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

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

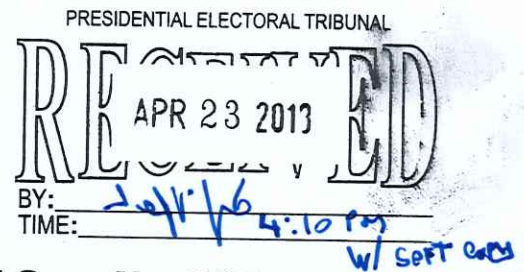
*Protestant,*

-versus-

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

*Protestee.*

X ----- X



**PET Case No. 005**

For: Election Protest  
Vice-President

**COMPLIANCE**

[TO THE SHOW CAUSE ORDER AS CONTAINED IN RESOLUTION  
DATED 10 APRIL 2018]

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 **13 April 2018**, protestant Marcos through his lead  
counsel received a copy of this Honorable Tribunal's *Resolution* dated  
10 April 2018, which directed, among others, the parties in this case to  
**SHOW CAUSE** and **EXPLAIN**, within ten (10) days from receipt  
hereof, why they should not be cited in contempt for violating  
*Resolutions* dated 13 February 2018 and 20 March 2018.

**2.** With all due respect, protestant Marcos maintains that he  
has duly observed the *sub judice* rule as prescribed by this Honorable  
Tribunal in its *Resolutions* dated 13 February 2018 and 20 March 2018.

**3.** The *sub judice* rule restricts comments and disclosures  
pertaining to judicial proceedings to avoid prejudging the issue,  
influencing the court, or obstructing the administration of justice.<sup>1</sup>

<sup>1</sup> Reghis M. Romero II, et al. v. Senator Jinggoy E. Estrada and Senate Committee on Labor,  
Employment and Human Resources Development, G.R. No. 174105, 2 April 2009.

4. Although there is no specific provision in the Rules of Court imposing the *sub judice* rule, jurisprudence dictates that a violation thereof may render the violating party liable for indirect contempt under **Sec. 3(d), Rule 71** of the **Rules of Court**, which provides:

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice.

5. The rationale for the *sub judice* rule was explained in the case of ***Nestle Philippines v. Sanchez***,<sup>2</sup> thus:

[I]t is a traditional conviction of civilized society everywhere that courts and juries, in the decision of issues of fact and law should be immune from every extraneous influence; that facts should be decided upon evidence produced in court; and that the determination of such facts should be uninfluenced by bias, prejudice or sympathies.<sup>3</sup>

6. Protestant Marcos humbly submits that he did not make any comment or disclosure pertaining to the revision proceedings that may be construed as prejudging the issue, influencing the court, or obstructing the administration of justice.

7. While it is admitted that protestant Marcos was ambushed for interview by different media entities on **2 April 2018** after his appearance during the first day of the revision proceedings, it bears emphasis that his statements therein are **LIMITED TO HIS PERSONAL OBSERVATION** of what transpired during the revision.

8. Nonetheless, protestant Marcos would like to extend his sincerest apology to this Honorable Tribunal if his narration during that ambush interview may be considered as a transgression of the *sub judice* rule. There was no intention on his part to disregard much less violate the directives of this Honorable Tribunal as contained in *Resolutions* dated 13 February 2018 and 20 March 2018.

9. Protestant Marcos also commits to exercise more prudence in his dealings with the media relative to the ongoing election protest.

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<sup>2</sup> G.R. Nos. L-75209 & L-78791, 30 September 1987, 154 SCRA 542, 546; citing *In Re Stolen*, 216 N.W. 127.

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



**10.** The counsels of record of the protestant would also like to assure this Honorable Tribunal of their commitment to abide by the *sub judice* rule as mandated in *Resolutions* dated 13 February 2018 and 20 March 2018. To be sure, the legal counsels of the protestant repeatedly requested the Adhoc Revision Committee of this Honorable Tribunal to issue media advisories in connection with the ongoing revision proceedings so that they will not be forced to grant any interview in order to clarify the developments in this election protest.

**11.** In contrast, it would appear that protestee Robredo and her legal team are determined to influence this Honorable Tribunal to favor their position by casting doubt on the legitimacy, integrity and credibility of the ongoing judicial recount and revision of ballots. The camp of protestee Robredo resorted on a daily basis to media theatrics to sensationalize their misleading assertions regarding the developments in the revision proceedings.

