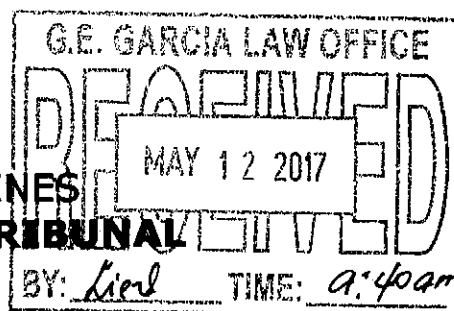


REPUBLIC OF THE PHILIPPINES  
**PRESIDENTIAL ELECTORAL TRIBUNAL**  
MANILA



**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

**URGENT EX-PARTE MOTION FOR LEAVE TO FILE AND**  
**ADMIT ATTACHED COMMENT AND OPPOSITION**  
**(TO THE OMNIBUS MOTION i. TO DISMISS THE**  
**COUNTER-PROTEST and ii. REITERATE THE**  
**IMMEDIATE SETTING OF THE PRELIMINARY**  
**CONFERENCE DATED 19 APRIL 2017)**

PROTESTEE **MARIA LEONOR G. ROBREDO**, by the undersigned counsel, to the Honorable Tribunal, respectfully states:

1. On 04 May 2017, protestee Maria Leonor G. Robredo (hereafter "Robredo" for brevity) received copy of the Omnibus Motion i. To Dismiss the Counter-Protest and ii. Reiterate the Immediate Setting of the Preliminary Conference dated 19 April 2017 ("Omnibus Motion") filed by protestant Ferdinand R. Marcos, Jr. (hereafter "Marcos" for brevity).

2. Protestant Marcos has misled the Honorable Tribunal when he invoked **Perla Garcia, et al., v. House of Representatives Electoral Tribunal and Angping<sup>1</sup>**

<sup>1</sup> G.R. No. 134792, 12 August 1999.

("Garcia") and **Bienvenido William D. Lloren v. Commission on Elections and Pua<sup>2</sup> ("Lloren")**.

3. The doctrine in Garcia and Lloren do not pertain to the non-payment of a cash deposit:

3.1. In Garcia, the issue was the failure of pay the cash deposit under Rules 21<sup>3</sup> and 33<sup>4</sup> of the 1998 Rules of the House of Representatives Electoral Tribunal in a petition for *quo warranto*.

3.2. On the other hand, the issue raised to the Supreme Court in Lloren is the payment of the appeal fee and not cash deposit.

4. Notwithstanding the inapplicability of Garcia and Lloren, protestant Marcos alleged:

"8. Actually, this is not a novel issue. In the case of **Perla Garcia, et al., v. House of Representatives Electoral Tribunal (HRET) and Rep. Harry**

---

<sup>2</sup> G.R. No. 196355, 18 September 2012.

<sup>3</sup> Rule 21 of the 1998 Rules of the House of Representatives Electoral Tribunal provides:

*"Summary Dismissal of Election Contest.* – An election protest or petition for *quo warranto* may be summarily dismissed by the Tribunal without the necessity of requiring the protestee or respondent to answer if, *inter alia*:

- (1) the petition is insufficient in form and substance;
- (2) the petition is filed beyond the period provided in Rules 16 and 17 of these Rules;
- (3) the filing fee is not paid within the period provided for filing the protest or petition for *quo warranto*;
- (4) in case of protests where a cash deposit is required, the cash deposit or the first P100,000.00 thereof, is not paid within ten (10) days after the filing of the protest;
- (5) the petition or copies thereof and the annexes thereto filed with the Tribunal are not clearly legible."

<sup>4</sup> Rule 33 of the 1998 Rules of the House of Representatives Electoral Tribunal provides:

*"Effect of Failure of Make Cash Deposit.* – If party fails to make the cash deposits or additional deposits herein provided within the prescribed time limit, the Tribunal may dismiss the protest, counter-protest, or petition for *quo warranto*, or take such action as it may deem equitable under the circumstances."

to be determined since it has to be based on the number of ballot boxes and other election documents and paraphernalia to be collected and brought to the Tribunal. Therefore, depending on the amount that may be required for the collection of the ballot boxes and other election documents and paraphernalia, the parties are given specified periods within which to pay. Thus, when the required amount of cash deposits does not exceed P75,000.00, the party concerned must make the deposit within ten (10) days after the filing of the protest or counter-protest; otherwise, when it exceeds P75,000.00 he is required to make a partial deposit of at least P75,000.00 likewise within ten (10) days and the balance payable in installments as may be determined by the Tribunal."

