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

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

*Protestant,*

-versus-

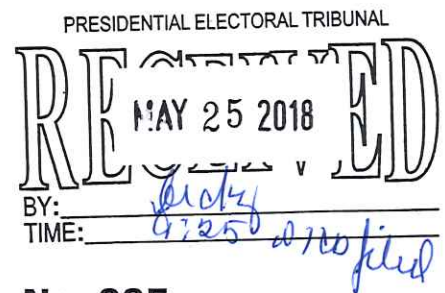
**MARIA LEONOR "LENI DAANG  
MATUWID" G. ROBREDO,**

*Protestee.*

X ----- X

**PET Case No. 005**

For: Election Protest  
Vice-President



**COMMENT/OPPOSITION**

[TO THE MANIFESTATION WITH MOTION DATED 5 APRIL 2018  
RELATIVE TO THE PRECAUTIONARY PROTECTION ORDER (PPO)  
ON THE ELECTION MANAGEMENT SYSTEM SERVERS]

Protestant **FERDINAND "BONGBONG" R. MARCOS, JR.**  
("protestant Marcos"), through the undersigned counsels, unto this  
Honorable Presidential Electoral Tribunal ("PET"), in compliance with  
*Resolution* dated **17 April 2018**, copy of which was received on **15  
May 2018**, most respectfully submits the foregoing *Comment*, thus:

**1.** On **17 April 2018**, the undersigned counsel for protestant  
Marcos received a copy of the Commission on Elections' (COMELEC)  
*Manifestation with Motion* dated **5 April 2018**. This is in connection  
with the Election Management System (EMS) Servers which are still  
covered by the PPO issued by this Honorable Tribunal.

**2.** As admitted by the COMELEC, the EMS Servers are part of  
the Automated Election System (AES). They are indispensable because  
they complete the AES. They manage all the data and election  
configuration, hence, considered as the **core or brain** of the election  
configuration. In fact, the COMELEC even stressed that without the  
EMS, there will be no election configuration.

**3.** The COMELEC also pointed out that the functions of the  
EMS include the following:

- i. They contain the **election database**. It is where the election data were loaded such as the Project of Precincts (POPs), Voting Jurisdictions (Provinces, Cities, Municipalities, and Districts), List of Candidates, and others.
- ii. They create **election configuration per precinct level**, including the configuration of the Consolidated Canvassing System (CCS), Voters Counting Machines (VCMs), SD Cards, and provide security configurations.
- iii. They create digital certificates, public and private key certificate per VCM, issued to the Board of Canvassers (BOCs) and Board of Election Inspectors (BEIs).

4. Since the EMS is considered as the **core or brain** of the election configuration given that it manages all the data and election configuration, it is **CRUCIAL** for this Honorable Tribunal to **UPHOLD**, **PRESERVE** and **SUSTAIN** the PPO on the EMS Servers until the final resolution of this election protest.

The COMELEC further asked the PET if they could:

have the EMS data **backed-up and / or cloned** in the presence of the PET representatives and other parties;

**remove** the EMS hard drive in the presence of the PET representatives and other parties and **turn over** the same to the PET.

5. According to IT experts, when someone tampers with the **core or brain** of the EMS, it will **automatically erase** any and all traces of "**footprints**" that was stored in the system.

6. In an effort to curry favor with the high Tribunal, the COMELEC even presented the Court with 2 options :

1<sup>st</sup> : that it be allowed to **back up or clone** the EMS data in the presence of the PET representatives and other parties; or

2<sup>nd</sup> : that it **remove the EMS hard drive** in the presence of the PET representatives and other parties

The net effect of allowing COMELEC to do either options, however, would result in the automatic **erasure** of all the relevant "**footprints**". For instance :



- how will we know if there were unauthorized transmissions **prior** to election day?
- how will we know what time the VCMs **first operated** on election day?
- how will we know what time the VCMs **actually transmitted** on election day?
- how will we be able to compare the **time stamps** from the VCMs to the different servers?
- how will we be able to check if there were any **delays** in the transmission of election results?
- how can we compare the transmitted election data from the VCMs to the **queue server** and from the queue server to the various "transparency" servers?

