

**FILE COPY**

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

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

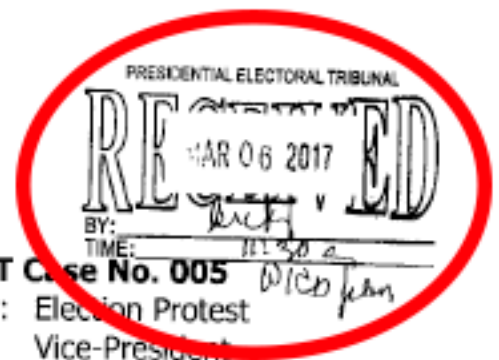
*Protestant,*

-versus-

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

*Protestee.*

X ----- X



**REPLY**

[TO PROTESTEE'S COMPLIANCE AND COMMENT DATED  
17 FEBRUARY 2017]

Protestant **FERDINAND "BONGBONG" R. MARCOS, JR.** ("protestant Marcos"), through the undersigned counsels, unto this Honorable Presidential Electoral Tribunal ("PET"), in compliance with the Resolution dated **21 February 2017**, copy of which was received on **28 February 2017**, most respectfully alleges the following:

**1.** Protestee Maria Leonor "Leni Daang Matuwid" G. Robredo ("protestee Robredo") has not interposed any compelling reason as to why this Honorable Tribunal should not proceed with the conduct of the Preliminary Conference in this case in accordance with **A.M. No. 10-4-29-SC**, otherwise known as the "*2010 Rules of the Presidential Electoral Tribunal*."

**2. Rule 29 of A.M. No. 10-4-29-SC** expressly provides that:

**Rule 29. Preliminary Conference.** -

(a) *Purpose.* - **After the filing of the last pleading, the Tribunal shall order a preliminary conference** to consider:

(1) the possibility of obtaining stipulations or admissions of facts and documents to avoid unnecessary proof;

(2) the simplification of issues;

(3) the limitation of number of witnesses;

(4) the most expeditious manner for the retrieval of ballot boxes containing the ballots, election returns, certificates of canvass and other election documents involved in the election protest; and

(5) such other matters as may aid in the prompt disposition of the election protest or petition for *quo warranto*.

(b) *Preliminary conference brief.* - The parties shall file with the Tribunal and serve on the adverse party a preliminary conference brief at least five days before the date of the preliminary conference, which shall contain:

(1) stipulations or admissions of facts and documents;

(2) the issues to be resolved;

(3) the numbers and names of witnesses, and the nature and substance of their respective testimonies;

(4) the list of not more than three provinces which the parties may designate pursuant to Rule 65; and

(5) the proposal on the prompt disposition of the case.

(c) *Preliminary conference order.* - The tribunal shall issue an order reciting the matters taken up during the preliminary conference and the action thereon. (R28)<sup>1</sup>

3. The last pleading in this case, which is the **Answer Ad Cautelam to the Counter-Protest**, was filed as early as **09 September 2016**, yet there has been no action on the part of this Honorable Tribunal to order the setting of the Preliminary Conference.

4. This inaction is what compelled protestant Marcos to file an **Ex-Parte Motion to Set Case for Preliminary Conference** on **26 January 2017** pursuant to the clear mandate of **Rule 29 of A.M. No. 10-4-29-SC**.

5. To date, more than five (5) months have lapsed since the filing of the **Answer Ad Cautelam to the Counter-Protest**, the last pleading in this case. It thus behooves this Honorable Tribunal to

<sup>1</sup> Emphasis and underscoring supplied.

**immediately schedule** the conduct of the Preliminary Conference in this case as mandated by its own Rules of Procedure.

6. Protestee Robredo's opposition to the setting of the Preliminary Conference is obviously **DILATORY**. This Honorable Tribunal should not be swayed by her ambiguous and distorted arguments.

7. The conduct of the Preliminary Conference cannot be stifled by the pending incidents in this case. To rule otherwise will open the floodgates to abuses by incumbent protestees who will conveniently file flimsy and dilatory motions in order to drag the proceedings in an election protest. Needless to say, protracted delays in the resolution of electoral contest cases will only benefit protestees like Robredo -- at the expense of the electorate.

8. It must also be emphasized that, as a matter of practice in other electoral tribunals, the conduct of the Preliminary Conference is allowed to proceed **as a matter of course, without prejudice to the resolution of the pending incidents**. After all, the purpose of the Preliminary Conference is to discuss the order of trial and other procedural matters to aid the electoral tribunals like the PET to achieve a just, inexpensive, orderly and expeditious disposition of election contests.

9. Any further delay in the setting of the Preliminary Conference and the disposition of this election protest is an affront to the clear intent and mandate of PET's Rules of Procedure. Public interest 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.

