

Republic of the Philippines
PRESIDENTIAL ELECTORAL TRIBUNAL
 Manila

**FERDINAND "BONGBONG" R.
 MARCOS, JR.,**

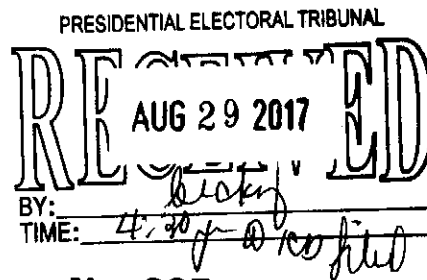
Protestant,

-versus-

**MARIA LEONOR "LENI DAANG
 MATUWID" G. ROBREDO,**

Protestee.

X- - - - - X



PET Case No. 005
 For: Election Protest
 Vice-President

COUNTER-MANIFESTATION

[TO THE MANIFESTATION DATED 7 AUGUST 2017]

Protestant **FERDINAND "BONGBONG" R. MARCOS, JR.**
 ("protestant Marcos"), through the undersigned counsels, unto this
 Honorable Presidential Electoral Tribunal ("PET"), most respectfully
 alleges the following:

1. On **14 August 2017**, protestant Marcos received a copy
 of a *Manifestation* dated 7 August 2017 which was filed by protestee
 Maria Leonor "Leni Daang Matuwid" G. Robredo ("protestee Robredo")
 seemingly in response to the assertions of the protestant in his
Comment to the Preliminary Conference Guides.

2. Protestee Robredo chided protestant Marcos for insisting
 on the presentation of his **fifty-one (51)** witnesses for the first cause
 of action even though the Honorable Tribunal directed the protestant
 to limit his witnesses to not more than **twenty-five (25)**. She also
 criticized protestant Marcos for not indicating the names of his
 witnesses and their respective precinct numbers for the second cause
 of action. Protestant Marcos was also accused of
 supposedly reneging on his earlier acquiescence to the inclusion of the
 Commission on Elections (COMELEC) as a party to this election protest.

3. As for the first cause of action, protestant Marcos explained
 in his *Comment to the Preliminary Conference Guides* that it is crucial
 for his election protest to maintain the presentation of his 51 witnesses

because of the highly technical aspects involved in proving the material allegations for the first cause of action. Consequently, protestant Marcos cannot dispense with the presentation of his 51 witnesses whose respective testimonies are material and relevant to prove the various features, attributes, components, mechanisms, techniques and schemes used during the voting, counting, consolidation, transmission and canvassing of the elections results for the position of Vice-President during the May 2016 elections.

4. Moreover, the presentation of his 51 witnesses will not unduly delay the proceedings in this election protest because protestant Marcos will no longer present any testimonial evidence to prove the material allegations in so far as the **thirty-six thousand four hundred sixty-five (36,465)** protested clustered precincts which functioned in the following protested areas of **CEBU PROVINCE, LEYTE, NEGROS OCCIDENTAL, NEGROS ORIENTAL, MASBATE, ZAMBOANGA DEL SUR, ZAMBOANGA DEL NORTE, BUKIDNON, ILOILO PROVINCE, BOHOL, QUEZON PROVINCE, BATANGAS, WESTERN SAMAR, MISAMIS ORIENTAL, CAMARINES SUR, 2ND DISTRICT OF NORTHERN SAMAR, PALAWAN, ALBAY, ZAMBOANGA SIBUGAY, MISAMIS OCCIDENTAL, PANGASINAN, ISABELA, ILOILO CITY, BACOLOD CITY, CEBU CITY, LAPU-LAPU CITY, and ZAMBOANGA CITY** are concerned.

5. If we go by the directive of this Honorable Tribunal, protestant Marcos is entitled to present not more than **three (3)** witnesses per protested clustered precinct. Hence, for the **36,465** protested clustered precincts subject of judicial recount and revision of ballots, protestant Marcos is allowed to present **one hundred nine thousand three hundred ninety-five (109,395)** witnesses. But protestant Marcos has already expressed his willingness to forego the presentation of these **109,395** witnesses, in exchange, however, he would like to insist on the presentation of his 51 witnesses for the first cause of action.