7. The question that needs to be asked, therefore, is why would the COMELEC want to **erase the information** contained in the EMS?

8. Protestant Marcos should be given the opportunity to test the integrity and credibility of the EMS Servers as against the results of the judicial recount and revision conducted in the above-entitled case. This is precisely why the protestant requested for the issuance of the PPO on the EMS Servers in the first place.

9. The timing of the COMELEC's request for the lifting of the PPO on the EMS Servers is also quite **suspicious** considering the privilege speech of Senate President Vicente "Tito" Sotto III on the alleged electoral fraud and irregularities during the 2016 elections that could be considered as a case of electoral sabotage if proven to be true.

10. That being the case, it would be more prudent for this Honorable Tribunal to **UPHOLD, PRESERVE** and **SUSTAIN** the PPO on the EMS Servers until the final resolution of this election protest to erase any doubt on the integrity and credibility of the 2016 elections.

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

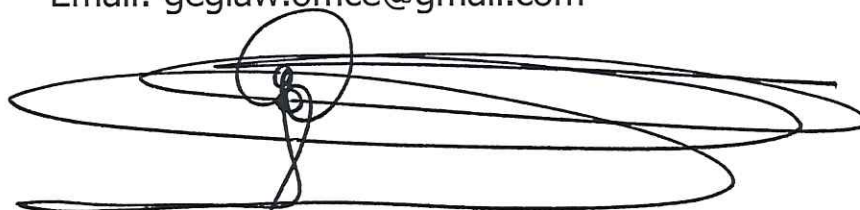
**ACCORDINGLY**, it is most respectfully prayed of this Honorable Tribunal to **DENY** COMELEC's *Manifestation with Motion* to lift the PPO on the EMS Servers and to **UPHOLD, PRESERVE** and **SUSTAIN** the PPO on the EMS Servers until the final resolution of this election protest.

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

City of Manila, Philippines, **24 May 2018.**

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By:



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**THE SOLICITOR GENERAL**

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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 *Comment/Opposition* were served to the above-mentioned parties by registered mail, personal service being impractical due to distance, 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 May 24, 2018, I served a copy of the following pleading/paper.

### NATURE OF PLEADING/PAPER

### **COMMENT/OPPOSITION**

[TO THE MANIFESTATION WITH MOTION DATED 5 APRIL 2018 RELATIVE TO THE PRECAUTIONARY PROTECTION ORDER (PPO) ON THE ELECTION MANAGEMENT SYSTEM SERVERS]

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 905 155 896 22

**THE SOLICITOR GENERAL**  
134 Amorsolo Street  
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Law Department  
8<sup>th</sup> Floor, Palacio Del Gobernador  
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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.

May 24, 2018, Manila, Philippines.

**JERRY C. GUEVARRA**  
*Affiant*

**SUBSCRIBED AND SWORN** to before me this MAY 24 2018 at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

Doc. No. 529  
Page No. 106  
Book No. 28  
Series of 2018.

**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

## **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/OPPOSITION [TO THE MANIFESTATION WITH MOTION DATED 5 APRIL 2018 RELATIVE TO THE PRECAUTIONARY PROTECTION ORDER (PPO) ON THE ELECTION MANAGEMENT SYSTEM SERVERS]"** 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: May 24, 2018

**SUBSCRIBED AND SWORN** to before me this MAY 24 2018 at Manila, Philippines, affiant exhibiting to me his Tax Identification No. 300-192-753-000. Issued by Bureau of Internal Revenue.

\_\_\_\_\_  
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**ATTY. PEDRO D. GENATO**  
Notary Public Until Dec. 31, 2019  
Notarial Commission 2018-011 Mla.  
IBP# 012432 Pasig 7-27-17 until 2019  
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