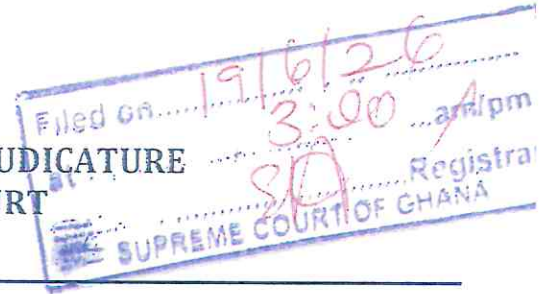


IN THE SUPERIOR COURT OF JUDICATURE
IN THE SUPREME COURT
ACCRA - A.D. 2026



SUIT NO.: J8/216/2026

BETWEEN

DR. YAW TWEREFOR
B 33 Kwahu-Mpraeso
Eastern Region

PLAINTIFF/APPLICANT

AND

THE ATTORNEY-GENERAL
The Law House
Liberia Road, Accra.

1ST DEF/RESPONDENT

THE ADMINISTRATOR OF
THE DISTRICT ASSEMBLIES COMMON FUND
Abdul Diouf Street,
Ridge, Accra.

2ND DEF/RESPONDENT

THE MINISTER FOR LOCAL GOVERNMENT,
DECENTRALIZATION AND
RURAL DEVELOPMENT
Ministries, Accra

3RD DEF/RESPONDENT

THE MINISTER FOR FINANCE
Tumu Avenue
Kanda, Accra

4TH DEF/RESPONDENT

AFFIDAVIT IN OPPOSITION TO APPLICATION FOR INTERLOCUTORY
INJUNCTION

I, JOHN ENCHILL, Assistant State Attorney at the Office of the Attorney-General, The Law House, Liberia Road, Accra, make oath and say as follows:

1. That I am the deponent herein.

2. That I have the consent and authority of the Honourable Attorney-General to depose to this affidavit for and on his behalf and on behalf of the Respondents, the matters herein having come to my knowledge, information and belief in the performance of my duties.
3. That at the hearing of this motion, the Attorney-General shall seek the leave of this Court to refer to all the processes which are filed in this matter as if such processes are duly exhibited to this affidavit.
4. That apart from the allegations of fact which I have expressly admitted in this affidavit, the Attorney-General denies each allegation of fact contained in the affidavit in support of the motion as if such allegations were set out fully and specifically denied in this affidavit.
5. That the Attorney-General is opposed to the prayer of the Plaintiff/Applicant (the "Applicant") for an order of interlocutory injunction.
6. That contrary to the averment in Paragraph 3 of the affidavit in support of the motion, the Plaintiff claims in the Writ do not properly invoke the jurisdiction of your Lordships' Court.
7. That in response to Paragraph 4 through to Paragraph 10 of the affidavit in opposition, the Attorney-General states that all the disbursements which the 2nd Defendant has made and which are the subject matter of the present suit are made *strictly* in accordance with the formula which Parliament has, in accordance with the Constitution, approved.
8. That contrary to the averment in Paragraph 11 and 12 of the affidavit in support of the motion, paying money into a personal bank account by and of itself, is not a bar or inhibition to transparency or accountability if the law allows such monies to be paid into a personal account.
9. That in further response to Paragraph 11 and 12 of the affidavit in support of the motion, I am advised by counsel, and I verily believe the same to be true that the law does not bar or prevent the 2nd Defendant from paying the monies – which are, by law, due and payable to Members of Parliament – into the respective personal bank accounts of such Members of Parliament.

10. That contrary to the averment in Paragraph 13 and 16 of the affidavit in support of the motion, monies duly approved by Parliament to be spent for a particular *purpose*, by a particular *person* and within a particular *period* cannot be treated as monies lost or at a risk being lost when (as in the present case) there is no evidence that the monies are being administered in violation of Parliament's direction, formula or intention.
11. That I am advised and verily believe the same to be true that the Applicant's claims in the Writ and in the Affidavit in support of the motion are abstract, speculative, and do not disclose a *prima facie* right to any of the remedies endorsed on the face of the Writ.
12. That I am advised by counsel, and I verily believe the same to be true that Applicant's claim is entirely about money; and that payment or re payment of money, being recoverable in nature, does not, at law, constitute irreparable damage.
13. That I am advised, and I verily believe the same to be true that the *balance of incontinence* weighs heavily in favour of the Respondents, the Respondents being public bodies mandated with the responsibility to manage public funds for the *greater good*, as against the Applicant, who has not such responsibility and makes no guarantee or security to remedy the obvious injury which may be caused to the *public interest* should the substantive matter be resolved against him.