3.2. Unlike Garcia, the instant petition is an Election Protest which requires the bringing of the ballot boxes to the Honorable Tribunal.

3.3. Furthermore, in Garcia, the Supreme Court upheld the Resolution of the House of Representatives Electoral Tribunal as it found that there was an unreasonable delay in the payment of the **fixed cash deposit in the petition for quo warranto**.

3.4. This is not the case at bar.

3.5. Protestee Robredo is not delaying the payment of the required cash deposit.

3.6. Protestee Robredo is merely requesting the Honorable Tribunal to defer requiring her to pay the

2. Thereafter, the attached Comment and Opposition be ADMITTED to form part of the records.

Protestee Robredo prays for such other relief as may be just and equitable in the premises.

Pasig City for Manila. 05 May 2017.

**ATTY. ROMULO B. MACALINTAL**

*Lead Counsel for Protestee*

*Maria Leonor G. Robredo*

13 Cagayan Valley Street,  
Philamlife Village, Las Pinas City

Telephone No. 0918-9107454

Roll No. 29040

PTR No. 11214198J/12 January 2017/Las Pinas City

IBP Lifetime No. 0724

MCLE Compliance No. V-0018139/13 April 2016

rbmacalintal@gmail.com

**SARDILLO SARDILLO SALOM LAW OFFICE**

*Collaborating Counsel for Protestee*

*Maria Leonor G. Robredo*

Unit 802, Taipan Place, F. Ortigas Avenue,  
Ortigas Center, Pasig City

02.706.4272/02.706.4273

By

  
**MARIA BERNADETTE V. SARDILLO**

Roll No. 45897

PTR No. 2362138/03 January 2017/Pasig City

IBP Lifetime No. 07133

MCLE Compliance No. V-0010907/30 September 2015

beng.sardillo@s3law.com

## **REQUEST**

**THE SECRETARY OF THE TRIBUNAL  
PRESIDENTIAL ELECTORAL TRIBUNAL  
MANILA**

Please submit the foregoing "*Urgent Ex-Parte Motion For Leave to File and Admit Attached Comment and Opposition*" for the consideration and approval of the Honorable Tribunal immediately upon receipt hereof without need for oral arguments.

  
**MARIA BERNADETTE V. SARDILLO**

**NOTICE OF HEARING**

**ATTY. GEORGE ERWIN M. GARCIA**  
**ATTY. JOAN M. PADILLA**  
**G. E GARCIA LAW OFFICE**

*Lead Counsel for Protestant*  
Ground Floor Laiko Building  
372 Cabildo Street, Intramuros,  
1002 Manila

**OFFICE OF THE SOLICITOR GENERAL**

134 Amorsolo Street  
Legaspi Village, 1229 Makati City

Please take note that undersigned counsel will submit the foregoing "*Urgent Ex-Parte Motion For Leave to File and Admit Attached Comment and Opposition*" for the consideration and approval of the Honorable Tribunal immediately upon receipt thereof without need for further oral arguments.

  
**MARIA BERNADETTE V. SARDILLO**

Copy furnished:

**ATTY. GEORGE ERWIN M. GARCIA**  
**ATTY. JOAN M. PADILLA**  
**G. E GARCIA LAW OFFICE**

*Lead Counsel for Protestant*  
Ground Floor Laiko Building  
372 Cabildo Street, Intramuros,  
1002 Manila

**OFFICE OF THE SOLICITOR GENERAL**

134 Amorsolo Street

Legaspi Village, 1229 Makati City

**EXPLANATION**

Due to unavailability of messengers and the distance of the parties, copies of the *"Urgent Ex-Parte Motion For Leave to File and Admit Attached Comment and Opposition"* were sent to the above-named parties by registered mail.