6. Protestant Marcos humbly believes that this Honorable Tribunal will grant this simple concession in the greater interest of truth and justice to enable the Filipino electorate to finally determine whether the automated electoral system employed in the 2016 elections is **credible, accurate and reflective of the genuine will of the people, despite the suspicious presence of an intermediary/queue server**, which received all the transmissions from the Vote Counting Machines on a per precinct-level as well as the transmissions from the City/Municipal Board of Canvassers (BOCs),

Provincial/District BOCs, the Transparency Server, and the Central Server.

7. The waiver of testimonial evidence in so far as the third cause of action is concerned is NOT an abandonment of the electoral frauds, anomalies and irregularities alleged in the election protest as these may be proven by the ballots which are **"the best repository of the sovereign will"**. Hence, in the hierarchy of evidence in election contests, **ballots constitute the highest and best evidence of the voters' will.**¹

8. With all due respect, it is jurisprudentially settled that evidence *aliunde* is not necessary to proceed with the judicial recount and revision of the ballots in an election protest.

9. In the case of ***Jeremias F. Dayo v. COMELEC and Amadeo M. Gaasis***,² the Honorable Supreme Court emphatically declared that allegations of fraud and irregularities are **sufficient grounds** for opening the ballot boxes and examining the questioned ballots **and that evidence of irregularities is not necessary to justify the revision of ballots**, thus:

When fraud and irregularities are alleged in the protest and the court believes the interest of justice so requires, it should order that the ballots be examined and the votes counted (Sec. 255 Omnibus Election Code). If the court is not satisfied that the allegations of the protest are sufficient, it should give the protestant an opportunity to prove his allegations, instead of dismissing the protest on the basis of interrogatories taken in another case involving other parties. **Allegations of fraud and irregularities are sufficient grounds for opening the ballot boxes and examining the questioned ballots** (Moguis Jr. vs. CA & Bisnar, G.R. No. 66547, May 7, 1985). **Evidence of irregularities is not necessary to justify the revision of ballots** (Jaguros vs. Villamor, 134 SCRA 553). **To require parole and other evidence on the alleged irregularities before opening the ballot box, would only give the protestee time and opportunity to delay the settlement of the controversy through lengthy presentation of testimonial evidence and cross-examination** (Astorga vs. Fernandez, 19 SCRA 331). The trial court committed grave abuse of discretion when it declared, based only on the interrogatories in the companion case (Protest Case No. 06-88) that there is no evidence of fraud or irregularities committed. As wryly observed by the Solicitor General in his Comments on the petition: "there was precisely no evidence of fraud and irregularities on record

¹ Libanan vs. Ramirez, HRET Case No. 95-020, 28 May 1997; Dojillo vs. Comelec, et al., G. R. No. 166542, July 25, 2006.

² G.R. No. 94681, 18 July 1991.

because the trial court did not give private respondent (the protestant) a chance to substantiate his allegations.³ [Emphasis supplied.]

10. In the case of *James Miguel v. COMELEC and Eladio M. Lapuz*,⁴ the Honorable Supreme Court even emphasized that when there is an **allegation in an election protest** that would require the perusal, examination or counting of ballots as evidence, **it is the ministerial duty of the trial court to order the opening of the ballot boxes and the examination and counting of ballots deposited therein**, to wit:

The rule in this jurisdiction is clear and jurisprudence is even clearer. In a string of categorical pronouncements, we have consistently ruled that **when there is an allegation in an election protest that would require the perusal, examination or counting of ballots as evidence, it is the ministerial duty of the trial court to order the opening of the ballot boxes and the examination and counting of ballots deposited therein.** (emphasis ours)

In *Astorga vs. Fernandez*, this Court inked the rationale behind the principle through the pen of Chief Justice Roberto Concepcion:

"xxx Obviously, the simplest, the most expeditious and the best means to determine the truth or falsity of this allegation is to open the ballot box and examine its contents. To require parol or other evidence on said alleged irregularity before opening said box, would have merely given the protestee ample opportunity to delay the settlement of the controversy, through lengthy cross-examination of the witnesses for the protestant and the presentation of testimonial evidence for the protestee to the contrary. As held in *Cecilio vs. Belmonte*, this would be to sanction an easy way to defeat a protest." (emphasis ours)

At this point, the provisions of Section 255 of the Omnibus Election Code (Batas Pambansa Blg. 881) is in order:

"Section 255. Judicial counting of votes in election protest.-Where allegations in a protest or counter-protest so warrant, or whenever in the opinion of the court the interests of justice so require, it shall immediately order the book of voters, ballot boxes and their keys, ballots and other documents used in the election be brought before it and that the ballots be examined and the votes recounted."