**12.** In fact, Atty. Romulo Macalintal ("Macalintal") pre-empted the disposition of this case by claiming victory for the protestee in a speech, which he delivered during a mass held on 2 April 2018. He further claimed that the results will be known in two (2) months. A press conference was even organized by protestee Robredo's camp on 2 April 2018. Macalintal's speech and the statements from the said press conference were circulated by different media entities.

**13.** Atty. Emil Maranon III ("Maranon"), who is also a counsel on record of the protestee, wrote an opinion entitled 'Missing' audit logs, wet ballots and other Marcos lies which was published online by Rappler on 8 April 2018. A copy Maranon's published opinion is herein attached for the convenient reference of this Honorable Tribunal.

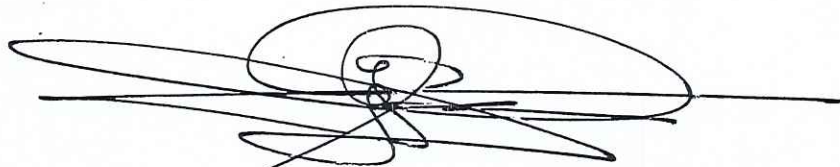
**14.** The misleading pronouncements and opinions from the camp of the protestee with regard to the revision proceedings and this election protest compelled the spokesperson of protestant Marcos, Atty. Victor Rodriguez ("Rodriguez"), to clarify and explain the truth to the general public. Atty. Rodriguez is aware of the *sub judice* rule and he also maintains that he did not violate the same because his statements are not intended to prejudge the issue, influence this Honorable Tribunal, or obstruct the administration of justice. To repeat, he is only clarifying the manipulations disseminated by the camp of the protestee to the media and the general public.

Respectfully submitted.

City of Manila, Philippines, **23 April 2018.**

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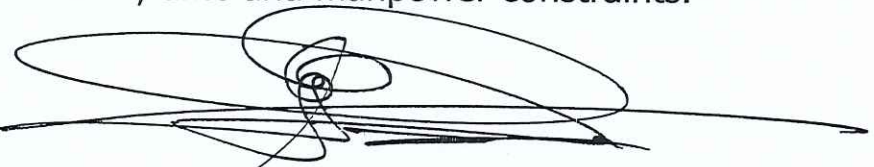
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**EXPLANATION**

[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 *Compliance* 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 loops and a long horizontal stroke extending to the right.

**GEORGE ERWIN M. GARCIA**

# [OPINION] 'Missing' audit logs, wet ballots, and other Marcos lies

This is not just about the vice presidency. Every lie, fact-twisting, and misinformation systematically and relentlessly sowed by the Marcos camp is corrosive to the people's faith in our electoral process.