**MARIA BERNADETTE V. SARDILLO**

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

**COMMENT AND OPPOSITION**  
**(TO THE OMNIBUS MOTION i. TO DISMISS THE**  
**COUNTER-PROTEST and ii. REITERATE THE**  
**IMMEDIATE SETTING OF THE PRELIMINARY**  
**CONFERENCE DATED 19 APRIL 2017)**

PROTESTEE **MARIA LEONOR G. ROBREDO**, by the undersigned counsel, to the Honorable Tribunal, respectfully states:

**I.**

**The motion to dismiss should be (i) treated as a sham pleading and stricken off the records of this case, or (ii) denied.**

1. In seeking the dismissal of the Counter-Protest, protestant Ferdinand R. Marcos, Jr. (hereafter "Marcos" for brevity) invoked the rulings of the Supreme Court in **Perla Garcia, et al., v. House of Representatives Electoral Tribunal and Angping<sup>1</sup>** ("Garcia") and **Bienvenido William D. Lloren v. Commission on Elections and Pua<sup>2</sup>** ("Lloren").

<sup>1</sup>G.R. No. 134792, 12 August 1999.

<sup>2</sup>G.R. No. 196355, 18 September 2012.

2. Protestant Marcos' reliance on Garcia and Lloren is misplaced.

3. The issue in Garcia is the failure of pay the cash deposit under Rule 21<sup>3</sup> and Rule 33<sup>4</sup> of the 1998 Rules of the House of Representatives Electoral Tribunal in a petition for *quo warranto*.

3.1. Garcia (petitioner therein) failed to pay the cash deposit simultaneous with the filing fees:

"It may be argued that unlike in the case of election protests, no period is provided for to make the cash deposit in the case of petitions for *quo warranto*. However, the cash deposit required in *quo warranto* cases is fixed, i.e., P5,000.00. It does not vary nor can it be varied; **it is required to be paid together with the filing fee at the time the petition is filed.** It is different from a protest and/or counter-protest where the amount of the required cash deposit is yet

---

<sup>3</sup> Rule 21 of the 1998 Rules of the House of Representatives Electoral Tribunal provides:

"*Summary Dismissal of Election Contest.* – An election protest or petition for *quo warranto* may be summarily dismissed by the Tribunal without the necessity of requiring the protestee or respondent to answer if, *inter alia*:

the petition is insufficient in form and substance;  
the petition is filed beyond the period provided in Rules 16 and 17 of these Rules;  
the filing fee is not paid within the period provided for filing the protest or petition for *quo warranto*;  
in case of protests where a cash deposit is required, the cash deposit or the first P100,000.00 thereof, is not paid within ten (10) days after the filing of the protest;  
the petition or copies thereof and the annexes thereto filed with the Tribunal are not clearly legible."

<sup>4</sup> Rule 33 of the 1998 Rules of the House of Representatives Electoral Tribunal provides:

"*Effect of Failure of Make Cash Deposit.* – If party fails to make the cash deposits or additional deposits herein provided within the prescribed time limit, the Tribunal may dismiss the protest, counter-protest, or petition for *quo warranto*, or take such action as it may deem equitable under the circumstances."



**Angping,**<sup>5</sup> the Honorable Supreme Court upheld the summary dismissal of an election case for failure to make the required cash deposit within the time prescribed by the electoral tribunal, which in this case refers to the HRET.

9. The dismissal of an election case for non-payment of the required cash deposit within the prescribed time limit was likewise affirmed by the Honorable Supreme Court in the case of ***Bienvenido William D. Lloren v. Commission on Elections (COMELEC) and Rogelio Pua, Jr.***<sup>6</sup>

5. Thus, if only to clarify the misleading arguments of protestant Marcos in his Motion to Dismiss, protestee Robredo seeks leave to be allowed to file her Comment and Opposition.

6. Thereafter, protestee Robredo seeks the admission of the attached Comment and Opposition by the Honorable Tribunal.

7. Protestee Robredo is submitting the attached Comment and Opposition if only to clarify the arguments raised by protestant Marcos in his Omnibus Motion.

8. This motion is not intended for delay but dictated solely by the foregoing exigencies.

#### **PRAYER**

WHEREFORE, PREMISES CONSIDERED, it is respectfully prayed to the Honorable Tribunal that:

1. Protestee Maria Leonor G. Robredo be given leave to file the attached Comment and Opposition; and

<sup>5</sup> G.R. No. 134792, 12 August 1999.

<sup>6</sup> G.R. No. 196355, 18 September 2012.

cash deposit for her Counter-Protest until such time that the legitimacy of the Election Protest is determined.

3.7. Clearly, the doctrine in Garcia cannot be applied.

4. In the same vein, the doctrine in Lloren cannot be applied in the present case.

4.1. The issue raised to the Supreme Court in Lloren is the payment of the appeal fee.

4.2. In this present petition, however, the issue presented to this Honorable Tribunal is the payment of cash deposit in the Counter-Protest.

