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

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

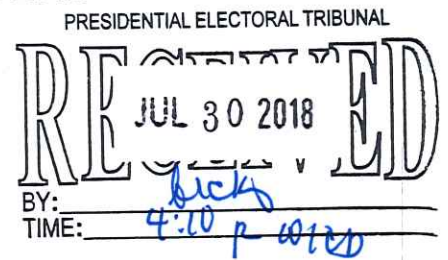
*Protestant,*

-versus-

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

*Protestee.*

X - - - - - X



**PET Case No. 005**

For: Election Protest  
Vice-President

## **OMNIBUS MOTION**

[FOR CLARIFICATION OF THE REVISED PET RESOLUTION DATED 10 JULY 2018 AND FOR THE DEFERMENT OF THE USE OF THE VOTE COUNTING MACHINES (VCMs) AND OTHER ELECTION MATERIALS AND PARAPHERNALIA TO ENABLE THE TRIBUNAL TO IMPLEMENT RULE 43(L) OF THE 2010 PET RULES IN RESOLVING ISSUES AS TO WHETHER A CERTAIN MARK OR SHADE WAS READ BY THE VCM]

Protestant **FERDINAND "BONGBONG" R. MARCOS, JR.** ("protestant Marcos"), through the undersigned counsels, unto this Honorable Presidential Electoral Tribunal ("**PET**"), most respectfully alleges following:

1. On **19 July 2018**, protestant Marcos through his lead counsel received a copy of a **revised** *Resolution* dated 10 July 2018. In this revised PET *Resolution*, this Honorable Tribunal **inserted an additional directive** to the Commission on Elections (COMELEC) to **"PROVIDE** the Tribunal, also within a **NON-EXTENDIBLE** period of ten (10) days from notice hereof, **with at least fifty (50) vote counting machines (VCMs) and other election materials and paraphernalia to enable the Tribunal to implement Rule 43(L) of the 2010 PET Rules in resolving issues as to whether a certain mark or shade was read by the VCM."**

2. **Rule 43(L) of the 2010 Rules of the Presidential Electoral Tribunal (2010 PET Rules)** provides as follows:

(l) In looking at the shades or marks used to register votes, the RC shall bear in mind that the will of the voters reflected as votes in the ballots shall as much as possible be given effect, setting aside any technicalities. Furthermore, the votes thereon are presumed to have been made by the voter and shall be considered as such unless reasons exist that will justify their rejection. **However, marks or shades which are less than 50% of the oval shall not be considered as valid votes. Any issue as to whether a certain mark or shade is within the threshold shall be determined by feeding the ballot on the PCOS machine, and not by human determination.** (n)

3. With all due respect, the directive of this Honorable Tribunal for the COMELEC to provide at least fifty (50) VCMs and other election materials and paraphernalia to enable the Tribunal to implement **Rule 43(L) of the 2010 PET Rules** is still **PREMATURE**.

4. This Honorable Tribunal should be reminded that there is a pending issue as to the correct shading threshold that should be applied in determining whether the shades or marks found on the protested ballots are valid or not.

5. The position of protestant Marcos, which was confirmed by this Honorable Tribunal in its *Resolution* dated 10 April 2018, is that **MARKS OR SHADES WHICH ARE LESS THAN 50% OF THE OVAL SHALL NOT BE CONSIDERED AS VALID VOTES** pursuant to the expressed mandate of **Rule 43(L) of the 2010 PET Rules**.

6. This was opposed, however, by protestee Robredo who filed an Urgent Motion for Reconsideration (of the Resolution dated 10 April 2018) With Reiterative Prayer to Immediately Direct the Head Revisors to Use the Twenty-Five (25%) Percent Threshold Percentage in The Revision, Recount And Re-Appreciation of Ballots.

7. Until now, this Honorable Tribunal has **not resolved** protestee Robredo's *Motion for Reconsideration* dated **18 April 2018**.

8. It is humbly submitted by protestant Marcos that this Honorable Tribunal should first resolve the issue as to the correct shading threshold before it can resort to the use of the VCMs pursuant to the last sentence of **Rule 43(L) of the 2010 PET Rules**.



9. The use of the VCMs is **NOT ESSENTIAL** in determining the correct shading threshold, *i.e.*, whether its **50%** as mandated by **Rule 43(L) of the 2010 PET Rules** or **25%** as proposed by protestee Robredo.

10. Actually, the use of the VCMs presupposes that there is already a **FINAL DETERMINATION** as to the correct shading threshold, however, the Revision Committee cannot determine whether the shade or mark found on any of the protested ballots has reached that correct shading percentage mandated by this Honorable Tribunal.

11. Without a final determination as to the correct shading threshold, the use of the VCMs is obviously **SUPERFLUOUS** and **DILATORY** at this point.

12. To repeat, the issue at bar is simply limited to whether the correct shading threshold is **50%** as mandated by **Rule 43(L) of the 2010 PET Rules** or **25%** as proposed by protestee Robredo and this can be duly determined and resolved by this Honorable Tribunal WITHOUT THE USE OF THE VCMS.

