

Republic of the Philippines  
**PRESIDENTIAL ELECTORAL TRIBUNAL**  
Manila

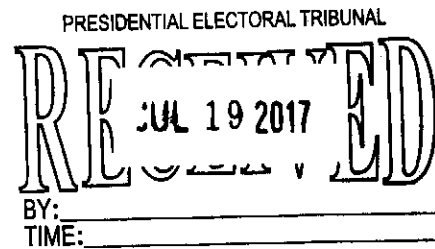
**FERDINAND "BONGBONG" R.  
MARCOS, JR.,**

*Protestant,*

-versus-

**PET Case No. 005**

For: Election Protest  
Vice-President

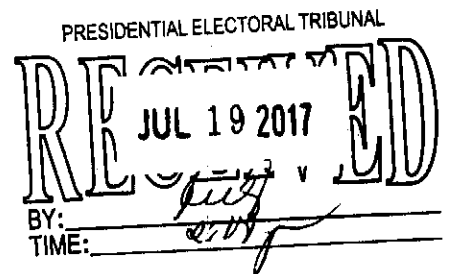


**MARIA LEONOR "LENI DAANG  
MATUWID" G. ROBREDO,**

*Protestee.*

X - - - - - X

**MANIFESTATION**



Protestant **FERDINAND "BONGBONG" R. MARCOS, JR.** ("protestant Marcos"), through the undersigned counsels, unto this Honorable Presidential Electoral Tribunal ("PET"), most respectfully manifests that he filed a *Comment [To the Preliminary Conference Guides]* via registered mail on **18 July 2017** due to lack of time and manpower constraints.

A copy of the *Comment [To the Preliminary Conference Guides]* is herewith attached for the convenient reference of this Honorable Presidential Electoral Tribunal.

Considering that a copy of the aforementioned Comment was already served to the counsel of the protestee and to the Office of the Solicitor General by registered mail, herein protestant will no longer attach a copy thereof in the service copies of this Manifestation.


Respectfully submitted.

City of Manila, Philippines, **19 July 2017.**

**G.E. GARCIA LAW OFFICE**

*Lead Counsel for the Protestant*  
Ground Floor, LAIKO Building  
Cabildo St., Intramuros, Manila 1002  
Tele/Fax No. (02) 527-7261  
Email: geglaw.office@gmail.com

By:



**GEORGE ERWIN M. GARCIA**

Roll of Attorneys No. 44950  
PTR No. 5989759; 01-04-17; Manila  
IBP Lifetime No.02652; Cavite Chapter  
MCLE Compliance No. V- 0011708; 11-09-15



**JOAN M. PADILLA**

Roll of Attorneys No. 54079  
PTR OR No. 2395448; 01-03-2017; Quezon City  
IBP Lifetime Membership No. 07416; Makati Chapter  
MCLE Compliance No. V-0012772; 12-15-2015

**MOST LAW**

(Formerly: Marcos Ochoa Serapio & Tan Law Firm)  
*Collaborating Counsel for the Protestant*  
30<sup>th</sup> Floor, Tycoon Centre, Pearl Drive  
Ortigas Center, Pasig City 1605  
Tel No. (02) 634-6678  
(02) 638-20130 to 32  
Fax No. (02) 638-4255  
(02) 638-9151  
Email: [inquiry@mostlawfirm.net](mailto:inquiry@mostlawfirm.net)

By:

**JOSE AMOR M. AMORADO**

Roll of Attorney's No. 33887  
PTR No. 2495152; 01-10-17; Pasig City  
IBP Lifetime Member No. 00054; Batangas  
MCLE Compliance No. V-0012314; 12-08-15

Copies furnished:

R-R-#

**ATTY. ROMULO B. MACALINTAL**

*Lead Counsel for Protestee Robredo*  
c/o Sardillo Sardillo Salom Law Office  
Unit 802, Taipan Place, F. Ortigas Avenue,  
Ortigas Center, Pasig City

# RD 765 696 385 22

**THE SOLICITOR GENERAL**

134 Amorsolo Street  
Legaspi Village, 1229 Makati City

RD 765 696 394 22

**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 *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**

**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 July JUL 19 2017, 2017, I served a copy of the following pleading/paper.