**Emil Marañon III**

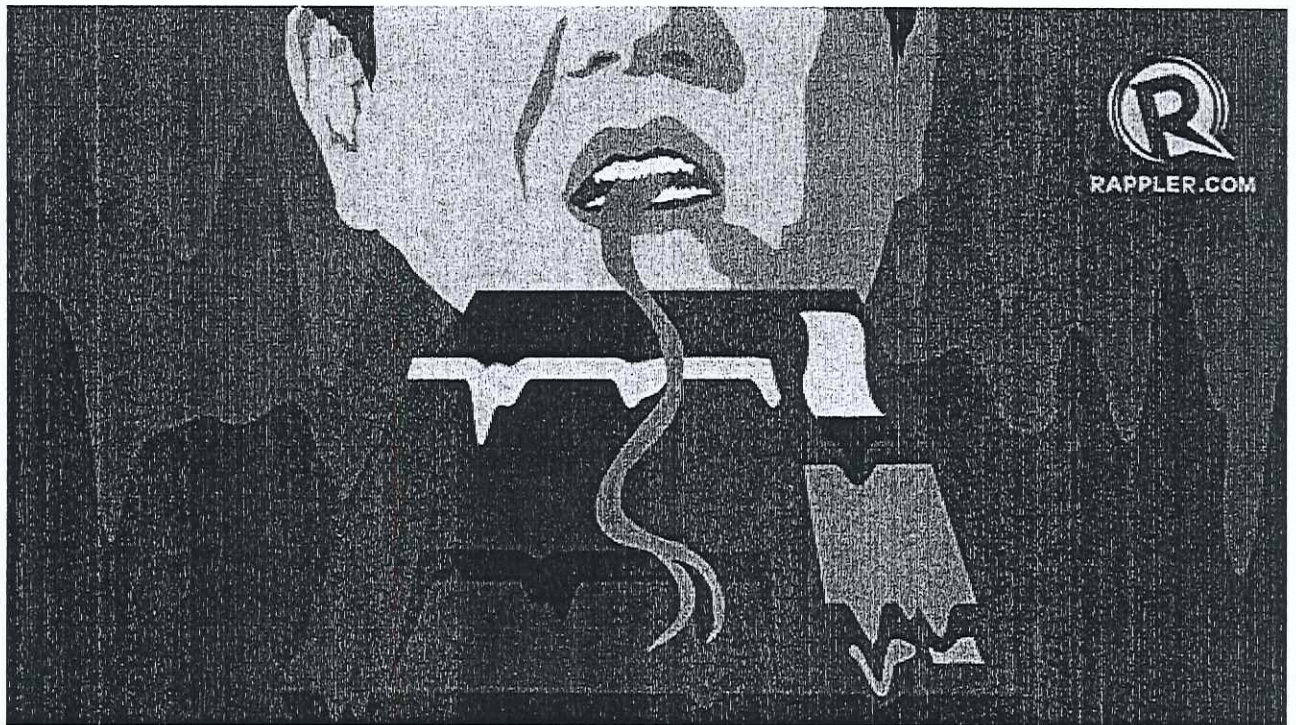
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On April 2, 2018, the [manual recount of the vice presidential votes](#) officially started. The exercise will initially revisit all the physical ballots from Bongbong Marcos' 3 pilot provinces: Camarines Sur, Iloilo, and Negros Oriental.



The results of the manual recount in these 3 provinces is crucial to both parties. It will determine if the protest will be dismissed (when no substantial recoveries are made) or if the protest will proceed (to recount the remaining protested 19 provinces and 5 cities). This will also determine whether Marcos' 3rd cause of action seeking the wholesale annulment of the election results in the provinces of Lanao del Sur, Basilan, and Maguindanao will be entertained by the Presidential Electoral Tribunal (PET).

Despite the existing gag order by the PET, Marcos braved the Supreme Court premises with a throng of supporters and held a press conference, this time alleging new matters which need to be refuted. It must be recalled that previously, Marcos claimed in another press conference that squares and ovals on the ballot images are his "shocking" evidence of "massive election cheating." This however quickly fizzled after those squares and ovals turned out to be just the new features of the brand-new vote counting machines (VCM). (READ: What Bongbong Marcos should understand about ballot images)

Thereafter, Marcos, along with Senator Tito Sotto, made an issue out of premature transmission activities, which turned out to be just some isolated cases of belated Final Testing and Sealing (FTS) activities. (READ: Debunking Sotto's election fraud claims)

### **Audit logs can be requested from Comelec**

Facing the reporters in April, Marcos this time raised that 39 out of 40 clustered precincts in the municipality of Bato, Camarines Sur, the first to be opened in the PET recount, had no "audit logs."

The "precinct audit log report" is one of the many security features of the VCM. It is a chronological record of all the activities of the VCMs. It records anything that happens with the VCMs, indicating what happened and when it happened. The audit log records the time when the VCM was turned on, the exact times when ballots were fed to it, instances where ballots were rejected; when the transmission took place; and when was the VCM was turned off, among others.

Insinuating fraud on the part of the Vice President, who hails from Camarines Sur, Marcos said: "*Bakit walang audit log? Ibig sabihin binuksan 'yung ballot boxes, kinuha 'yung audit log. At hindi namin makita.*" (Why were there no audit logs? That means the ballot boxes were opened, and the audit logs were taken. And we can't find them.)

In another statement he reiterated: "*Clearly, somebody, binuksan ang ballot box, kinuha ang audit log bago ini-seal ulit.*" (Clearly, somebody opened the ballot box, got the audit log, and sealed [the box] again.)

Like his earlier allegations, Marcos missed the fact that audit logs are not placed inside the ballot boxes, but are actually turned over by the Boards of Election Inspectors (BEI) to the Election Officer (EO) concerned.

