

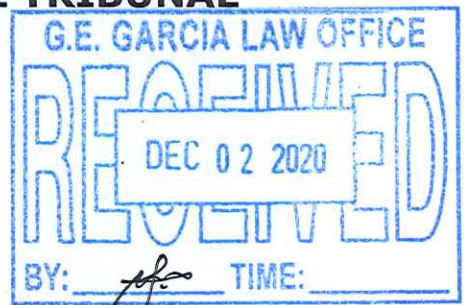
REPUBLIC OF THE PHILIPPINES
PRESIDENTIAL ELECTORAL TRIBUNAL
Manila

**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

**COUNTER MANIFESTATION
(TO THE STRONG MANIFESTATION WITH EXTREMELY
URGENT OMNIBUS MOTION FOR THE: I. INHIBITION
OF ASSOCIATE JUSTICE MARIO VICTOR F. LEONEN;
II. RE-RAFFLE OF THIS ELECTION PROTEST; III.
RESOLUTION OF ALL THE PENDING INCIDENTS IN
THE ABOVE-ENTITLED CASE DATED 06 NOVEMBER
2020)**

PREFATORY STATEMENT

***Perception is real. The truth is not.
- Imelda R. Marcos, The Kingmaker***

Driven by ambition to occupy the second highest elected position, protestant Marcos would like the public and the Honorable Tribunal that he has not been treated fairly. It is this insistence which drives him to once more seek the inhibition of the Member-in-Charge of his Election Protest.

The facts and voluminous records of this case will reveal otherwise.

Protestant Marcos has not been treated unfairly. He has been given every opportunity to prove his unfounded claims of electoral frauds. After more than four (4) years, protestant Marcos has not been able to present a single evidence to prove that he should be declared the rightful winner in the 09 May 2016 Vice-Presidential Elections.

He has been defeated twice. First, during the 09 May 2016 Elections when the Filipino people rejected him. Second, during the revision, recount and re-appreciation of ballots where he failed to show any substantial recovery. Now, faced with these defeats and the looming 09 May 2022 National and Local Elections, protestant Marcos is desperate. He is desperate to show some semblance of credibility that he was cheated out of an office.

However, the Supreme Court is a trier of facts and not mere conjectures.

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

1. Protestant Ferdinand R. Marcos, Jr. (hereafter "Marcos" for brevity) has been previously sternly warned that *any unfounded and inappropriate accusation made in the future will be dealt with more severely.*

2. Last 04 August 2018, protestant Marcos filed an Extremely Urgent Motion to Inhibit Associate Justice Benjamin S. Caguioa ("Extremely Urgent Motion to Inhibit").¹

¹ A copy of the Extremely Urgent Motion to Inhibit Associate Justice Alfredo Benjamin S. Caguioa is hereto attached as **Annex "1"** and made an integral part hereof.

3. In seeking the inhibition of Associate Justice Caguioa, protestant Marcos claimed bias based on the following grounds:

3.1. Associate Justice Caguioa had close ties with then President Benigno Simeon Aquino III;

3.2. He was appointed as Chief Presidential Legal Counsel and as the 174th Justice of the Supreme Court.

3.3. The wife of Associate Justice Caguioa is a known ardent supporter of protestee Robredo.

4. The Honorable Tribunal, in its Resolution dated 28 August 2018 resolved to deny the Extremely Urgent Motion to Inhibit:

"IN VIEW OF THE FOREGOING, the Tribunal resolves to DENY protestant's Extremely Urgent Motion to Inhibit Associate Justice Alfredo Benjamin S. Caguioa dated August 4, 2018. Further, protestant and his counsels of record are STERNLY WARNED that any unfounded and inappropriate accusation made in the future will be dealt with more severely.

SO ORDERED."² [Emphasis supplied.]

5. In arriving at its Resolution, the Honorable Tribunal reminded protestant Marcos that while his narration may be good reading as a conspiracy theory, but *when used as a ground for inhibition, [it] must transcend fiction:*

² A copy of the Resolution dated 28 August 2018 is hereto attached as **Annex "2"** and made an integral part hereof.

"Protestant's empty allegations regarding Justice Caguioa's fraternal relations with President Aquino are only just that - empty. Without more, his imputations cannot form basis for voluntary inhibition under the IRSC. Even conceding that President Aquino appointed Justice Caguioa as Member of the Supreme Court, and that President Aquino belonged to the same political party as protestee, this alone does not automatically mean that Justice Caguioa is biased in favor of protestee and against protestant. Parenthetically, it may be worthy to note that Justice Caguioa and protestant's spouse, Atty. Liza Araneta-Marcos, were classmates in Ateneo Law School. Hence, protestant's insistence on equating bias on the mere fact that Justice Caguioa and President Aquino were classmates holds no water.