**NATURE OF PLEADING/PAPER**

**"MANIFESTATION"**

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:***

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

**R. R. Nos.**

RD. 765 696 385 22

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

RD. 765 696 394 22


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.

July JUL 19 2017, 2017, Manila, Philippines.

**JERRY C. GUEVARRA**  
*Affiant*

**SUBSCRIBED AND SWORN** to before me this JUL 19 2017 at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

Doc. No. 912  
Page No. 182  
Book No. 43  
Series of 2017.

  
**ATTY. PEDRO D. GENATO**  
Notary Public until Dec 31, 2017  
Notarial Commission 2016-011 Mla.  
IBP# 1009339 Pasig 09-24-15 until 2017  
PTR# 5939551 - Mla. 1-3-2017  
Roll# 12088, TIN# 132-436-687  
MCLE Compl. No. V-0005232 until 4-14-16

## **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 **"MANIFESTATION"** 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: JUL 19 2017, 2017

**SUBSCRIBED AND SWORN** to before me this JUL 19 2017  
at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

\_\_\_\_\_  
Person Administering Oath

Doc. No. 913 ;  
Page No. 183 ;  
Book No. 43 ;  
Series on 2017.

**ATTY. PEDRO D. GENATO**  
Notary Public until Dec. 31, 2017  
Notarial Commission 1016-011 Mla.  
IBP# 1009239 Pasig 02-24-15 until 2017  
PTR# 5939551 - RDO. 1-3-2017  
Roll# 12083, TIN# 131-026-657  
MCLE Compl. No. V-0005232 until 4-14-17

Republic of the Phil  
**PRESIDENTIAL ELECTOR**  
 Manila

REGISTRY RECEIPT

Post Office  
 REGISTERED  
 Registered Package  
 RECEIVING UNIT  
 Posted on  
 JUL 18 2017

RD 756 208 133 ZZ

20

Presented this receipt for reference in case of inqui

Postmaster/Teller

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

*Protestant,*

-versus-

**PET Case No. 005**

For: Election Protest  
 Vice-President

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

*Protestee.*

X - - - - - X

PRESIDENTIAL ELECTORAL TRIBUNAL

**RECEIVED**

JUL 19 2017

BY: *[Signature]*

TIME: *[Signature]*

## **COMMENT**

[TO THE PRELIMINARY CONFERENCE GUIDES]

Protestant **FERDINAND "BONGBONG" R. MARCOS, JR.** ("protestant Marcos"), through the undersigned counsels, unto this Honorable Presidential Electoral Tribunal ("PET"), in compliance with the directive made in open session on **11 July 2017**, most respectfully submits the foregoing *Comment to the Preliminary Conference Guides*, thus:

### *Preliminary Conference Guide No. 1*

**1.** Protestant Marcos respectfully manifests his conformity with the common admissions stated in paragraphs 1 to 8 of Preliminary Conference Guide No. 1 as the same faithfully reflects the submissions of both parties in their respective Preliminary Conference Briefs.

### *Preliminary Conference Guide No. 2*

**2.** Protestant Marcos also concurs with his admissions stated in paragraphs 1 to 4 of Preliminary Conference Guide No. 2 given that these are among the admissions mentioned in his *Preliminary Conference Brief* dated 15 July 2017.

*Preliminary Conference Guide No. 3*

3. Protestant Marcos acknowledges the admissions of the protestee stated in paragraphs 1 to 21 of Preliminary Conference Guide No. 3. However, there is a need to clarify the following:

3.1. In paragraph 19 of Preliminary Conference Guide No. 3, the garnered votes by protestant Marcos in Camarines Sur should be corrected because what was reflected therein is only **21,219** votes. A review of the Provincial Certificate of Canvass of Camarines Sur would show that protestant Marcos obtained **41,219** votes in the said province.