That I am advised, and I verily believe the same to be true that this is a proper case where your Lordships ought to exercise your discretion to dismiss the present motion summarily.

WHEREFORE I swear to this affidavit in good faith, opposing the Applicant's Motion for interlocutory injunction.

SWORN AT ACCRA

THIS 19th DAY OF June 2026 }



 DEPONENT

BEFORE ME


REGISTRAR
 COMMISSIONER FOR OATHS
 ACCRA, GHANA

**TO:
THE REGISTRAR
SUPREME COURT
ACCRA.**

AND FOR SERVICE ON THE APPLICANT OR HIS COUNSEL,

MS. DIANA ASONABA DAPAAH, ESQ. whose address for service is:
Sam Okudzeto & Associates (Sena Chambers)
#1 Otswe Street, Osu Ako Adjei, Accra.

OFFICE OF THE ATTORNEY-GENERAL
AND MINISTRY OF JUSTICE
CIVIL DIVISION
P.O. BOX 60 ACCRA

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

Filed on... 19/16/26
at... 3:00 ...am/pm
Registrar
SUPREME COURT OF GHANA

SUIT NO.: J8/216/2026

BETWEEN

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THE MINISTER FOR FINANCE
Tumu Avenue
Kanda, Accra

4TH DEF/RESPONDENT

**STATEMENT OF THE RESPONDENTS' CASE
IN RESPECT OF THE APPLICANT'S APPLICATION FOR AN ORDER OF
INTERLOCUTORY INJUNCTION (DATED 05/06/2026)**

May it please my Lords,

I. INTRODUCTION

1. This Statement of Case is for and on behalf of the Defendants/Respondents (“Respondents”) herein in opposition to the Motion of Notice for interlocutory injunction filed by the Applicant herein. The Respondents herein pray this Honorable Court to dismiss the Applicant’s motion for the reasons contained in the Affidavit in Opposition filed and this Statement of Case.

II. GROUNDS FOR INTERLOCUTORY INJUNCTIONS

2. Order 25 Rule 1 sub rule 1 of the High Court (Civil Procedure) Rules, 2004 (C.I. 47), provides, in relevant part, that:

“The Court may grant an injunction by an interlocutory order in all cases in which it appears to the Court to be just or convenient to do so [...].”

3. The Courts have refused to grant an order of interlocutory order to Applicants where¹:
 - a. there is no serious question to be tried or a right to be protected;
 - b. damages will adequately compensate the Applicants in the event that their action is successful; and
 - c. on the balance of convenience, the Respondents will suffer more harm if the order sought for is granted.

III. ARGUMENTS

- a. *The Application should be denied because the Applicant has not established that there is a serious question to be tried or a right to be protected.*
4. My Lords, the Courts have emphasized that an order of interlocutory injunction may not be granted, as in the instant case, where the Applicants have woefully failed to establish that there is a serious question to be tried or a right to be protected.

¹ American Cyanamid Co v Ethicon Ltd [1975] 1 All ER 504; see also Owusu v Owusu [2007-2008] SCGLR 870.

5. My Lords, in the case of Welford Quarcoo v Attorney-General and Another [2012] 1 SCGLR 259 at pg. 260, cited with approval in the case of Ransford France (No. 1) v Electoral Commission & Attorney-General [2012] 1 SCGLR 689 at pg. 692; Ndebugre (NO. 1) v Attorney-General, Aker ASA & Chemu Power Co. Ltd (No. 1) [2013-2014] 2 SCGLR 1134 and the recent case of Vincent Ekow Assafuah v Attorney-General, Writ No. J1/18/2025, the Supreme Court speaking through Dr. Date-Bah JSC stated that:

"It has always been my understanding that the requirements for the grant of interlocutory injunctions are; first, that the Applicant must establish that there is a serious question to be tried; second, that he or she would suffer irreparable damage which cannot be remedied by the award of damages, unless the interlocutory injunction is granted; and finally, that the balance of convenience is in favor of granting him or her the interlocutory injunction. The balance of convenience of course means weighing up the disadvantages of granting the relief against the disadvantages of not granting the relief. Where the relief sought relates as here, to a public law matter, particular care must be taken not to halt action preemptively for the public good, unless there are very cogent reasons to do so, and provided also that any subsequent nullification of the impugned act or omission cannot restore the status quo."