Protestant's narration may be good reading as a conspiracy theory and may even be fodder for discourse in social media, but his theories, when used as a ground to request for an inhibition of a Member of this Tribunal, must transcend fiction. Protestant must, following *Philippine Commercial International Bank*, provide extrinsic evidence of such bias and partiality, which he miserably failed to do. [Emphasis and underscoring supplied.]

6. More importantly, the Honorable Tribunal reminded protestant Marcos of its decision-making process which includes all the members:

"Thus, **in all actions** of the Tribunal on incidents arising from the Protest, the

participation of the Member-in-Charge is simply **recommendatory in nature and is always subject to a majority vote of all Members who has taken part in the deliberations of the issues taken up.** Moreover, the Member-in-Charge is tasked with providing a report containing a summary of facts and issues to assist every Member in arriving at an independent assessment and decision on a pending matter or incident. In this regard, it should be noted that, to date, other than the issue on the computation of the parties' respective cash deposits, all actions taken in the Protest have been arrived at by a unanimous vote of all the Members of the Tribunal sitting *en banc*. Unless protestant can prove with tangible evidence how a single Member was able to maneuver the will of 14 other Members into blindly following him with regard to all matters referred to the Tribunal, it is best that he maintain his arguments within the realm of reality. **More importantly, to insinuate that the other Members could be bypassed in the decision-making process is to say that they are incapable to taking care of their own affairs and remiss in participating in the deliberations of the Protest. This version of intrigue borders on contumacious behavior and should no longer be allowed to cloud the integrity of the Members of the Tribunal and of the on-going revision process.**

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Furthermore, in support of his Motion to Inhibit, protestant appended a column entitled "Questions that need answers" by Len Montano published on August 4,

2018 on the website www.radyo.inquirer.net, on the alleged conjugal conspiracy video supposedly circulating in social media, and a copy of the said video. An opinion piece in a news website and an unauthenticated video circulating on social media websites are not credible and admissible supporting evidence; these are not even worthy of cognizance by the Court.

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In this regard, this Tribunal denied such request because there is no reason to indulge the controversy created by some opinion writers and the protestant himself in the face of the remarkable progress achieved in the Protest under the guidance of Justice Caguioa. Borrowing the words of Chief Justice Roberts, as cited by Justice Jardeleza in his Resolution dated March 11, 2018, a Justice cannot withdraw from a case as a matter of convenience or as a means to avoid controversy." [Emphasis and underscoring supplied.]

7. Notwithstanding the previous stern warning to protestant Marcos, he once more follows the same frivolous route in his Extremely Urgent Motion for Inhibition.

8. Similarly, protestant Marcos imputes bias against Associate Justice Marvic Mario Victor F. Leonen.

9. And just like in his previous motion directed against Associate Justice Caguioa, protestant Marcos also relies heavily on news articles of Mr. Jomar Canlas.

10. Prior to the filing of the Extremely Urgent Motion for Inhibition, Mr. Canlas has consistently authored news articles directed against Associate Justice Leonen:

10.1. **30 September 2020** – Leonen finally acts on Marcos protest³;

10.2. **12 October 2020** – Justice prejudged Marcos poll protest⁴;

10.3. **13 October 2020** – Leonen's secrets revealed⁵;

10.4. **23 October 2020** – Justices decry court 'coddling' of Leonen⁶;

11. Ahead of the filing of the Extremely Urgent Motion for Inhibition of protestant Marcos, Mr. Canlas wrote that *the Solicitor General and former senator Ferdinand Marcos, Jr. will join forces on Monday in asking the Supreme Court, sitting as the Presidential Electoral Tribunal, to bar Justice Marvic Mario Victor Leonen from participating in the deliberations on the election protest filed by Marcos.*⁷

12. Mr. Canlas, just like protestant Marcos, has been previously sternly warned by the Supreme Court for hurling unfounded and baseless accusations against the sitting magistrates, in his article entitled –

"JUSTICES OFFERED P50-million bribe
To disqualify Poe – sources".⁸

13. With the series of news items written by Mr. Canlas, protestant Marcos has now set the stage for the inhibition of Associate Justice Leonen.

³ <https://www.manilatimes.net/2020/09/30/news/headlines/leonen-finally-acts-on-marcos-protest/774107/> last accessed 10 November 2020

⁴ <https://www.manilatimes.net/2020/10/12/second-headline/justice-prejudged-marcos-poll-protest/779459/> last accessed 10 November 2020

⁵ <https://www.manilatimes.net/2020/10/13/news/national/leonen-secrets-revealed/779931/> last accessed 10 November 2020

⁶ <https://www.manilatimes.net/2020/10/23/news/headlines/justices-decry-court-coddling-of-leonen/784252/> last accessed 10 November 2020

⁷ <https://www.manilatimes.net/2020/11/09/news/top-stories/leonen-asked-to-inhibit-from-marcos-poll-case/793709/> last accessed 10 November 2020

⁸ In Re: New Report of Mr. Jomar Canlas in the Manila Times issue of 8 March 2016.