3.2. In paragraph 21 of Preliminary Conference Guide No. 3, the votes obtained by the parties in the provinces of **Abra, Bataan, Capiz, South Cotabato, Antique and North Cotabato** should corrected in this manner to faithfully reflect the votes of the parties as per the Provincial Certificates of Canvass, thus:

Province	Votes based on Preliminary Conference Guide No. 3		Actual Votes Obtained as per the Provincial Certificates of Canvass	
	Marcos	Robredo	Marcos	Robredo
Abra	112,734		<b>112,694</b>	
Bataan	184,760		<b>184,670</b>	
Capiz		253,110		<b>253,290</b>
South Cotabato		176,766		<b>177,396</b>
Antique	44,640	118,960	<b>44,663</b>	<b>119,055</b>
North Cotabato	169,109	128,896	<b>169,177</b>	<b>129,141</b>

*Preliminary Conference Guide No. 4*

4. Protestant Marcos affirms the proposal for stipulations stated in paragraphs 1 to 33 of Preliminary Conference Guide No. 4 as the same is consistent with his Proposal for Stipulations reflected in his *Preliminary Conference Brief* dated 15 June 2017.

*Preliminary Conference Guide No. 5*

**5.** Protestant Marcos **denies** the proposal for stipulations of the protestee stated in paragraphs 1 to 29 of Preliminary Conference Guide No. 5, except the stipulations mentioned below which are hereby admitted by him with the following qualifications:

**5.1.** The existence and issuance of TEC Resolution No. **2016-001** dated 30 April 2016 since this is a common exhibit;

**5.2.** The existence and issuance by the SLI Global Solutions of the Final Certification Test Report dated 14 April 2016 since this is a common exhibit;

**5.3.** The transparency server is located in Pope Pius Center, Manila;

**5.4.** The Province of Lanao del Sur is composed of Thirty-Nine (39) municipalities and One (1) City;

**5.5.** Based on the Project of Precincts for the 09 May 2016 National and Local Elections, the Province of Lanao del Sur had a total of Four Hundred Eighty-Four Thousand Four Hundred Thirty-Five (484,435) registered voters;

**5.6.** A total of Four Hundred Twenty-One Thousand Fifty-Seven (421,057) registered voters actually voted based on the Provincial Certificate of Canvass;

**5.7.** The Province of Maguindanao is composed of Thirty-Six (36) municipalities;

**5.8.** Based on the Project of Precincts for the 09 May 2016 National and Local Elections, the Province of Maguindanao had a total of Six Hundred Thirty-Four Thousand Three Hundred Twenty-Three (634,323) registered voters and not Five Hundred Thirty Thousand Seven Hundred Ninety-Three (530,793) registered voters as reflected in protestee's *Preliminary Conference Brief* dated 16 June 2017 and Preliminary Conference Guide No. 5;

**5.9.** A total of Four Hundred Ninety-Six Thousand Three Hundred Nineteen (496,319) registered voters actually voted



based on the Provincial Certificate of Canvass and not Five Hundred Thirty Thousand Seven Hundred Ninety-Three (530,793) actual voters as reflected in protestee's *Preliminary Conference Brief* dated 16 June 2017 and Preliminary Conference Guide No. 5;

**5.10.** The Province of Basilan is composed of Eleven (11) municipalities and two (2) cities and not one (1) city as reflected in protestee's *Preliminary Conference Brief* dated 16 June 2017 and Preliminary Conference Guide No. 5;

**5.11.** Based on the Project of Precincts for the 09 May 2016 National and Local Elections, the Province of Basilan had a total of Two Hundred Thirty-Six Thousand Fifty (236,050) registered voters and Four Hundred Twenty-Two (422) clustered precincts which functioned;

**5.12.** A total of One Hundred Ninety Thousand Seven Hundred Four (190,704) registered voters actually voted based on the Provincial Certificate of Canvass.