Article VII, Section 29 (f) 5 of Resolution Number 10057 (February 11, 2016) or Commission on Elections' "General Instructions for the Boards of Election Inspectors (BEI)" provides that:

*Sec. 29. Disposition of VCM, ballot boxes, election returns and other documents. – When the counting of votes has ended and the results of the election in the precinct have already been announced, the BEI shall:*



xxxxxxxx

*f) Deliver to the EO the following documents or papers:*

xxxxxxxx

*5. Envelope containing Initialization Report, Precinct Audit Log Report and Precinct Statistical Report."*

So there is nothing anomalous about not finding audit logs inside the ballot boxes as they are not supposed to be there in the first place. Obviously, Mr Marcos and his lawyers did not read the Comelec's general instructions and pertinent voting rules before making such accusations.

However, should Mr Marcos be interested in procuring copies of the audit logs, the Comelec has soft copies of the audits logs of all the 90,000 clustered precincts. He can request for them anytime. But he will definitely not find them inside the ballot boxes.

### **Ballot boxes: Poor design, poor storage**

Aside from his audit logs allegations, he also made accusations regarding the wet ballots. He said that ballots from 4 of the total 42 voting precincts from Bato, Camarines Sur, whose boxes were opened last April 2 were discovered to have gotten wet.

Marcos said: "*They've only been recently wet. If they were wet during election day, siguro natuyo na iyun. Hindi naman siguro two years na basa iyun. May nagbasa.*" (They've only been recently wet. If they were wet during election day, they should've been dry by now. They could not have been wet for two years. Somebody drenched them.)

Marcos have been claiming that the wet ballots were evidence of post-election tampering. This, however, is so 1992.

We have to understand that after elections the ballot boxes and their contents are placed under the care and custody of the municipal or city treasurers. Under the Omnibus Election Code, these local officials are obliged to provide safe and secure storage space for the ballot boxes. While this is the case in cities and big municipalities, the reality in most places, especially in far-flung municipalities, is different. With very poor local government facilities, ballot boxes sometimes end up poorly stored. I have seen terrible cases of leaking roof which flooded the storage area and wetting the boxes, some were simply dumped in alleys or stored in gyms or basketball courts, exposed to the elements.

This space problem is compounded by what I think is a poor design of the ballot boxes. They are simply too big and occupy so much space, when in fact only between 1/8 to 1/4 of the ballot boxes' space is occupied by the ballots and election paraphernalia. It also has a narrower arching bottom, instead of a flat bottom, which makes them problematic to stack on top of each other, and unstable at that.

The lid cover is also too slim, without a locking mechanism, except for that side holes for the seals. Definitely, water-sealing or waterproofing them, as we now know, is another matter that can be addressed by better design. Now, weather-sealing and tamper-proofing the ballot boxes are crudely done and compensated by masking tapes, which is not the most effective protection. In other words, as much as we think that transparency and efficiency



on election day, Comelec should equally consider the post-election storage of these ballot boxes.

### **Wet ballots have other copies**

Going back to Marcos, wet ballots could only mean wet ballots – that water made it inside the ballot boxes by sheer accident or by acts of God. There are people, including Marcos, that have been claiming they were a sign of cheating. But haven't anyone asked wetting the ballots after elections can either shave or pad a candidate's votes – because that's what cheating is.

Some would argue that wetting the ballots is done to cover up for the cheating during the May 2016 elections. This could have been a valid theory if we are still using a manual election system, where the sole and primary evidence of the votes are the physical paper ballots. The moment the physical ballots are lost by wetting, burning or stealing them, there is no way of recounting them. The only remaining option is to resort to secondary evidence, like the election returns (ERs) which contain the totaled precinct votes. This however is problematic as the numbers in the ERs could be not reliable and there is also no way to countercheck them using the source or base documents – the ballots themselves.

This theory loses its sense under the automated election system. Now, every time a ballot is fed, the VCM makes a scanned copy of it. The ballot images are encrypted and stored in two SD cards: the primary and the backup. After elections, these are sent to Comelec main office in Intramuros for storage, backed-up again and stored in the vaults of the Comelec. To convert the ballot image files into viewable photo files (jpeg), they first have to be decrypted using a special program that will require security clearances. Given their reliability, the printouts of the ballot images are not just treated as functional equivalent of the paper ballots, but accorded reliability not just equal, but even higher, than the physical ballots.