Further, Section 6, Rule 20 of the COMELEC Rules of Procedure reads:

³ *Id.*

⁴ G.R. No.136966, 5 July 2000.

"When the allegations in a protest or counter-protest so warrant, or whenever in the opinion of the Commission or Division, the interest of justice so demands, it shall immediately order the ballot boxes containing ballots and their keys, list of voters with voting records, book of voters, and other documents used in the election to be brought before the Commission, and shall order the revision of the ballots."

While the abovementioned rule pertains to election protests falling within the exclusive original jurisdiction of the Commission, the same procedure is prescribed for election contests which are within the exclusive original jurisdiction of courts of general jurisdiction as well as election contests within the exclusive original jurisdiction of courts of limited jurisdiction.

— In the case before us, the serious allegations embodied in the election protest mandates and necessitates the opening of the subject ballot boxes to the end of resolving the issue of fraud and irregularities in the election. Precisely, the purpose of ordering the opening of the ballot boxes is to ascertain, with the least amount of protracted delay, the veracity of the allegations of fraud and anomalies in the conduct of the electoral exercise. Thus, a preliminary hearing set for the same purpose is a mere superfluity that negates the essence of affording premium to the prompt resolution of election cases and incidents relating thereto.

Stated differently, the lower court clearly committed grave abuse of discretion in ordering the conduct of a preliminary hearing to achieve the abovementioned purpose; the court *a quo* acted outside its province and overshot the limits of its jurisdiction. Evidently, the twin orders of the lower court, dated 07 July 1998 and 11 August 1998, were issued in clear violation of the Rules and existing case law on the matter.

Moreover, petitioner's heavy reliance on the Narrative Report of Acting Election Officer Lourdes Barroga is misplaced. The law does not require *prima facie* showing other than the allegations in the protest of fraud or irregularities in order to authorize the opening of the ballot boxes. Applying this principle, the stand taken by the lower court was extremely technical and highly impractical, apart from tending to defeat one of the major objectives of the law.

For in this specie of controversies involving the determination of the true will of the electorate, **time indeed is of paramount importance - second to none** perhaps, except for the genuine will of the majority. To be sure, an election controversy which by its very nature touches upon the ascertainment of the people's choice, as gleaned from the medium of the ballot, should be resolved with utmost dispatch, precedence and regard to due process.

To achieve this end, courts and tribunals should then

endeavor to adopt only such means consistent with this general objective and be constantly reminded to refrain from such a needless exercise "**which has spawned the protracted delay that the law and the principle underlying it precisely intend to forestall.**"⁵[Citations omitted; emphasis supplied.]

11. More recently, in the case of *Douglas R. Cagas v. COMELEC and Claude P. Bautista*,⁶ the Honorable Supreme Court underscored the **ministerial duty of the trial court to order the opening of the ballot boxes and the examination and counting of ballots deposited therein, when there is an allegation in an election protest that would require the perusal, examination or counting of ballots as evidence**, thus:

— The Court has upheld the COMELEC's determination of the sufficiency of allegations contained in election protests, conformably with its imperative duty to ascertain in an election protest, by all means within its command, who was the candidate elected by the electorate. Indeed, in *Panlilio v. Commission on Elections*, we brushed aside the contention that the election protest was insufficient in form and substance and was a sham for having allegations couched in general terms, stating:

In *Miguel v. COMELEC*, the Court belittled the petitioners argument that the protestant had no cause of action, as the allegations of fraud and irregularities, which were couched in general terms, were not sufficient to order the opening of ballot boxes and counting of ballots. The Court states the rules in election protests cognizable by the COMELEC and courts of general jurisdiction, as follows:

The rule in this jurisdiction is clear and jurisprudence is even clearer. In a string of categorical pronouncements, **we have consistently ruled that when there is an allegation in an election protest that would require the perusal, examination or counting of ballots as evidence, it is the ministerial duty of the trial court to order the opening of the ballot boxes and the examination and counting of ballots deposited therein.**

In a kindred case, *Homer Saquilayan v. COMELEC*, the Court considered the allegations in an election protest, similar to those in this case, as sufficient in form and substance.