*Preliminary Conference Guide No. 6*

**6.** Protestant Marcos affirms the proposed issues reflected in pages 1 and 2 of Preliminary Conference Guide No. 6 for being in conformity with the Proposed Issues submitted by the protestant in his *Preliminary Conference Brief* dated 15 June 2017.

**7.** Protestant Marcos also acknowledges the proposed issues reflected in pages 3 and 4 of Preliminary Conference Guide No. 6 for faithfully reflecting the Proposed Issues submitted by the protestee in her *Preliminary Conference Brief* dated 16 June 2017.

*Preliminary Conference Guide No. 7*

**8.** Protestant Marcos confirms the proposed witnesses for the protestant stated in pages 1 to 48 of Preliminary Conference Guide No. 7 for being consistent with his proposed witnesses as contained in his *Preliminary Conference Brief* dated 15 June 2017.

9. During the preliminary conference in this case, the Honorable Tribunal directed both parties to limit their respective witnesses for this case. For the first cause of action, protestant Marcos was directed to limit his witnesses to not more than twenty-five (25), while the protestee was directed to limit her witnesses for the first cause of action to not more than ten (10) witnesses.

10. With all due respect, protestant Marcos would like to maintain the presentation of his fifty-one (51) witnesses for the first cause of action since their respective testimonies are material and relevant to prove the allegations raised by the protestant in this election protest in so far as the first cause of action is concerned. The technical aspects involved in proving the material allegations for the first cause of action necessitate the presentation of all these 51 witnesses. Consequently, protestant Marcos cannot dispense with the presentation of these 51 witnesses before the Panel of Commissioners of this Honorable Tribunal.

11. As for the second cause of action (*i.e.*, annulment of election results in Maguindanao, Lanao Del Sur and Basilan), protestant Marcos would like to reiterate his reservation for the presentation of handwriting, technology, and other technical experts, and forensic investigators as additional witnesses to testify on the result 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 Election Day Computerized Voter's List (EDCVL), and voters registration records (VRRs), the books of voters and other pertinent election documents and/or paraphernalia used in the elections, as well as the 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.

12. Protestant Marcos would also like to reserve the presentation of three (3) registered voters and/or members of the Board of Election Inspectors to identify paper ballots and/or the ballot

images, voter's receipts, and signatures on the lists of voters, particularly the Election Day Computerized Voter's List (EDCVL), voters registration records (VRRs), and the books of voters used during the 09 May 2016 National and Local Elections 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.

**13.** As mentioned in his Preliminary Conference Brief dated 15 June 2017, protestant Marcos shall file a formal request for the issuance of *subpoenas ad testificandum* (and *subpoenas duces tecum*, if necessary) to secure the appearance of the above-mentioned witnesses for purposes of executing their respective judicial affidavits and their attendance during the trial of this Election Protest.

**14.** Now for the third cause of action (*i.e.*, judicial recount and revision), protestant Marcos maintains his position that he 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, 2<sup>ND</sup> 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.

**15.** After all, the waiver of testimonial evidence in so far as the third cause of action is concerned is immaterial because it is jurisprudentially settled that the "**ballots 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.**<sup>1</sup>

---

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

**16.** In fact, evidence aliunde is not necessary to proceed with the judicial recount and revision of the ballots in an election protest. In the case of *Jeremias F. Dayo v. COMELEC and Amadeo M. Gaasis*,<sup>2</sup> 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 because the trial court did not give private respondent (the protestant) a chance to substantiate his allegations."<sup>3</sup> [Emphasis supplied.]

**17.** In the case of *James Miguel v. COMELEC and Eladio M. Lapuz*,<sup>4</sup> 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:

<sup>2</sup> G.R. No. 94681, 18 July 1991.

<sup>3</sup> *Id.*

<sup>4</sup> G.R. No.136966, 5 July 2000.

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:

"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."<sup>5</sup> [Citations omitted; emphasis supplied.]