14. Further, protestant Marcos imputes delay and the dissenting opinion of Associate Justice Leonen in **Ocampo, et al., v. Enriquez**⁹ together with his past employment history.

15. These are not new accusations.

16. Protestant Marcos imputed the same accusations of bias against Associate Justice Caguioa.

17. To follow the logic and reasoning of protestant Marcos would result to an absurdity if not inhibition of most, if not all the members of the Honorable Tribunal.

18. At present, the Honorable Tribunal, aside from Associate Justice Leonen is composed of all members of the Supreme Court including the Chief Justice:

18.1. **Chief Justice Diosdado M. Peralta** who hails from Laoag City, Ilocos Norte where protestant Marcos and his family hails from. He was also the ponente in **Ocampo, et al., v. Enriquez** which allowed the remains of the former dictator who is also the father of protestant Marcos, to be buried in Libingan ng mga Bayani.

18.2. **Associate Justice Estela M. Perlas-Bernabe** obtained her Bachelor of Laws from the Ateneo de Manila School of Law in 1975. The same school where Solicitor General Jose C. Calida graduated from in 1973. She also concurred in the **Ocampo, et al., v. Enriquez** which allowed the remains of the former dictator who is also the father of protestant Marcos, to be buried in Libingan ng mga Bayani.

18.3. **Associate Justice Alfredo Benjamin S. Caguioa** also graduated from the Ateneo de Manila School of Law in 1985. He was the classmate of the wife of protestant Marcos.

⁹ G.R. No. 225973, November 8, 2016.

18.4. **Associate Justice Alexander G. Gesmundo**, prior to his appointment in the Supreme Court was on Seconded Appointment as Commissioner of the Presidential Commission on Good Government, the agency primarily tasked with recovering the ill-gotten wealth of the family of protestant Marcos. Further, Associate Justice Gesmundo also graduated from the same law school as Solicitor General Calida.

18.5. **Associate Justice Ramon Paul L. Hernando** graduated from the same law school – San Beda College of Law – as President Rodrigo R. Duterte. He is the 180th member of the Supreme Court.

18.6. **Associate Justice Rosmari D. Carandang** was likewise appointed to the Supreme Court by President Rodrigo R. Duterte.

18.7. **Associate Justice Amy C. Lazaro-Javier** was likewise appointed to the Supreme Court by President Rodrigo R. Duterte.

18.8. **Associate Justice Henri Jean Paul B. Inting** obtained his law degree from the Ateneo De Davao University. He was appointed to the Supreme Court by President Rodrigo R. Duterte. Associate Justice Inting is also the brother of Commissioner Soccoro B. Inting of the Commission on Elections.

18.9. **Associate Justice Rodil V. Zalameda** also graduated from the Ateneo de Manila School of Law. He is a member of the Fraternal Order of Utopia, the rival fraternity of Solicitor General Calida. Associate Justice Zalameda was appointed to the Supreme Court by President Rodrigo R. Duterte.

18.10. **Associate Justice Mario V. Lopez** graduated from the same law school – San Beda

College of Law - as President Rodrigo R. Duterte. He was appointed by President Rodrigo R. Duterte in the Supreme Court.

18.11. **Associate Justice Edgardo L. Delos Santos** hails from Palompon, Leyte. The mother of protestant Marcos, Imelda R. Marcos also hails from the Province of Leyte. He was appointed to the Supreme Court by President Rodrigo R. Duterte.

18.12. **Associate Justice Samuel H. Gaerlan** graduated from the same law school – San Beda College of Law - as President Rodrigo R. Duterte. He was appointed by President Rodrigo R. Duterte in the Supreme Court.

18.13. **Associate Justice Priscilla J. Baltazar-Padilla** was likewise appointed to the Supreme Court by President Rodrigo R. Duterte.

18.14. **Associate Justice Ricardo R. Rosario** graduated from the Ateneo de Manila School of Law. He is a fraternity brother of Solicitor General Calida and was appointed to the Supreme Court by President Rodrigo R. Duterte.

19. Now, to follow the logic of protestant Marcos, the members of the Honorable Tribunal who were appointed by President Duterte should also inhibit from this Election Protest.

20. The differences between President Duterte and protestee Robredo is public knowledge.

21. Meanwhile, on several occasions, President Duterte admits to being indebted to the sister of protestant Marcos for being one of those who funded his campaign.¹⁰

¹⁰ <https://www.philstar.com/headlines/2016/12/29/1657805/duterte-admits-being-indebted-imee-marcos> last accessed 09 November 2020.