4.3. There is nothing in Lloren which makes the slightest inference to a cash deposit.

4.4. In fact, Lloren was specific as to the issue presented for resolution which is the timeliness of the payment of the appeal and motion fee; and, whether the appeal may be dismissed.

5. It is unfortunate that protestant Marcos has resorted to misleading the Honorable Tribunal with his insistence that:

"9. The dismissal of an election case for non-payment of the required cash deposit within the prescribed time limit was likewise affirmed by the Honorable Supreme Court in the case of ***Bienvenido William D. Lloren v. Commission on Elections and Rogelio Pua, Jr.***"

6. For the foregoing reasons, the Motion to Dismiss the Counter-Protest should be stricken off the records of this case.

7. In a further attempt to lend credence to his allegations, protestant Marcos also cited **Rule 34 of the 2010 Rules of the Presidential Electoral Tribunal** which provides:

*"Effect of failure to make cash deposit.*  
– If a party fails to make the cash deposits or additional deposits herein required within the prescribed time limit, the Tribunal **may** dismiss the protest or counter-protest, **or take such action as it may deem equitable under the circumstances.**" [Emphasis supplied.]

8. Protestant Marcos conveniently omitted to say that the dismissal of a protest or counter-protest, as the case may be, due to non-payment of cash deposit is discretionary and not mandatory.

9. Rule 34 of the 2010 Rules of the Presidential Electoral Tribunal, as invoked by protestant Marcos, provides that *the Tribunal may dismiss the protest or counter-protest.*

10. The use of the word "may" operates to confer discretion on the Honorable Tribunal.<sup>5</sup>

11. Hence, the non-payment of the cash deposit does not result at all to the dismissal of the counter-protest.

12. Further, Rule 34 of the 2010 Rules of the Presidential Electoral Tribunal also provides that the Honorable Tribunal may *take such action as it may deem equitable under the circumstances.*

13. Albeit having filed an Omnibus Motion (1) For Clarification; and (2) Reconsideration of the Resolution dated 21 March 2017 ("Omnibus Motion"), protestee Maria

---

<sup>5</sup> Grego v. Commission on Elections and Basco, G.R. No. 125955, June 19, 1997.

Leonor G. Robredo (hereafter "Robredo" for brevity) also explicitly manifested that:

13.1. She is very much willing to pay the cash deposit should the Omnibus Motion be denied; and

13.2. The Omnibus Motion is not a waiver nor an abandonment of her Counter-Protest.

14. In hastily accusing protestee Robredo of filing a dilatory motion, protestant Marcos has disregarded the foregoing.

15. Notably, protestee Robredo, despite the modified schedule of the Honorable Tribunal and in less than twenty-four (24) hours after receiving the Resolution dated 21 March 2017, immediately filed her Omnibus Motion.

16. It is equally important to stress that under the Resolution dated 21 March 2017, the parties are directed to pay their respective cash deposits in two (2) installments – 14 April 2017 and 14 July 2017.

17. The Omnibus Motion filed by protestee Robredo could not have caused any delay as the collection and retrieval of the ballot boxes can only be undertaken after the full payment of both installments.

18. Once more, protestant Marcos recklessly imputes his perceived delay in the proceedings to protestee Robredo without any basis in fact.

19. More importantly, in compliance with the Resolution dated 25 April 2017, protestee Robredo paid the first installment of the cash deposit for her Counter-Protest on 02 May 2017.

20. Having already paid, the issue on the non-payment of the cash deposit for the Counter-Protest has become moot and academic.

21. Thus, the Motion to Dismiss the Counter-Protest should be DENIED.

## **II.**

### **There are pending matters for resolution of the Honorable Tribunal.**

22. In the Resolution dated 25 April 2017, the Honorable Tribunal already granted the Motion to Set for Preliminary Conference.

23. While the Honorable Tribunal scheduled the Preliminary Conference, it also took note of the pendency of several matters.

24. To date, the Honorable Tribunal has yet to resolve:

24.1. Urgent Ex-Parte Motion to Consider as Waived the Right of Protestant Marcos to File an Answer to the Counter-Protest, filed by protestee Robredo on 07 September 2016;

24.2. Manifestation with Urgent Ex-Parte Motion to Expunge from the Records the Answer *Ad Cautelam* to the Counter-Protest, filed by protestee Robredo on 19 September 2016; and

24.3. Motion for Reconsideration, *Pro Tanto* with Prayer to Set for Hearing, filed by protestee Robredo on 27 February 2017.