---

<sup>5</sup> *Id.*

18. More recently, in the case of *Douglas R. Cagas v. COMELEC and Claude P. Bautista*,<sup>6</sup> 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:

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

<sup>6</sup> G.R. No. 194139, 24 January 2012.

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*,<sup>30</sup> 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.<sup>7</sup> [Citations omitted; emphasis supplied.]

---

<sup>7</sup> *Id.*



**19.** As for the proposed witnesses for the protestee mentioned in pages 49 to 98 of Preliminary Conference Guide No. 7, protestant Marcos acknowledges that the list of protestee's proposed witnesses is made in accordance with the protestee's *Preliminary Conference Brief* dated 16 June 2017.

*Preliminary Conference Guide No. 8*

**20.** Protestant Marcos affirms that there are no admissions pertaining to the Counter-Protest.

**21.** As for the protestee's proposed stipulations for the Counter-Protest, the same are hereby denied by protestant Marcos denies.

**22.** Protestee Marcos acknowledges the proposed issues and proposed witnesses of the protestee in connection with the Counter-Protest given that the same faithfully reflects the proposed issues and witnesses mentioned in her *Preliminary Conference Brief* dated 16 June 2017.

**23.** Finally, during the preliminary conference, the Honorable Tribunal presented for discussion the possibility of impleading the Commission on Elections (Comelec) as a party to this election protest because of the first cause of action of protestant Marcos in this election protest.

**24.** With all due respect, protestant Marcos would like to vehemently object to the inclusion of the Comelec as a party to the above-entitled case.

**25.** It is very clear from the provisions of the **2010 Rules of the Presidential Electoral Tribunal**,<sup>8</sup> 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

---

<sup>8</sup> A.M. No. 10-4-29-SC.

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)

26. Moreover, in the case of **Torres-Gomez v. Codilla**,<sup>9</sup> 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.<sup>10</sup>

27. That being the case, it is respectfully submitted that it would be **HIGHLY UNPROCEDURAL** to implead the Comelec as a party to this election protest.

28. Besides, the interest of the Comelec with regard to the first cause of action is adequately safeguarded given that the concerned commissioners, officers and employees thereof, were included as witnesses by the parties in this election protest.

29. Furthermore, it must be stressed that the proceedings in this election protest is already delayed, and to implead the Comelec, at this stage, would further impede the resolution of this election protest.

30. This is contrary to the clear mandate of the PET Rules of Procedure to achieve a **just, inexpensive, orderly and expeditious disposition of every election contest** before this Honorable Tribunal.

---

<sup>9</sup> 684 Phil. 632, 646 (2011).

<sup>10</sup> *Id.*

**31.** Finally, it bears emphasis that any further delay in the disposition of this election protest is an affront to public interest which dictates that electoral controversies like the instant case be resolved with dispatch to settle once and for all the issue of legitimacy of the proclamation of the protestee and for the determination of the true winner and lawful choice of the electorate.

### **PRAYER**

**ACCORDINGLY**, it is most respectfully prayed of this Honorable Tribunal that the foregoing *Comment to the Preliminary Conference Guides* be **ADOPTED** in the Preliminary Conference Order and **ADMITTED** to form part of the records of this case.

**OTHER RELIEFS**, just and equitable under the premises, are likewise prayed for.

City of Manila, Philippines, **17 July 2017.**

#### **G.E. GARCIA LAW OFFICE**

*Lead Counsel for the Protestant*  
Ground Floor, LAIKO Building  
Cabildo St., Intramuros, Manila 1002  
Tele/Fax No. (02) 527-7261  
Email: geglaw.office@gmail.com

By:

#### **GEORGE ERWIN M. GARCIA**

Roll of Attorneys No. 44950  
PTR No. 5989759; 01-04-17; Manila  
IBP Lifetime No. 02652; Cavite Chapter  
MCLE Compliance No. V- 0011708; 11-09-15