13. This Honorable Tribunal should therefore clarify if the **additional directive** to the Commission on Elections (COMELEC) to "PROVIDE the Tribunal, also within a NON-EXTENDIBLE period of ten (10) days from notice hereof, with at least fifty (50) vote counting machines (VCMs) and other election materials and paraphernalia to enable the Tribunal to implement Rule 43(L) of the 2010 PET Rules in resolving issues as to whether a certain mark or shade was read by the VCM" should be taken by the parties in this case as an **implied confirmation** from this Honorable Tribunal that it is indeed upholding the 50% shading threshold mandated by **Rule 43(L) of the 2010 PET Rules**.

14. Now, if that's the case, the use of the VCMs is still **UNNECESSARY** in the ongoing judicial recount and revision proceedings given that the Revision Committees constituted by this Honorable Tribunal were able to determine whether the shade or mark found on the protested ballots has reached the 50% shading threshold **without the need of the VCMs**. In fact, this was duly recorded and reflected in their respective Revision Reports.

**15.** As stated earlier, the use of the VCMs to enable the Tribunal to implement Rule 43(L) of the 2010 PET Rules will only be relevant and material if the Revision Committees cannot determine whether the shade or mark found on any of the protested ballots has reached that correct shading percentage mandated by this Honorable Tribunal.

**16.** This circumstance is obviously **ABSENT** in this case since the Revision Committees constituted by this Honorable Tribunal were able to determine whether the shade or mark found on the protested ballots has reached the 50% shading threshold **without the need of the VCMs.**

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

**ACCORDINGLY**, it is most respectfully prayed of this Honorable Tribunal to **CLARIFY** its additional directive in the **revised** *Resolution* dated 10 July 2018 and to **DEFER** the use of the VCMs for purposes of implementing **Rule 43(L) of the 2010 PET Rules** for being **SUPERFLUOUS**.

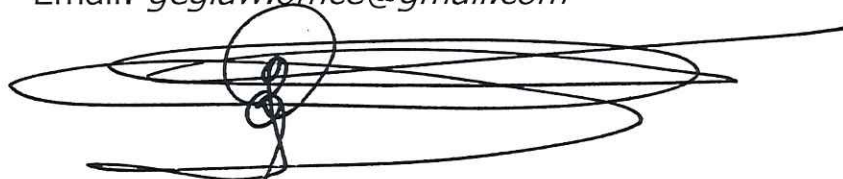
Other reliefs, just and equitable under the premises, are also prayed for.

City of Manila, Philippines, **25 July 2018.**

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

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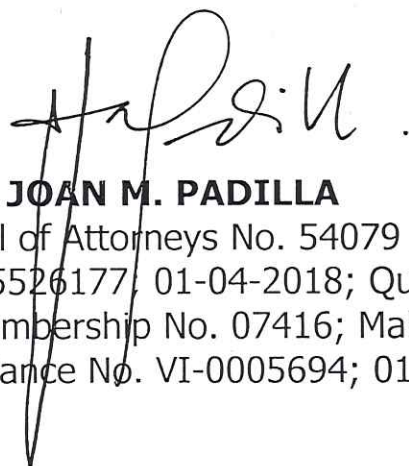
By:



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*Copies furnished:*

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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 *Omnibus Motion* 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 July 30, 2018, I served a copy of the following pleading/paper.

## NATURE OF PLEADING/PAPER

### **"OMNIBUS MOTION**

[FOR CLARIFICATION OF THE REVISED PET RESOLUTION DATED 10 JULY 2018 AND FOR THE DEFERMENT OF THE USE OF THE VOTE COUNTING MACHINES (VCMs) AND OTHER ELECTION MATERIALS AND PARAPHERNALIA TO ENABLE THE TRIBUNAL TO IMPLEMENT RULE 43(L) OF THE 2010 PET RULES IN RESOLVING ISSUES AS TO WHETHER A CERTAIN MARK OR SHADE WAS READ BY THE VCM]"

In **PET Case No. 005** entitled **"FERDINAND 'BONGBONG' R. MARCOS, JR., Protestant, -versus- MARIA LEONOR 'LENI DAANG MATUWID' G. ROBREDO, Protested"**, 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  
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**COMMISSION ON ELECTIONS**  
Law Department  
8<sup>th</sup> Floor, Palacio Del Gobernador  
Intramuros, Manila

**R. R. Nos.**

NO 9640076902

NO 9640076902

NO 9045285652

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 30, 2018, Manila, Philippines.

**JERRY C. GUEVARRA**

*Affiant*

JUL 30 2018

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

Doc. No. 585  
Page No. 17  
Book No. 41  
Series of 2018.

**ATTY. RAUL R. MONTING**  
NOTARY PUBLIC  
UNTIL DECEMBER 31, 2019  
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IBP LIFETIME NO. 012899  
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INTRAMUROS, MANILA 1002



## **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 "**OMNIBUS MOTION** [FOR CLARIFICATION OF THE REVISED PET RESOLUTION DATED 10 JULY 2018 AND FOR THE DEFERMENT OF THE USE OF THE VOTE COUNTING MACHINES (VCMs) AND OTHER ELECTION MATERIALS AND PARAPHERNALIA TO ENABLE THE TRIBUNAL TO IMPLEMENT RULE 43(L) OF THE 2010 PET RULES IN RESOLVING ISSUES AS TO WHETHER A CERTAIN MARK OR SHADE WAS READ BY THE VCM]" 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: July 30, 2018

**SUBSCRIBED AND SWORN** to before me this  
JUL 30 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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Page No. 17 ;  
Book No. X1 ;  
Series on 2018.

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UNTIL DECEMBER 31, 2019  
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