10. If protestee Robredo has nothing to hide, why does she keep trying to delay the proceedings? What is there to fear about a simple Preliminary Conference?

11. As for the other contentions of protestee Robredo, it would appear that she miserably failed to understand protestant Marcos' actuations. It is clear that the objections raised by protestant Marcos relative to the (i) turn-over of the VCM's by COMELEC to Smartmatic, the (ii) the stripping activities in the Sta. Rosa warehouse and (iii) the procedure conducted during rebooting of the servers and the

decryption of the SD cards were pursuant to the Precautionary Protection Order ("PPO") issued by this Honorable Tribunal last **12 July 2016**, the pertinent portion of which states that:

xxx the Commission on Elections, your agents, representatives, or persons acting in your place or stead, including the city/municipal treasurers, election officers, and the responsible personnel and custodians, are hereby **DIRECTED** to **PRESERVE** and **SAFEGUARD** the integrity of all the ballot boxes and their contents, including the ballots, voter's receipts and election returns; the lists of voters, particularly the Election Day Computerized Voter's List (EDCVL), and voters registration records (VRRs), and the books of voters; the audit logs, transmission logs, and all log files; and all other documents or paraphernalia used in the May 2016 elections for the position of Vice-President of the Republic of the Philippines, including 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 data storage devices in all of the ninety-two thousand five hundred nine (92,509) clustered precincts used in the May 2016 elections, effective immediately and continuing until further orders from this Tribunal.

**12.** The First Cause of Action of protestant Marcos hinges on the preservation of all the software, hardware and data launched by Commission on Elections ("COMELEC") for the 2016 Automated Election System. All protestant Marcos wants to do is to make sure that the COMELEC and every party to this election protest adhere to guidelines of the PPO issued by this Honorable Tribunal.

**13.** The foregoing notwithstanding, there is no denying the fact that the arguments raised by protestee Robredo have been rendered moot and academic, since the conduct of the closure, stripping and backing-up activities have already commenced despite the objections of herein protestant.

**14.** Protestant Marcos' objections to the turnover of the VCMs to Smartmatic stemmed from his honest belief that the PPO should have properly covered all the election paraphernalia – **including** the machines used during the 2016 elections. Were it not for the onerous provision of the lease contract that the same would be "considered sold if not returned on time" the PPO should have covered the same.

**15.** By not demanding a reasonable exclusion provision in its lease contract, the COMELEC was grossly remiss in its duty to protect the public interest. Why should protestant Marcos be punished for this? Besides, common sense dictates that incidents occurring **after** the filing of an election protest should not be considered prejudicial to any cause of action. To rule otherwise would allow legitimate election protests to be sabotaged by subsequent actions.

**16.** In a long line of decided cases, the Supreme Court has held that in an election protest, different causes of action can proceed **independently** of each other. This is because the sovereign will of the people is the **core issue** in an election protest. Thus, the purpose of a preliminary conference is precisely to avoid unnecessary delays and speed up the process so that the people's voice will be heard.

**17.** Not content with seeking ways to delay the proceedings, protestee Robredo insists on bringing up another issue — that of the COMELEC's recent request to reboot the servers :

10. Recently, the parties and the Honorable Tribunal were made aware of the request of COMELEC to (i) reboot the server located in the MCR at the Sta. Rosa Warehouse, Laguna; (ii) conduct and undertake diagnostics thereon; and (iii) shut down the servers once diagnostics have been conducted"

11. On 14 February 2017, protestee Robredo received a Notice dated 13 February 2017 on the scheduled Diagnostics of the Election Management System on 24 February 2017.

**18.** These diagnostics and shut down activities have likewise been performed by COMELEC *albeit* in a partial manner because of an apparent hardware failure, more particularly the UPS, which clearly shows the defects in the system as well as the ineptness of the personnel assigned to handle computer servers that have crucial information relative to the May 2016 elections. A full report should be required by this Honorable Tribunal with respect to the results of this activity – especially because the same has a direct bearing on the integrity of the data stored in these servers. This will open up an opportunity — if it has not already happened -- of a "**convenient**" excuse, an "**inadvertent**" deletion as well as an "**opportune**" crashing of the servers due to the incomplete and interrupted diagnostics and shut down activities.

19. This activity, nonetheless, is not prejudicial to the setting of the long overdue Preliminary Conference. In fact, a Preliminary Conference would allow the parties a better opportunity to thresh out these observations.

20. By not taking care of the servers and other hardware in its Sta. Rosa, Laguna warehouse, the COMELEC was grossly remiss in its duty to protect the public interest. Why should protestant Marcos be punished for this?

21. With regard to the findings of data on the Secure Digital (SD) cards which were found on the supposedly **unused** contingency VCMs referred to by protestee in paragraph 12., 12.1, 12.2, and 12.3, these can also be properly discussed during the Preliminary Conference where all the parties are present. The presence of these data are indicative of **fraud** which is precisely the crux of the instant protest.