22. No less than Chief Justice Peralta took note of this in his ponencia in *Ocampo, et al., v. Enriquez*:

"During the campaign period for the 2016 Presidential Election, then candidate Rodrigo R. Duterte (*Duterte*) publicly announced that he would allow the burial of former President Ferdinand E. Marcos (*Marcos*) at the *Libingan ng mga Bayani (LNMB)*. He won the May 9, 2016 election, garnering 16,601,997 votes. At noon of June 30, 2016, he formally assumed office at the Rizal Hall in Malacanan Palace." [Emphasis supplied.]

23. Thus, should protestee Robredo now assume bias on the part of Associate Justices Gesmundo, Hernando, Carandang, Lazaro-Javier, Inting, Zalameda, Lopez, Delos Santor, Gaerlan and Rosario?

24. Are the members of the High Tribunal who have been appointed by President Duterte now biased in favor of protestant Marcos?

25. Can we also impute the same bias against Chief Justice Peralta who was the ponente in the Resolution which allowed the burial of the remains of Ferdinand R. Marcos?

26. Or Associate Justice Perlas-Bernabe who concurred in the said Resolution.

27. In the Resolution dated 15 October 2019, only Associate Justice Caguioa and then Associate Justice Carpio dissented.

28. Under the said Resolution, the Honorable Tribunal, instead of dismissing this Election Protest, directed the parties to Comment.

29. Thus, the delay in the resolution of this Election Protest can only be ascribed to the steadfast refusal of protestant Marcos to accept the plain and simple truth – he lost, not once but twice.

30. The truth, no matter how difficult or bitter it might be must be accepted.

RESPECTFULLY SUBMITTED.

Pasig City for Manila. 10 November 2020.



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COMMISSION ON ELECTIONS

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Intramuros, Manila

EXPLANATION

Due to unavailability of messengers and the distance of the parties, copies of the herein "*Counter Manifestation*" 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, **LAILA ENDIC-GUAN**, hereby declare that the Strong Counter Manifestation (To The Strong Manifestation With Extremely Urgent Omnibus Motion For The: I. Inhibition Of Associate Justice Mario Victor F. Leonen; II. Re-Raffle Of This Election Protest; III. Resolution Of All The Pending Incidents In The Above-Entitled Case dated 06 November 2020) submitted electronically by use of compact disc in accordance with the Efficient Use of Paper Rule are complete and are true copies of the Strong Counter Manifestation (To The Strong Manifestation With Extremely Urgent Omnibus Motion For The: I. Inhibition Of Associate Justice Mario Victor F. Leonen; II. Re-Raffle Of This Election Protest; III. Resolution Of All The Pending Incidents In The Above-Entitled Case dated 06 November 2020) filed with the Presidential Electoral Tribunal.

Pasig City. 10 November 2020.

L Guan
LAILA ENDIC-GUAN

Secretary

Sardillo Sardillo Salom Law Office

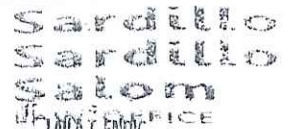
SUBSCRIBED AND SWORN TO BEFORE ME, a notary public in and for Pasig City, this 10th day of November 2020, by affiant LAILA ENDIC-GUAN who is personally known to me, and appeared with her UMID with CRN-0111-3021584-5 issued by the Social Security System, known to me as the same person who personally signed the foregoing attestation before me and acknowledged that she executed the same.

Doc. No. 116 ;
Page No. 25 ;
Book No. 1 ;
Series of 2020.

Maria Cynthia Antonia V. Sardillo-Pimentel

MARIA CYNTHIA ANTONIA V. SARDILLO-PIMENTEL
NOTARY PUBLIC FOR PASIG CITY, PATEROS AND SAN JUAN
Appointment No. 212 (2019-2020)
Roll No. 47275

IBP No. 096385/RSM/04 December 2019
PTR No. 5241951/02 January 2020/Pasig City
MCLE Compliance No. VI-0016792/13 December 2018
Unit 802, The Taipan Place, F. Ortigas Jr. Road,
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Date received:

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ANNEX "1"

Protestant,

PET Case No. 005

For: Election Protest
Vice-President

Protestee.