Again, in *Dayo v. COMELEC*, **the Court declared that allegations of fraud and irregularities are sufficient grounds for opening the ballot boxes and examining the questioned ballots.** The pronouncement is in accordance with Section 255 of the Omnibus Election Code, which reads:

⁵ *Id.*

⁶ G.R. No. 194139, 24 January 2012.

Judicial counting of votes in election contest. Where allegations in a protest or counter-protest so warrant, or whenever in the opinion of the court in the interests of justice so require, it shall immediately order the book of voters, ballot boxes and their keys, ballots and other documents used in the election be brought before it and that the ballots be examined and the votes recounted.

In this case, the COMELEC Second Division found that the allegations in the protest and counter-protest warranted the opening of the contested ballot boxes and the examination of their contents to settle at once the conflicting claims of petitioner and private respondent.

The petitioner adds that with the Court having noted the reliability and accuracy of the PCOS machines and consolidation/canvassing system (CCS) computers in *Roque, Jr. v. Commission on Elections*,³⁰ Bautistas election protest assailing the system and procedure of counting and canvassing of votes cast in an automated system of elections should be immediately dismissed.

We are not persuaded.

***Roque, Jr. v. Commission on Elections* does not preclude the filing of an election protest to challenge the outcome of an election undertaken in an automated system of elections.** Instead, the Court only ruled there that the system and procedure implemented by the COMELEC in evaluating the PCOS machines and CCS computers met the minimum system requirements prescribed in Section 7 of Republic Act No. 8436. The Court did not guarantee the efficiency and integrity of the automated system of elections, as can be gleaned from the following pronouncement thereat:

The Court, however, will not indulge in the presumption that nothing would go wrong, that a successful automation election unmarred by fraud, violence, and like irregularities would be the order of the moment on May 10, 2010. Neither will it guarantee, as it cannot guarantee, the effectiveness of the voting machines and the integrity of the counting and consolidation software embedded in them. That task belongs at the first instance to Comelec, as part of its mandate to ensure clean and peaceful elections. This independent constitutional commission, it is true, possesses extraordinary powers and enjoys a considerable latitude in the discharge of its functions. The road, however, towards successful 2010 automation elections would certainly be rough and bumpy. The Comelec is laboring under very tight timelines. It would accordingly need the help of all advocates of orderly and honest elections, of all men and women of goodwill, to smoothen the way and assist Comelec personnel address the fears expressed about the integrity of the system. Like anyone else, the Court would like and wish

automated elections to succeed, credibly. ⁷—[Citations omitted; emphasis supplied.]

12. Besides, the massive presence of vote-buying during the last elections may be proven by other means aside from testimonial evidence such as the presence of marked ballots. Marked ballots are ballots which contain unnecessary marks or writings which were deliberately or purposely placed on the ballots by the voters themselves with a view to possible future identification. The presence of marked ballots is indicative of vote-buying.

13. As for the presence of substitution of voters, the same may be proven by the technical examination and forensic investigation of the Election Day Computerized Voter's List (EDCVL), voters registration records (VRRs), the books of voters and other pertinent election documents and/or paraphernalia used in the last elections to determine the identities of the registered voters whose signatures in the EDCVL were forged and/or falsified.

14. As for the presence of unaccounted votes for the position of Vice-President during the last elections, the same shall be verified through the judicial and manual recount and revision of the paper ballots, ballot images and voter's receipts in each of the **36,465** protested clustered precincts which functioned in **CEBU PROVINCE, LEYTE, NEGROS OCCIDENTAL, NEGROS ORIENTAL, MASBATE, ZAMBOANGA DEL SUR, ZAMBOANGA DEL NORTE, BUKIDNON, ILOILO PROVINCE, BOHOL, QUEZON PROVINCE, BATANGAS, WESTERN SAMAR, MISAMIS ORIENTAL, CAMARINES SUR, 2ND DISTRICT OF NORTHERN SAMAR, PALAWAN, ALBAY, ZAMBOANGA SIBUGAY, MISAMIS OCCIDENTAL, PANGASINAN, ISABELA, ILOILO CITY, BACOLOD CITY, CEBU CITY, LAPU-LAPU CITY, and ZAMBOANGA CITY.**