25. These pending incidents must first be resolved so as not to render the conduct of a Preliminary Conference moot and academic.

## **PRAYER**

WHEREFORE, PREMISES CONSIDERED, it is respectfully prayed to the Honorable Tribunal that the Motion To Dismiss the Counter-Protest be treated as a sham pleading and stricken off the records, or be denied.

Protestee Robredo prays for such other relief as may be just and equitable in the premises.

Pasig City for Manila. 05 May 2017.

**ATTY. ROMULO B. MACALINTAL**

*Lead Counsel for Protestee*

*Maria Leonor G. Robredo*

13 Cagayan Valley Street,  
Philamlife Village, Las Pinas City

Telephone No. 0918-9107454

Roll No. 29040

PTR No. 11214198J/12 January 2017/Las Pinas City

IBP Lifetime No. 0724

MCLE Compliance No. V-0018139/13 April 2016

rbmacalintal@gmail.com

**SARDILLO SARDILLO SALOM LAW OFFICE**

*Collaborating Counsel for Protestee*

*Maria Leonor G. Robredo*

Unit 802, Taipan Place, F. Ortigas Avenue,

Ortigas Center, Pasig City

02.706.4272/02.706.4273

By

  
**MARIA BERNADETTE V. SARDILLO**

Roll No. 45897

PTR No. 2362138/03 January 2017/Pasig City

IBP Lifetime No. 07133

MCLE Compliance No. V-0010907/30 September 2015

beng.sardillo@s3law.com

Copy furnished:

**ATTY. GEORGE ERWIN M. GARCIA**

**ATTY. JOAN M. PADILLA**

**G. E GARCIA LAW OFFICE**

*Lead Counsel for Protestant*

Ground Floor Laiko Building

372 Cabildo Street, Intramuros,

1002 Manila

**OFFICE OF THE SOLICITOR GENERAL**

134 Amorsolo Street

Legaspi Village, 1229 Makati City

### **EXPLANATION**

Due to unavailability of messengers and the distance of the parties, a copy of the herein "Comment and Opposition" were sent to the above-named parties by registered mail.


  
**MARIA BERNADETTE V. SARDILLO**

Republic of the Philippines )  
Pasig City )

**VERIFIED DECLARATION OF COMPLIANCE WITH THE  
EFFICIENT USE OF PAPER RULE**


I, **KWELL SUYINN M. ZARASATE**, hereby declare that the Urgent Ex-Parte Motion For Leave To File And Admit Attached Comment and Opposition (To The Omnibus Motion i To Dismiss The Counter Protest and ii Reiterate The Immediate Setting of the Preliminary Conference dated 19 April 2017) submitted electronically by use of compact disc in accordance with the Efficient Use of Paper Rule are complete and true copies of the Urgent Ex-Parte Motion For Leave To File And Admit Attached Comment and Opposition (To The Omnibus Motion i To Dismiss The Counter Protest and ii Reiterate The Immediate Setting of the Preliminary Conference dated 19 April 2017) filed with the Presidential Electoral Tribunal.

Pasig City. 05 May 2017.

  
**KWELL SUYINN M. ZARASATE**  
*Secretary*  
*Sardillo Sardillo Salom Law Office*

**SUBSCRIBED AND SWORN TO BEFORE ME**, a notary public in and for Pasig City, this 05<sup>th</sup> day of May 2017 by affiant KWELL SUYINN M. ZARASATE who is personally known to me, and appeared with her SSS ID with No. 33-9056255-6 issued by Social Security System, known to me as the same person who personally signed the foregoing attestation before me and acknowledged that she executed the same.

Doc. No. 215;  
Page No. 43;  
Book No. 11;  
Series of 2017.

  
**GAUDENCIO A. BARBOZA, JR.**  
NOTARY PUBLIC  
Cities of Pasig, San Juan and  
in the Municipality of Pateros, Metro Manila  
Until December 31, 2018  
PTR No. A-3217144 / 03-03-17 Taguig City  
IBP No. A050540 / 03-03-06 RSM  
POL. No. 47000  
MCLE Corp. V. 0023452 / May 02, 2016  
No. 11, Unit 1 Freedom Arcade Bldg.  
Shaw Blvd. Brgy. San Antonio, Pasig City  
Appointment No. 26