In other words, even if ballots are lost by wetting, burning, stealing, or tampering, the parties can always resort to the printout of ballot images to be used in the recount. This is the procedure not just in the PET but in the Comelec, House of Representatives Electoral Tribunal (HRET), Senate Electoral Tribunal (SET), and even in regional trial courts (RTCs). Lawyers, parties, and litigants since 2010 have all been resorting to ballot images in these cases. It must be recalled that Marcos himself has requested early on to get ballot images of Camarines Sur, Iloilo, and Negros Oriental, his pilot provinces.

### **Undermining the election system**

Even if we disregard these technicalities and go by sheer logic, there are many details in Marcos' allegations that do not add up. First, Camarines Sur is the Vice President Robredo's bailiwick of bailiwicks, so why should she cheat there? Shouldn't she be cheating, assuming she did, in places where she expects not to get votes?

Second, the numbers. If wetting the ballots were the chosen method to cheat or to cover up an election day cheating, why do it in only select ballot boxes? Why not all or at in a substantial number? Elections is a numbers game. In a national post where the votes involved ordinarily go by millions, piecemeal or selective cheating at the precinct level do not make any numerical impact or any logical sense.

This systematic, well-coordinated and well-funded PR operation of Marcos and his team aims to cast doubt not just on the victory of the Vice President, but to attack the integrity



of the automated elections. While everyone may see the protest as the immediate motive, this could very well be just the tip of the iceberg – part of the bigger public conditioning to discard the automated elections and return to manual elections in the 2019 and 2022 national elections, where both Imee and Bongbong Marcos have been openly and publicly positioning for.

Imee Marcos in her recent public statements have in fact been very vocal in pushing for the return to manual elections – an antiquated system that has been notorious for its vulnerability to cheating, vote padding, and shaving.

In other words, to me, this whole Marcos electoral charade goes beyond the vice presidency or Leni Robredo. Its consequence will seep deep into the core of elections and down to the very essence of democracy. Every lie, fact-twisting, and misinformation systematically and relentlessly sowed by the Marcos camp is corrosive to the people's faith in our electoral process and to our electoral institutions like Comelec.

As I would always say, election is all about the public's trust towards it. Even the most secure automated election system would mean nothing without the people actually trusting it. It is that trust that makes us brave our polling places and line up to vote, believing that the votes we cast actually determine to whom the reins of governance are trusted. If we are conditioned and made to believe that these votes do not actually matter, then what is the point of voting? Or conducting elections?

I believe that Bongbong Marcos has ways of pursuing his search for truth or for answers as to why he lost the 2016 elections, but he does not have to go low and burn the whole house down. This is precisely the point of the PET recount and he better focus on his battle there, not before TV cameras or through his social media trolls. – **Rappler.com**

*Emil Marañon III is one of the election lawyers consulted by the camp of Vice President Leni Robredo, whose victory is being contested by former senator Ferdinand Marcos Jr. Marañon served as chief of staff of retired Comelec Chairman Sixto Brillantes Jr. He graduated from the SOAS, University of London, where he studied Human Rights, Conflict and Justice as a Chevening scholar.*

**Filed under:** Bongbong Marcos Emil Marañon III Ferdinand Marcos Jr Leni Robredo Philippine elections VP ballot recount automated election selection ballot recounts Rappler Thought Leaders



## **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 April 23, 2018, I served a copy of the following pleading/paper.

### NATURE OF PLEADING/PAPER

### **COMPLIANCE**

[TO THE SHOW CAUSE ORDER AS CONTAINED IN  
RESOLUTION DATED 10 APRIL 2018]

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.***

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c/o Sardillo Sardillo Salom Law Office  
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1208672482412Z

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.

April 23, 2018, Manila, Philippines.

**JERRY C. GUEVARRA**  
*Affiant*

**APR 23 2018**

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**ATTY. PEDRO D. GENATO**  
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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 "**COMPLIANCE** [TO THE SHOW CAUSE ORDER AS CONTAINED IN RESOLUTION DATED 10 APRIL 2018]" 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: April 23, 2018

**SUBSCRIBED AND SWORN** to before me this **APR 23 2018** at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

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

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Book No. 21 ;  
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**ATTY. PEDRO D. GENATO**  
Notary Public Until Dec. 31, 2019  
Notarial Commission 2013-011 Mla.  
IBP# 012432 Pasig 7-27-17 until 2019  
PTR# Mla 6993998 - 1-4-2018  
Roll# 12088,, TIN# 132-436-687  
MCLE Compl. No. V-0005232 until 4-14-19