6. In the case of American Cyanamid V Ethicon Ltd² Lord Diplock delivered himself thus:

"The court no doubt must be satisfied that the claim is not frivolous or vexatious; in other words, that there is a serious question to be tried."

7. Similarly, in the case of Owusu v Owusu-Ansah³ the Supreme Court cited Vanderpuye v Nartey⁴ and held that:

"The fundamental rule therefore is that a trial court should consider whether the applicant has a legal right at law or in equity, which the court ought to protect by granting an interim injunction."

² [1975] 1 ALL ER 504, HL p 510; cited with approval in Owusu v Owusu [2007-2008] SCGLR 870.

³ [2007-2008] SC GLR 870 at 876, per Sophia Adinyira JSC.

⁴ [1977] 1 GLR 428-433.

8. My Lords, **Kpegah J** (as he then was) had to determine what a serious question means in the case of **Baiden v Tandoh**⁵. He found out that the establishment of a serious question to be tried amounted in effect to the establishment of a prima facie case. The learned judge held that:

"In my humble view, a plaintiff cannot be said to have raised serious questions to be tried without actually establishing a prima facie case."

9. My Lords, it is our contention that the Applicant has failed to raise any *serious* questions to be tried and to *establish a prima facie case*. This is because, the Applicant has not demonstrated, per his supporting Affidavit, that there is a serious question to be tried.
10. My Lords, the Applicant bears the burden of demonstrating that there is a serious question to be tried grounded in credible and arguable facts.
11. My Lords, respectfully, the Applicant's case is built on bare assertions and generalized allegations of illegality regarding the District Assemblies Common Fund (DACF) disbursements.
12. My Lords, the Applicant has failed to show or establish that there is a specific breach of the Constitution.
13. My Lords, the Applicant fails to show that the alleged payments to Members of Parliament are *per se* unconstitutional.
14. My Lords, the Respondents maintain that the allocation and disbursement of the DACF is undertaken pursuant to the 1992 Constitution and the formula approved by Parliament.
15. My Lords, the Respondents further maintain that the impugned expenditures described as "*Constituency Labour Projects*" or related headings form part of administrative arrangements for local development support and do not constitute unconstitutional payments to Members of Parliament.
16. My Lords, the Applicant has not demonstrated that the impugned disbursements are unlawful especially considering the fact that administrative arrangements for DACF utilization involve policy decisions and statutory frameworks, which are not *prima facie* unconstitutional merely because funds are routed through identifiable beneficiaries.

⁵ [1991] 1 GLR 98-122 at page 112.

17. My Lords, the Applicant's interpretation of the Constitution is misconceived and overly restrictive, and raises issues that require this Honourable Court to interrogate, in full, in the substantive matter rather than by interlocutory restraint.
18. My Lords, the Applicant is by this present application effectively inviting the Court to determine the substantive constitutional question at an interlocutory stage, which is impermissible.
19. My Lords, from the foregoing submissions, the Respondents contend that the Applicant has failed to establish the existence of a serious question or prima facie case requiring the grant of an interlocutory injunction.
20. My Lords, the Respondents further contend that the Applicant has failed to demonstrate any right in law and equity which must be protected by this Honourable Court.
21. My Lords, therefore, the Applicant is not entitled to the order he seeks.
22. My Lords, the Respondents respectfully urge this Honorable Court to dismiss the present application.
- b. The Application should be denied because there is no evidence of irreparable harm or damage***
23. My Lords, even where the Applicant is said to have established a triable issue or the existence of a right to be protected by this Honourable Court, that conclusion would not be conclusive of the matter.
24. The court must go further to examine the possibility of the apprehended injury being compensated in the award of damages.⁶ See Welford Quarcoo v Attorney-General and the Electoral Commission (supra) where the Supreme Court stated that the Applicants must prove that they would suffer irreparable damage which cannot be remedied by the award of damages.
25. My Lords, many cases can be cited for the principle that if damages will adequately compensate the Applicant in the event that his action is successful, the Court will not grant an interlocutory order.⁷

⁶ Musicians Union of Ghana v Abraham [1982-83] GLR 337.