15. As for the purported failure of protestant Marcos to identify his witnesses for the annulment of the election results in Maguindanao, Lanao Del Sur and Basilan, it is admitted that he cannot identify, as of this time, the names of his witnesses therein and their respective precinct numbers because this will depend on the results of the **TECHNICAL EXAMINATION** and **FORENSIC INVESTIGATION** of the paper ballots and/or the ballot images, voter's receipts, election returns, audit logs, transmission logs, the lists of voters, particularly the EDCVL, and VRRs, the books of voters and other pertinent election documents and/or paraphernalia used in the elections, as well as the

⁷ *Id.*

automated election equipment and records such as the Vote Counting Machines (VCM), Consolidation and Canvass System (CCS) units, Secure Digital (SD) cards (main and back up), and the other data storage devices containing electronic data and ballot images in each of the **two thousand seven hundred fifty six (2,756)** protested clustered precincts of Lanao Del Sur, Maguindanao, and Basilan that functioned during the 09 May 2016 National and Local Elections.

16. The results of the technical examination and forensic investigation of the **2,756** protested clustered precincts of Lanao Del Sur, Maguindanao, and Basilan shall determine the identities of the registered voters whose signatures in the EDCVL were forged and/or falsified and the members of the Board of Election Inspectors (BEIs) who permitted and facilitated the massive substitution of votes during the last elections. On the other hand, the identities of the handwriting, technology, and other technical experts, as well as forensic investigators will be subject to the discretion of this Honorable Tribunal.

17. Now with regard to the alleged acquiescence of protestant Marcos in impleading the Commission on Elections (Comelec) in this case, the Transcript of Stenographic Notes taken during the preliminary conference conducted on **11 July 2017** would readily show the reservations expressed by the lead counsel for protestant Marcos as to the possibility of including the COMELEC as a party in this election protest.

18. In fact, the lead counsel of protestant Marcos emphasized that an election protest is essentially a contest between the defeated and the winning candidates, thus:

CHAIRPERSON CHIEF JUSTICE SERENO:

Justice Caguioa, please proceed with the admissions.

JUSTICE CAGUIOA:

I just have follow-up questions to what Justice Leonen has raised. Personally, I'm bothered by the theory that there's a surgical annulment. Inasmuch as you are questioning the integrity of the entire system, do you not think that the COMELEC should be made a party to this protest? I understand the normal course of things is that you will present your witnesses, protestee will present her witnesses and you are going to present COMELEC officials as well. But COMELEC as an institution and the integrity of automated elections being the norm today, what do you think about having to implead COMELEC in these proceedings so that they can in fact present what needs to be presented to show the integrity of the system because that's what I think they will do.

ATTY. GARCIA:

Your Honor, I.... definitely, **but the problem, Your Honor, is, if we are going to stick by the rules**, unless the Tribunal is willing to set aside the rules, **an election protest is essentially a contest between the defeated and the winning candidates, Your Honor**. In fact, Your Honor, if there is somebody who should really, who should, under the Constitution and under the law, 8436 and 9369, should investigate fully our allegations, later perhaps, it's Congress, Your Honor, because Congress, under Republic Act 9369, is mandated to conduct a hearing and to report as to the outcome of the computerized election which, until today, Congress has not done, Your Honor, that duty. [Emphasis and underscoring supplied.]

19. It is very clear from the provisions of the **2010 Rules of the Presidential Electoral Tribunal**,⁸ particularly **Rule 15** thereof, that an election protest is between the proclaimed winner and the candidate/s for the position of President or Vice-President of the Philippines who received the second or third highest number of votes during the elections. Thus:

Rule 15. *Election Protest.* - **The registered candidate for President or Vice-President of the Philippines who received the second or third highest number of votes may contest the election of the President or Vice-President**, as the case may be, by filing a verified election protest with the Clerk of the Presidential Electoral Tribunal within thirty days after the proclamation of the winner. (R14)

20. Moreover, in the case of **Torres-Gomez v. Codilla**,⁹ the Honorable Supreme Court emphasized that an "election protest proposes to oust the winning candidate from office" hence "it is strictly a contest between the defeated and the winning candidates, based on the grounds of electoral frauds or irregularities." It aims to determine who between them has actually obtained the majority of the legal votes cast and, therefore, entitled to hold the office.¹⁰

21. That is why, in his *Comment to the Preliminary Conference Guides* protestant Marcos formally manifested his vehemently objection to the inclusion of the COMELEC as a party to the above-entitled case for being **HIGHLY UNPROCEDURAL**.