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EXTREMELY URGENT MOTION
TO INHIBIT
ASSOCIATE JUSTICE
ALFREDO BENJAMIN S. CAGUIOA

Protestant **FERDINAND "BONGBONG" R. MARCOS, JR.**, by himself, and unto this honorable Presidential Electoral Tribunal ("**PET**"), most respectfully moves for the immediate inhibition of Associate Justice Alfredo Benjamin S. Caguioa ("**Associate Justice Caguioa**") from participating in any of the proceedings relating to the above-entitled election protest on the ground of evident bias and manifest partiality in favor of the protestee Maria Leonor G. Robredo ("**Robredo**") on the basis of the following:

Canons relating to Judicial Ethics

1. **Administrative Matter (A.M.) No. 03-05-01-SC¹**, otherwise known as the **Adoption of the New Code of Judicial Conduct for the Philippine Judiciary**, mandates that every member of the Philippine Judiciary shall abide, uphold and maintain its canons on Independence, Integrity, Impartiality, Propriety, Equality, Competence and Diligence.

¹ Promulgated on May 15, 2004.

2. **Canon 3 of A.M. No. 03-05-01-SC** emphasizes that **impartiality is essential to the proper discharge of the judicial office**. Hence, it must be applied not only to the decision itself but also to the process by which the decision is made, thus:

CANON 3 IMPARTIALITY

Impartiality is essential to the proper discharge of the judicial office. It applies not only to the decision itself but also to the process by which the decision is made.

3. Pursuant thereto, judges, justices and other members of the Philippine Judiciary are decreed to perform their judicial duties **WITHOUT FAVOR, BIAS OR PREJUDICE**. They are also commanded to ensure that their conduct, **both in and out of court**, maintains and **enhances the confidence of the public**, the legal profession and litigants **in the impartiality of the judge and of the judiciary**. Thus:

SEC. 1. Judges shall perform their judicial duties without favor, bias or prejudice.

SEC. 2. Judges shall ensure that his or her conduct, **both in and out of court**, maintains and enhances the confidence of the public, the legal profession and litigants in the impartiality of the judge and of the judiciary.

4. The Old Code of Judicial Conduct echoes the same tenets by enjoining the members of the Philippine Judiciary to:

CANON 1– A judge should uphold the integrity and independence of the judiciary.

Rule 1.01 – A judge should be the embodiment of competence, integrity, and independence.

Rule 1.02 – **A judge should administer justice impartially and without delay.**

XXX

XXX

XXX

CANON 2 – A judge should avoid impropriety and the appearance of impropriety in all activities.

Rule 2.01 – A judge should so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary.

XXX

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Rule 2.03 – **A judge shall not allow family, social, or other relationships to influence judicial conduct or judgment.** The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or **permit others** to convey the impression that **they are in a special position to influence the judge.**²

5. Consequently, judges and justices are mandated under **Rule 3.12 of the Old Code of Judicial Conduct and Section 5, Canon 3 of the New Code of Judicial Conduct to disqualify themselves from participating in any proceedings in which they are unable to decide the matter impartially or in which it may appear to a reasonable observer that they are unable to decide the matter impartially.** Thus:

SEC. 5. Judges shall disqualify themselves from participating in any proceedings in which they are unable to decide the matter impartially or in which it may appear to a reasonable observer that they are unable to decide the matter impartially. Such proceedings include, but are not limited to, instances where (a) **The judge has actual bias or prejudice concerning a party** or personal knowledge of disputed evidentiary facts concerning the proceedings; (b) The judge previously served as a lawyer or was a material witness in the matter in controversy; (c) The judge, or a member of his or her family, has an economic interest in the outcome of the matter in controversy; (d) The judge served as executor, administrator, guardian, trustee or lawyer in the case or matter in controversy, or a former associate of the judge served as counsel during their association,

² Emphasis supplied.

or the judge or lawyer was a material witness therein; (e) The judge's ruling in a lower court is the subject of review; (f) The judge is related by consanguinity or affinity to a party litigant within the sixth civil degree or to counsel within the fourth civil degree; or (g) **The judge knows that his or her spouse or child has a financial interest, as heir, legatee, creditor, fiduciary, or otherwise, in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceedings.**³

6. Judges and Justices are likewise enjoined under **Section 1, Canon 4 of A.M. No. 03-05-01-SC** to avoid impropriety and the appearance of impropriety in all of their activities. Moreover, they are forbidden by **Section 4, Canon 4 of A.M. No. 03-05-01-SC** from participating in the determination of a case in which any member of their family is associated in any manner with the case. Thus:

CANON 4 PROPRIETY

Propriety and the appearance of propriety are essential to the performance of all the activities of a judge.

SEC. 1. Judges shall avoid impropriety and the appearance of impropriety in all of their activities.

xxx xxx xxx

SEC. 4. Judges shall not participate in the determination of a case in which any member of their family represents a litigant or is associated in any manner with the case.⁴

³ Emphasis and underscoring supplied.

⁴ Emphasis supplied.