⁷ American Cyanamid v Ethicon Ltd [1975] 1 All ER 504.

26. My Lords, **Lord Diplock**⁸ added that if damages would be an adequate remedy, no interlocutory order should normally be granted.
27. My Lords, in the case of **Attorney General v Hallet**⁹ **Parke B** defined irreparable damage as “*such injury as could not be compensated in damages*”. In the same case **Alderson B** defined it when he said, “*I take the meaning of irreparable injury to be that which not prevented by injunction, cannot be afterwards compensated by any decree which the court can pronounce in the result of the cause.*”
28. My Lords, the Applicant’s claim of “*dissipation of public funds*” is speculative and unsupported to the extent that irreparable damage is not even the issue of concern.
29. My Lords, the relief sought by the Applicant essentially is to restrain public financial administration.
30. My Lords, the Respondents maintain that public funds are subject to audit, accountability and recovery mechanisms under the Constitution and relevant public financial management laws.
31. Accordingly, my Lords, any alleged impropriety can be remedied through audit, Parliamentary oversight, or final orders of a court of competent jurisdiction, including this Honourable Court.
32. My Lords, the Respondents maintain that if the Applicant succeeds in the substantive matter, any wrongful disbursements is quantifiable and recoverable.
33. My Lords, the damage that would likely occur if the order is granted cannot be compensated for by the Applicants.
34. My Lords, we respectfully urge this Honorable Court to dismiss the Applicant’s motion because the Applicant has failed to show that damages or any alternative remedy would not adequately compensate him for any losses incurred.
35. More so, my Lords, in the unlikely event that this injunction order is granted in favour of the Applicant, and the substantive action eventually terminates in favour of the Respondents, damages would not be a sufficient remedy for the Respondents.

⁸ American Cyanamid Co v Ethicon Ltd [1975] 1 All ER 504 at 510.

⁹ (1847) 16 M & W 569 at 581, 153 ER 1316 at 1321.

36. My Lords, therefore, the Applicant is not entitled to the order he seeks.
37. My Lords, the Respondents respectfully urge this Honorable Court to dismiss the present application.
- c. *The Application should be denied because on the balance of convenience, the Respondents will suffer more harm if the order sought for is granted*
38. My Lords, the Courts have held that where there are doubts as to the adequacy of the respective remedies in damages available to either party or to both, the question of balance of convenience arises.¹⁰ In *Welford Quarcoo v Attorney-General and Electoral Commission (supra)*, the Supreme Court emphasizes that the Applicant must show that the balance of convenience is in favour of granting the injunction.
39. My Lords, **Lord Diplock** in the *American Cyanamid case* held that in assessing where the balance of convenience lies, a significant factor to consider is whether or not each party could be adequately compensated by damages. In that case, he delivered himself, thus¹¹:
- “The extent to which the disadvantages to each party would be incapable of being compensated in damages in the event of his succeeding at the trial is always a significant factor in assessing where the balance of convenience lies.”*
40. My Lords, **Amisshah J.A.** also held in the *Vanderpuye v Nartey case*¹² that the question for consideration on the balance of convenience resolves itself into whether on balance of convenience, greater harm would be done by the refusal to grant the application than not.
41. My Lords, the balance of convenience overwhelmingly favors maintaining the status quo of lawful public administration, not disrupting it.
42. My Lords, granting of the injunction will disrupt the constitutionally mandated DACF distribution framework and would further delay or halt developmental

¹⁰ Per Lord Diplock in *American Cyanamid v Ethicon* [1975] 1 All ER 504 at page 511; *SmithKline Beecham plc. v Apotex Europe Ltd* [2002] 2 All ER 53 at 63, per Lewison J.

¹¹ *Ibid.*

¹² [1977] 1 GLR 428 - 483 CA.

projects at the district and constituency level.