22. The revelation that several **unused** contingency VCMs contained data is yet another example of how the COMELEC was grossly remiss in its duty to protect the public interest. Why should protestant Marcos be punished for this?

23. These belated claims by protestee Robredo are nothing more than **dilatory tactics** meant to stop this Honorable Tribunal from fulfilling its mandate -- which is to determine whether or not massive cheating occurred in the May 2016 elections.

24. As an aside, it is noteworthy to mention that the Preliminary Conference in the case of **Manuel A. Roxas v. Jejomar C. Binay**<sup>2</sup> was scheduled on **30 September 2010** — i.e., **two (2) months** after the filing of Roxas' election protest on 9 July 2010.

25. In the instant case, eight (8) months have already lapsed since the filing of Marcos' election. Regrettably, the Preliminary Conference has yet to be scheduled.

26. The PET dismissed the case of **Manuel A. Roxas v. Jejomar C. Binay**<sup>2</sup> on 16 August 2016 and explained that "proceeding in this case until its resolution will then be an exercise in futility x x x considering that x x x the term of such office had already **expired**."

<sup>2</sup> Resolution in P.E.T No. 004 dated 16 August 2016.

<sup>3</sup> Resolution in P.E.T No. 004 dated 16 August 2016.

Knowing that the clock is ticking, it is now incumbent upon this Honorable Tribunal to set the Preliminary Conference in this case at the soonest possible time so as not to render this election protest moot and academic.

**27.** The term of a Vice-President is only **six** (6) years. 8 months have already gone by. If protestee Robredo has nothing to hide, then she should do everything in her power to **encourage** – rather than **hinder** — this election protest to move forward. The millions of voters who trooped to the polls 8 months ago deserve no less. They want the truth to come out. The sooner the better.

### **P R A Y E R**

**ACCORDINGLY**, it is most respectfully prayed of this Honorable Tribunal to **GRANT** the Motion to immediately set the case for preliminary conference.

Other reliefs, just and equitable under the premises, are also prayed for.

City of Manila, Philippines, **06 March 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

-in collaboration with-

**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:

**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

**THE SOLICITOR GENERAL**

134 Amorsolo Street

Legaspi Village, 1229 Makati City

± 1072639891477

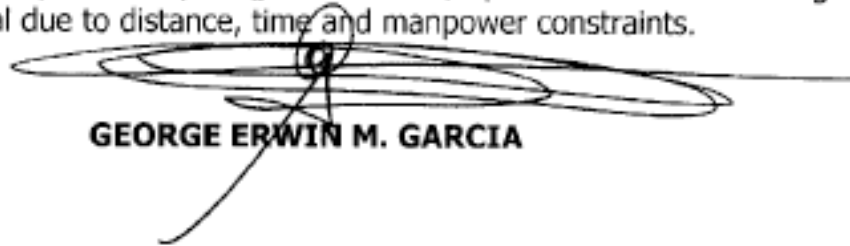
± 1072639892877



### **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 *Reply* were served to the above-mentioned parties by registered mail, personal service being impractical due to distance, time and manpower constraints.

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

**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 March 06, 2017, I served a copy of the following pleading/paper.

## **NATURE OF PLEADING/PAPER**

### **"REPLY**

[TO PROTESTEE'S COMPLIANCE AND COMMENT  
DATED 17 FEBRUARY 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:***

##### **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

#### ***R. R. Nos.***

RO72639591432

##### **THE SOLICITOR GENERAL**

134 Amorsolo Street  
Legaspi Village, 1229 Makati City

RO72639592832

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.

March 06, 2017, Manila, Philippines.

**JERRY C. GUEVARRA**  
*Affiant*

**SUBSCRIBED AND SWORN** to before me this MAR 06 2017 at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

Doc. No. 348  
Page No. 69  
Book No. 11  
Series of 2017.

**ATIL PEDRO D. GENATO**

Notary Public until Dec. 31, 2017  
Notarial Office No. 2016-011 MA.  
IBP# 19777, Exp. 09-24-15 until 2017  
PTitle Sec. 1-3-2017  
Roll# 12688, TIR# 132-436-687  
MCLE Compl. No. V-0005232 until 4-14-19

## **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 **"REPLY [TO PROTESTEE'S COMPLIANCE AND COMMENT DATED 17 FEBRUARY 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: March 06, 2017

**SUBSCRIBED AND SWORN** to before me this MAR 06 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. 346 ;  
Page No. 42 ;  
Book No. 14 ;  
Series on 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# 5939951 - Mla, 1-3-2017  
Roll# 12088, TTN# 132-436-687  
MCLE Compl. No. V-0005232 until 4-14-19