Rationale behind Inhibition

7. In the landmark case of **Pimentel v. Salanga**⁵, Justice Conrado Sanchez stated that "To disqualify or not to disqualify himself x xqqwwwwwwwwwwwwwwwwwwqww x, as far as respondent judge is concerned, is a **matter of conscience**". He then laid down what still remains the guiding principle regarding the voluntary inhibition of judges:

"A judge may not be legally prohibited from sitting in a litigation. **But when suggestion is made of record that he might be induced to act in favor of one party** or with bias or prejudice against a litigant arising out of circumstance reasonably capable of inciting such a state of mind, **he should conduct a careful self-examination**. He should exercise his discretion in a way that the people's faith in the courts of justice is not impaired. A salutary norm is that he reflect on the probability that a losing party might nurture at the back of his mind the thought that the judge had **unmeritoriously tilted the scales of justice against him**. That passion on the part of a judge may be generated because of serious charges of misconduct against him by a suitor or his counsel, is not altogether remote. He is a man, subject to the frailties of other men. He should, therefore, exercise great care and caution before making up his mind to act or withdraw from a suit where that party or counsel is involved. He could in good grace inhibit himself where that case could be heard by another judge and where no appreciable prejudice would be occasioned to others involved therein. **On the result of his decisions to sit or not to sit may depend to a great extent the all-important confidence in the impartiality of the judiciary.**"⁶

8. Since then, the Supreme Court has consistently held that members of the judiciary should have a sense of propriety (also known as "*delicadeza*") for the fair, just and impartial administration of justice. As aptly pointed out by Justice Fernando in **Mateo Jr. v. Villaluz**⁷

⁵ Pimentel v. Salanga, 21 SCRA 160 [1967]

⁶ Emphasis supplied.

⁷ Mateo Jr. v. Villaluz, 50 SCRA 18 [1973], citing Government v. Abella, 49 Phil. 374; Dais v. Torres, 57 Phil. 897 and People v. Gomez, 20 SCRA 29.

"It is now beyond dispute that due process cannot be satisfied in the absence of that degree of objectivity on the part of a judge sufficient **to reassure litigants of his being fair and being just.** There is the legitimate expectation that the decision arrived at would be the application of the law to the facts as found by **a judge who does not play favorites. For him, the parties stand on equal footing.** In the language of Justice Dizon: 'It has been said, in fact, that due process of law requires a hearing before an impartial and disinterested tribunal, and that every litigant is entitled to nothing less than the cold neutrality of an impartial judge.'"

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"A judge has both the duty of rendering a just decision and the duty of doing it in a manner completely free from suspicion as to its fairness and as to his integrity."⁸

9. In **Gutang v. Court of Appeals**⁹, this Court was emphatic in holding that a judge should **immediately** inhibit himself so as not to cast doubt on the integrity of the judiciary, thus :

"Truly, the presiding judge must maintain and preserve the trust and faith of the parties-litigants. He must hold himself above reproach and suspicion. **At the very first sign of lack of faith and trust in his actions, whether well-grounded or not, the Judge has no other alternative but to inhibit himself from the case.** When circumstances appear that will induce doubt as to his honest actuations and probity in favor of either party, or incite such state of mind, he should conduct a careful self-examination. He should exercise his discretion in a way that the people's faith in the Courts of Justice is not impaired. The better course for the judge under such circumstances is to disqualify himself. That way, **he avoids being misunderstood, [and] his reputation for probity and objectivity is preserved. What is more important [is that]**

⁸ Emphasis supplied.

⁹ Gutang v. Court of Appeals, 292 SCRA 76 [1998]

the ideal of impartial administration of justice is lived up to."¹⁰

10. Based on the foregoing doctrines and precepts of both the **Old Code** and the **New Code of Judicial Conduct for the Philippine Judiciary**, it is now incumbent upon **Associate Justice Caguioa** to immediately recuse and/or inhibit himself from participating in any of the proceedings relative to the above-entitled election protest.

Basis for inhibition

11. **Associate Justice Caguioa** cannot deny that he is biased towards the "yellow brigade" given his close ties with his friend and former boss, **former President Benigno Simeon "Noynoy" C. Aquino, III ("Noynoy Aquino")**.

12. It is a matter of public knowledge that **Associate Justice Caguioa** is a **childhood friend of Noynoy Aquino**. In fact, they were classmates during grade school, high school and college at the Ateneo de Manila University.

13. During his term as President, **Noynoy Aquino** appointed **Associate Justice Caguiao** as Chief Presidential Legal Counsel from January 2013 to October 2015 (2 years & 10 months); then as Secretary of Justice from October 2015 to January 2016 (4 months) and then ultimately, on February 2016, as the 174th Justice of the Supreme Court.

14. Barely 4 months after **Noynoy Aquino** appointed him as the 174th Justice of the Supreme Court, **Associate Justice Caguiao** became the *ponente* of Marcos' election protest before the Supreme Court, acting as the Presidential Electoral Tribunal (PET).