22. Finally, protestant Marcos maintains his position that the *three (3)* causes of action, which he raised in his election protest, are complementary of each other. This matter was extensively discussed

⁸ A.M. No. 10-4-29-SC.

⁹ 684 Phil. 632, 646 (2011).

¹⁰ *Id.*

during the preliminary conference, the pertinent portions of which are reproduced below:

JUSTICE CAGUIOA:

Can I ask that it be flashed on the screen? Let me go to the First Cause of Action. Alright.

Based on the First Cause of Action, the prayer of protestant is for the Tribunal to declare as unauthentic, all the certificates of canvass used by both Houses of Congress in proclaiming protestee as Vice-President, am I correct?

ATTY. GARCIA:

That is correct, Your Honor.

JUSTICE CAGUIOA:

And the basis for declaring the certificates of canvass as unauthentic are the reasons stated in your First Cause of Action?

ATTY. GARCIA:

Yes, Your Honor, specifically non-compliance with the provision of 9436, Your Honor.

JUSTICE CAGUIOA:

The law? In other words, you question the reliability of the system itself?

ATTY. GARCIA:

That is correct, Your Honor.

JUSTICE CAGUIOA:

Alright. But if these certificate of canvass, these are, we are talking about 167 certificates of canvass, correct?

ATTY. GARCIA:

That is correct, Your Honor.

JUSTICE CAGUIOA:

And if these certificates of canvass are in fact annulled, is my understanding correct that this does not automatically mean that protestant will be declared winner?

ATTY. GARCIA:

That is also correct, Your Honor. It will only mean the annulment of the proclamation of the protestee in this case, Your Honor.

JUSTICE CAGUIOA:

Could you, sorry, I cannot hear.

ATTY. GARCIA:

Yes, Your Honor. It will only mean the annulment of the proclamation of the protestee in this case, Your Honor.

JUSTICE CAGUIOA:

Alright, then...in other words, should you be successful in your First Cause of Action, that the entire system is flawed, that would mean

that the Tribunal will still have to look at all the ballots in the 92,509 clustered precincts, am I correct?

ATTY. GARCIA:

That is correct, Your Honor, because the First Cause of Action is complementary to the Second and Third Cause of Action, Your Honor.

JUSTICE CAGUIOA:

So, on the assumption that the Tribunal were to allow you to present evidence on the First Cause of Action, and that's a presumption because we have yet to deliberate on the before the revision process. And assuming further that you are able to prove the lack of integrity of the system, so does the process now will be in manual recount of the entire 92,509 clustered precincts, correct?

ATTY. GARCIA:

Yes, Your Honor. 39,221 precincts to be exact.

JUSTICE CAGUIOA:

And that would mean also a physical retrieval of all ballot boxes of the entire 92,509 clustered precincts?

ATTY. GARCIA:

Yes, Your Honor, that is correct except that because of the rules of the Tribunal, we'll have to immediately collect first the subject pilot provinces, Your Honor. The three provinces which was required...

JUSTICE CAGUIOA:

Yes...

ATTY. GARCIA:

...by the Honorable Tribunal.

JUSTICE CAGUIOA:

Yes. Understood.

ATTY. GARCIA:

Yes, Your Honor.

JUSTICE CAGUIOA:

But if you were allowed to present evidence on your First Cause of Action and in the process, you are able to prove that the system is flawed, that would expand now the coverage of the manual recount to the entire Philippines, am I correct?

ATTY. GARCIA:

No, Your Honor. As far as the First Cause of Action is concerned, that is limited only to proving the non-authenticity of the documents used for purposes of the canvass. The Second Cause of Action will be limited solely, Your Honor, to the thirty (30) provinces and cities as enumerated in our Second Cause of Action. Meaning to say, Your Honor, with all due respect, even if the contention may be that the entire COCs used during the canvass for the Vice-President are not

authentic, just the same, Your Honor, we will limit only the request for the collection, the revision and the manual recount of the ballots as far as we are concerned on the 39,221 or the 26,000 excluding the three (3) provinces of Maguindanao, Lanao del Sur and Basilan, Your Honor.