43. My Lords, granting the injunction will cause administrative and financial uncertainty nationwide whilst crippling the operations of District Assemblies and ongoing development projects.
44. My Lords, granting the injunction would undermine the implementation of budgetary allocations already approved and would interfere with Executive and administrative functions.
45. My Lords, conversely, refusing the injunction preserves governance continuity and avoids unnecessary disruption to local government structures pending the final determination of the substantive matter.
46. My Lords, the greater risk of injustice lies in halting public administration based on unproven allegations.
47. My Lords, this Honourable Court will only exercise its discretion to grant such an application where it appears to the Court to be just or convenient to do so.
48. My Lords, therefore, the Applicant is not entitled to the order he seeks.
49. My Lords, the Respondents respectfully urge this Honorable Court to dismiss the present application:

d. The Application should be denied because of Public Interest considerations

50. My Lords, this Honourable Court has consistently held that public interest is a critical consideration in the grant of constitutional injunctions.
51. My Lords, in the case of **Republic v High Court (Fast Track Division) Accra, Ex parte Ghana Lotto Operators Association (National Lottery Authority; Interested Party)**¹³ the Supreme Court speaking through Atuguba JSC held that:

“It is not surprising therefore that it has been held by this court that when a body is entrusted with statutory discretion, the courts should be careful not to clog its exercise with injunctions.”

¹³ [2009] SCGLR 372, Per Atuguba JSC at page 400.

52. Similarly, my Lords, in the case of Welford Quarcoo v Attorney-General¹⁴ the Supreme Court speaking through Dr. Date-Bah JSC held that:

“Where the relief sought relates, as here, to a public law matter, particularly care must be taken not to halt the action presumptively for the public good, unless there are very cogent reasons to do so, and provided also that any subsequent nullification of the impugned act or omission cannot restore the status quo.”

53. My Lords, also in the Ransford France case (supra) at pg. 693, Ansah JSC speaking for the Supreme Court stated that:

“a public authority should not be restrained by interlocutory injunctions from exercising its...discretionary powers unless the plaintiff shows there is a real prospect that he will succeed in his claim for a permanent injunction at the trial.”

54. My Lords, the DACF is a vital instrument for local governance and development. Accordingly, any interruption at this interlocutory stage will adversely affect the decentralization efforts; delivery of essential services and ongoing developmental projects.

55. My Lords, the Applicant seeks orders that will operate to the detriment of millions of citizens, without demonstrating sufficient legal basis.

56. My Lords, the Applicant's argument wrongly equates restraint with accountability.

57. My Lords, as highlighted previously, true accountability is achieved through auditing mechanisms, statutory oversight and Parliamentary supervision not through interlocutory injunctions that stall governance.

58. My Lords, this Honourable Court, in instances like this present application will guard against judicial overreach into policy implementation, and by so doing refuse the present application.

IV. CONCLUSION

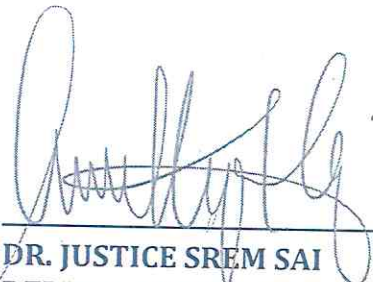
59. My Lords, for the above-mentioned reasons, the Respondents submit that the Applicant has failed to satisfy essential conditions for the grant of an interlocutory injunction and accordingly this present application should be dismissed.

¹⁴ [2012] 1 SCGLR 259, Per Date-Bah JSC at page 260.

60. My Lords, there is no right either in law or equity to be protected by this Honourable Court.
61. Furthermore, my Lords, as demonstrated above, the balance of convenience leans favorably towards the dismissal of the instant application.
62. It is further submitted, my Lords, that it would not be just or convenient to grant the said order because it will be to the detriment of the Respondents for which they cannot be compensated if they succeed in the substantive matter.
63. Finally, my Lords, the public interest strongly opposes the relief sought by the Applicant.

Respectfully submitted.

DATED AT THE OFFICE OF THE ATTORNEY GENERAL, MINISTRIES, ACCRA THIS
19TH DAY OF JUNE, 2026.



DR. JUSTICE SREM SAI
DEPUTY ATTORNEY- GENERAL
& DEPUTY MINISTER FOR JUSTICE
LAWYER FOR THE RESPONDENTS

TO:

THE REGISTRAR
SUPREME COURT OF GHANA
ACCRA

AND FOR SERVICE ON THE APPLICAN OR HIS COUNSEL,

MS. DIANA ASONABA DAPAAH, ESQ. whose address of service is:
Sam Okudzeto & Associates (Sena Chambers)
#1 Otswe Street, Osu Ako Adjei, Accra.