15. To say that **Noynoy Aquino** and his family bear a grudge against the undersigned protestant and his family is an understatement.

¹⁰ Emphasis supplied.

16. It is public knowledge that **Noynoy Aquino** had nothing but harsh words to say about protestant Marcos and would verbally criticize him and his family before, during, and even after the May 2016 elections. He practically used his office to convince the voting public not to vote for protestant Marcos as Vice-President.

17. It is also public knowledge that **Noynoy Aquino** handpicked protestee **Robredo** to run against protestant Marcos for the Vice-Presidential position in the May 2016 elections.

18. On June 29, 2016 – barely four (4) months after **Noynoy Aquino** appointed **Associate Justice Caguiao**, the election protest filed by protestant Marcos curiously landed on the latter's lap.

19. Given his fraternal relations with **Noynoy Aquino**, simple *delicadeza* should have prompted **Associate Justice Caguiao** to readily recuse himself from participating in the election protest filed by his former boss' arch nemesis. Regrettably, however, it would appear that **Associate Justice Caguiao** had other plans because he even took on the responsibility of being the *ponente* in the said election protest.

20. Because of his utmost respect for this honorable Court and because he did not want to rock the boat, so to speak, protestant Marcos has been trying to remain calm and collected these last two (2) years. Despite the attendant delays in his election protest, he has tried to stay above the fray.

21. To add insult to injury, however, protestant Marcos recently discovered that **Associate Justice Caguiao's** wife, Pier Angela "Gel" Caguiao ("**Mrs. Caguiao**"), was and still is equally intimate not only with the Aquino family but also with protestee **Robredo**.

22. Screenshots of Viber messages purportedly coming from **Mrs. Caguiao** in her Viber chat group named "AHS77/COLL81 COR" have purportedly been circulating online and have become hot trending topics of netizens all over the country.

23. An article regarding the same was posted on <http://radyo.inquirer.net/131733/questions-need-answers> The said article is attached hereto to "Annex "A" and made an integral part of this Motion.¹¹

24. The Viber messages reveal that **Mrs. Caguioa** was **and still is** an **ardent supporter** of protestee **Robredo** and even **actively campaigned** for the latter when she ran against protestant Marcos in the May 2016 elections.¹²

25. **Mrs. Caguioa's** resentment towards protestant Marcos and his family is as clear as night and day. In one of her comments, she wrote : "*(i)f BBM wins and if he wins because of the youth, it'll be [the] failure of our generation. **We were the main catalysts of Edsa 1** and yet we failed to impart its lessons upon the generation that followed us.*"¹³

26. The series of Viber messages were posted in the Facebook account of former Baguio City Councilor Tonyboy Tabora on July 13, 2018 at 8:27 in the morning. As of **August 4, 2018**, "**The Conjugal Conspiracy**" video posted by Mr. Tabora in his Facebook page garnered **Eight Thousand Eight Hundred (8,800)** shares and **Three Hundred Twelve Thousand (312,000)** views.¹⁴

Arguments in support of inhibition

27. **Section 4, Canon 4 of A.M. No. 03-05-01-SC** prohibits a judge or justice from participating in the determination of a case in which any member of their family is associated in any manner with the case.

28. With all due respect, **Mrs. Caguioa's** close association and personal relationship with protestee **Robredo** is embraced in the proscription mandated by **Section 4, Canon 4 of A.M. No. 03-05-01-SC**.

¹¹ Inquirer article dated August 4, 2018 : <http://radyo.inquirer.net/131733/questions-needanswers>

¹² Ibid.

¹³ Ibid.

¹⁴ <https://www.facebook.com/tonyboy.tabora/videos/1278069985662628>

29. Given the evident bias, manifest partiality and blatant prejudice shown by **Associate Justice Caguioa** and **Mrs. Caguioa** in favor of **Noynoy Aquino** and protestee **Robredo**, the undersigned protestant is left with no other recourse but to file the instant ***Motion for the Inhibition*** pursuant to the mandate of **Canons 3 and 4** of the **New Code of Judicial Conduct for the Philippine Judiciary**.

30. It bears reckoning that in the recent case of ***Celerna Calayag, et al. v. Sulpicio Lines, Inc.***,¹⁵ this honorable Court reminded the members of the Philippine Judiciary that:

"Judges should avoid not just impropriety in their conduct but even **the mere appearance of impropriety**¹⁶ for appearance is an essential manifestation of reality.¹⁷ In insulating the Bench from unwarranted criticism, thus preserving a democratic way of life, **it is essential that judges be above suspicion.**¹⁸ It bears stressing that the duty of judges is not only to administer justice but also **to conduct themselves in a manner that would avoid any suspicion of irregularity.**¹⁹ This arises from the avowed duty of members of the Bench to promote confidence in judicial system. Occupying an exalted position in the administration of justice, judges must pay a high price for the honor bestowed upon them. Hence, **any act which would give the appearance of impropriety becomes, of itself, reprehensible.**²⁰

31. The undersigned protestant has been advised that the mere appearance of impropriety, partiality, bias and prejudice on the part of the judiciary necessarily offends the Constitutional right of the aggrieved party-litigant to due process.