JUSTICE CAGUIOA:

Alright. My question is, if you're, again this is all preliminary and at this point hypothetical, if you were you succeed in proving the First Cause of Action, wouldn't that put into question the results of the elections of everybody else, both national and local?

ATTY. GARCIA:

With all due respect, Your Honor, that is not correct, Your Honor. As far as issues pertaining to the authenticity and due execution of the certificates of canvass of votes and proclamation, jurisprudence said it that it should only affect the position as involved in the subject protest, Your Honor. It does not affect the other position. That is also the same in the case if *Luz Tan vs. the COMELEC*. In that case, the Supreme Court merely excluded certain election returns. It does not affect other positions which were not the subject of the protest, Your Honor. It is incorrect to say that because we are asking for the declaration of the on-authenticity or lack of genuineness on the part of the documents used for the purposed of canvass, Your Honor, that it will likewise include the other position. In pre-proclamation cases before the Commission on Elections and now before the Presidential Electoral Tribunal, it only covers the position Your Honor as subject of the protest, Your Honor.

JUSTICE CAGUIOA:

No, but...I understand, you are citing jurisprudence but since this is technology and we are talking about data streams and we are talking about transmissions, what are transmitted includes all positions, correct?

ATTY. GARCIA:

Yes, Your Honor.

JUSTICE CAGUIOA:

And therefore, how can you say that the transmissions are valid only as to one position or invalid as only to one position but valid as to the rest.

ATTY. GARCIA:

If I may explain further, Your Honor, ...

JUSTICE CAGUIOA:

Please.

ATTY. GARCIA:

... that is also the same as a ballot, Your Honor. In a revision of the ballot, Your Honor, which in this case the certificate of canvass of votes and proclamation; in the revision of the ballots involving

only a particular position whenever a party will object to the ballot simply because the ballot for example is a marked ballot, the entire ballot if indeed it is proven by the Court or Tribunal to be a marked ballot will have to exclude from the counting of the votes, that particular ballot because it is a marked ballot. But that is only true as far as the position subject of the protest is concerned. It does not affect the other positions which were not subject of our protest. That is also true, Your Honor, as far as our First Cause of Action is concerned. It is contained in one single document. I must admit. But since this is the only protest involving that particular position then that should affect only that particular position, Your Honor.

JUSTICE CAGUIOA:

Alright. You had prayed ... again this is for purposes of assisting the Tribunal in resolving the pending issues. You have prayed or you have intimated in your pre-conference brief that protestant would want to present evidence on the lack of integrity of the system even as the revision process for the 39,000 under the Second Cause of Action is being undertaken. Do I understand that that's what you prefer?

ATTY. GARCIA:

Yes, Your Honor, that's the reason why, Your Honors, we are even asking the Presidential Electoral Tribunal for the creation of at least three (3) committees, Your Honor, to receive our evidence because as far as our First and the Second and Third Cause of Action **they can go simultaneously**, Your Honor. We can have, we can start the presentation of evidence as far as the First Cause of Action is concerned. And then, we can likewise present our evidence as far as the Second Cause of Action is concerned. And as far as the Third, we can immediately proceed with the collection and eventually revisions of the ballots, Your Honor.

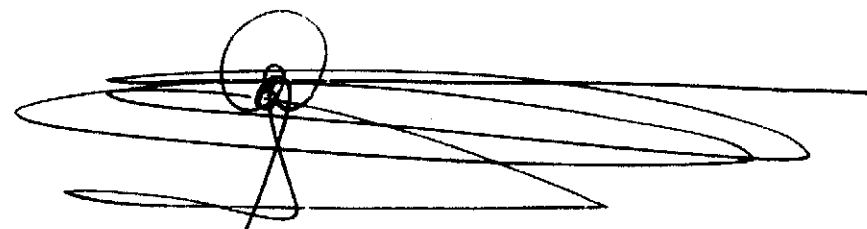
23. Based on the foregoing, it is crystal clear that there is absolutely no truth to the claim of protestee Robredo that the causes of action in this election protest are inconsistent with each other.

Respectfully submitted.