#### **JOAN M. PADILLA**

Roll of Attorneys No. 54079  
PTR OR No. 2395448; 01-03-2017; Quezon City  
IBP Lifetime Membership No. 07416; Makati Chapter  
MCLE Compliance No. V-0012772; 12-15-2015

**MOST LAW**

(Formerly: Marcos Ochoa Serapio & Tan Law Firm)

*Collaborating Counsel for the Protestant*

30<sup>th</sup> Floor, Tycoon Centre, Pearl Drive

Ortigas Center, Pasig City 1605

Tel No. (02) 634-6678

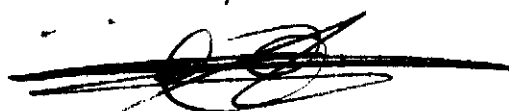
(02) 638-20130 to 32

Fax No. (02) 638-4255

(02) 638-9151

Email: [inquiry@mostlawfirm.net](mailto:inquiry@mostlawfirm.net)

By:



**JOSE AMOR M. AMORADO**

Roll of Attorney's No. 33887

PTR No. 2495152; 01-10-17; Pasig City

IBP Lifetime Member No. 00054; Batangas

MCLE Compliance No. V-0012314; 12-08-15

Copy Furnished:

**ATTY. ROMULO B. MACALINTAL**

*Lead Counsel for Protestee Robredo*

c/o Sardillo Sardillo Salom Law Office

Unit 802, Taipan Place, F. Ortigas Av

Ortigas Center, Pasig City

**THE SOLICITOR GENERAL**

134 Amorsolo Street

Legaspi Village, 1229 Makati City

REGISTERED  
POST OFFICE  
RECEIVING UNIT  
RD 765 695 819 ZZ  
Post Office 18 2017  
Letter/Package No. \_\_\_\_\_  
Posted on \_\_\_\_\_ 20  
Preserve this receipt for reference in case of inquiry  
Postmaster/Teller

REGISTERED  
POST OFFICE  
RECEIVING UNIT  
RD 765 695 805 ZZ  
Post Office 18 2017  
Letter/Package No. \_\_\_\_\_  
Posted on \_\_\_\_\_ 20  
Preserve this receipt for reference in case of inquiry  
Postmaster/Teller

(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 July 18, 2017, I served a copy of the following pleading/paper.

NATURE OF PLEADING/PAPER

**"COMMENT"**

[TO THE PRELIMINARY CONFERENCE GUIDES]

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

70 76569581922

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

10076569560572

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.

July 18, 2017, Manila, Philippines.

**JERRY C. GUEVARRA**  
*Affiant*

**SUBSCRIBED AND SWORN** to before me this JUL 18 2017 at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

Doc. No. 549  
Page No. 180  
Book No. 43  
Series of 2017.

ATTY. EDWARD GENATO  
Murray Hill, NJ 07033  
Memorial Cemetery, 2016-2017  
Hwy 100935, 2016-2017  
PT 28 50940, 2016-2017  
Roll# 12016, 2016-2017  
MCLE Compl. No. V-0005252 until 4-14-19

### **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 *Comment [to the Preliminary Conference Guides]* were filed before this Honorable Tribunal and served to the above-mentioned parties by registered mail, personal service being impractical due to time and manpower constraints.



**GEORGE ERWIN M. GARCIA**

## 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 "**COMMENT** [TO THE PRELIMINARY CONFERENCE *GUIDES*]" 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: JUL 18 2017, 2017

**SUBSCRIBED AND SWORN** to before me this JUL 18 2017 at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

\_\_\_\_\_  
Person Administering Oath

Doc. No. 900 ;  
Page No. 180 ;  
Book No. 43 ;  
Series on 2017.

~~ATTY. PEDRO D. GENATO~~  
Notary Public until Dec. 31, 2017  
Notarial Commission 2016-011 Mla.  
ID# 1009339 Pasig 09-24-15 until 2017  
PTR# 5939951 - Mla. 1-3-2017  
Roll# 12088, TIN# 132-436-687  
MCLE Compl. No. V-0005232 until 4-14-18