City of Manila, Philippines, **22 August 2017.**

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134 Amorsolo Street

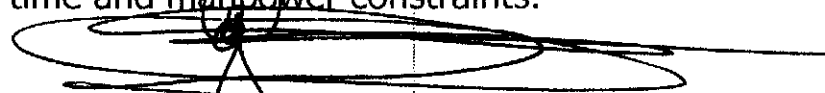
Legaspi Village, 1229 Makati City

RC #: R078412420022

EXPLANATION

[Pursuant to Rule 30 and 31 of the PET Rules in relation to Section 11, Rule 13 of the 1997 Rules of Civil Procedure]

Copies of the foregoing *Counter-Manifestation* were served to the above-mentioned parties by registered mail, personal service being impractical due to time and manpower constraints.



GEORGE ERWIN M. GARCIA

Marcos v. Robredo
PET Case No. 005
Counter-Manifestation
15 | Page

AFFIDAVIT OF SERVICE

(Revised as of April 1, 1994)

I, **Jerry C. Guevarra**, a clerk of the G.E. GARCIA Law Office with office address at Ground Floor, LAIKO Bldg., Cabildo St., Intramuros, City of Manila, after being duly sworn, do hereby depose and say:

That on August 29, 2017, I served a copy of the following pleading/paper.

NATURE OF PLEADING/PAPER

"COUNTER-MANIFESTATION

[TO THE MANIFESTATION DATED 7 AUGUST 2017]"

In **PET Case No. 005** entitled **"FERDINAND 'BONGBONG' R. MARCOS, JR., Protestant, -versus- MARIA LEONOR 'LENI DAANG MATUWID' G. ROBREDO, Protestee"**, pursuant to Sections 3, 4, 5 and 10, Rule 13 of the Rules of Court, as follows:

By Registered Mail:

R. R. Nos.

ATTY. ROMULO B. MACALINTAL
c/o Sardillo Sardillo Salom Law Office
Unit 802, Taipan Place, F. Ortigas Avenue
Ortigas Center, Pasig City

10078412419522

THE SOLICITOR GENERAL
134 Amorsolo Street
Legaspi Village, 1229 Makati City

10078412420022

By depositing a copy at the post office in Manila, as evidenced by Registry Receipt(s) No(s) and indicated after the name(s) of the addressee(s), and with instructions to the postmaster to return the mail to the sender after ten (10) days if undelivered.

August 29, 2017, Manila, Philippines.

JERRY C. GUEVARRA
Affiant

AUG 29 2017

SUBSCRIBED AND SWORN to before me this _____ at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

Doc. No. 8842
Page No. 70
Book No. IX
Series of 2017.

ATTY. RAUL M. MONTINO
Notary Public
Until December 31, 2017
PTR No. 1089114 - 2017
Rd. 12/2816, Manila
IBP Referral No. 518899
S.C. Roll No. 57283
MCLE Comp. No. V-0010704
Rm. 2100 Silo Grande
409 A, Soriano, Jr. Ave.
Intramuros, Manila 1100

VERIFIED DECLARATION

I, **JERRY C. GUEVARRA**, a clerk of the G.E. GARCIA Law Office with office address at Ground Floor, LAIKO Bldg., Cabildo St., Intramuros, City of Manila, hereby declare that the document/s (and annexes thereof) hereto submitted electronically in accordance with the Efficient use of Paper Rule is/are complete and true copy/ies of the document/s **"COUNTER-MANIFESTATION [TO THE MANIFESTATION DATED 7 AUGUST 2017]"** in **PET Case No. 005** entitled **FERDINAND "BONGBONG" R. MARCOS, JR., Protestant, -versus- MARIA LEONOR "LENI DAANG MATUWID" G. ROBREDO, Protestee**, filed with the Presidential Electoral Tribunal.

Signature: _____
Printed Name: **Jerry C. Guevarra**
Position: Staff
Date: August 29, 2017

SUBSCRIBED AND SWORN to before me this AUG 29 2017
at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

ATTY. RAUL R. MONTINO
Notary Public
Until December 31, 2017
PTR No. 5859114-2017
Id. 1228/10 Manila
IBP Lifetime No. 612899
SC Roll No. 57289
MCLE Comp. No. V-4019704
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Intramuros, Manila 1002

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Page No. 10 ;
Book No. IX ;
Series on 2017.