¹⁵ G.R. No. 221864, September 14, 2016.

¹⁶ *San Juan v. Bagalacsa*, 347 Phil. 696, 701 (1997).

¹⁷ *Espiritu v. Jovellanos*, 345 Phil. 823, 835 (1997).

¹⁸ *Concerned Employees of the RTC of Dagupan City v. Falloran-Aliposa*, 384 Phil. 168, 190 (2000).

¹⁹ *Contreras v. Solis*, 329 Phil. 376, 380 (1996).

²⁰ *Supra* note 10, 181.

32. Due process necessarily requires that a hearing be conducted before an impartial and disinterested tribunal because unquestionably, every litigant is entitled to nothing less than the cold neutrality of an impartial judge. **All the other elements of due process, like notice and hearing, would be meaningless if the ultimate decision would come from a partial and biased judge.**²¹

33. In light of the clear and convincing evidence of bias, partiality and prejudice exhibited by **Associate Justice Caguioa** and **Mrs. Caguioa** in favor of protestee **Robredo**, the continued presence and participation of **Associate Justice Caguioa** as the *ponente* of the above-entitled case is a gross violation of the undersigned protestant's Constitutional right to due process of law.

34. Given the fact that the Supreme Court is a collegial body, it would be unfair and unjust for the other members of this esteemed Tribunal to be tainted by the impropriety of **Associate Justice Caguioa**. Consequently, it is imperative that he inhibit himself from participating in the proceedings and deliberations relative to this election protest.

PRAYER

ACCORDINGLY, the undersigned protestant respectfully prays that **Associate Justice Caguioa** immediately **RECUSE** and **INHIBIT** himself from participating in any of the proceedings in connection with the above-entitled election protest.

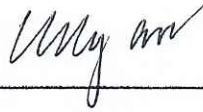
Other reliefs, just and equitable under the premises, are likewise prayed for.

City of Manila, Philippines, **4 August 2018.**


FERDINAND "BONGBONG" R. MARCOS, JR.
Protestant

²¹ *Ma. Regina S. Peralta v. Judge George E. Omelio, A.M. No. RTJ-11-2259, 22 October 2013.*

- ASSISTED BY -



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COMMISSION ON ELECTIONS

Law Department

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Intramuros, Manila

EXPLANATION

[Pursuant to Rules 30 and 31 of the
2010 Rules of the Presidential Electoral Tribunal]

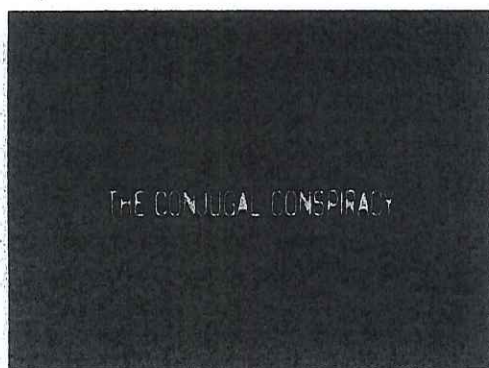
Copies of the foregoing ***Extremely Urgent Motion to Inhibit*** were served to the above-mentioned parties by registered mail, personal service being impractical due to distance, time and manpower constraints.


FERDINAND "BONGBONG" R. MARCOS, JR.

Column

Questions that need answers

By Len Montano August 04, 2018 - 05:14 PM SHARE(S): 0



Anyone can find just about anything on social media these days and that includes issues that may be legitimate or not but nonetheless becomes the staple of social media commentaries.

I chanced upon a post on Facebook post of one Tony Tabora.

Out of curiosity I clicked the video.

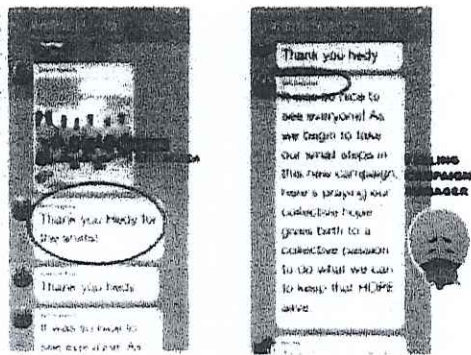
The video raises legitimate questions.

If not questions, at least concerns and suspicions of prejudgment if not outright biases or perceptions of it.

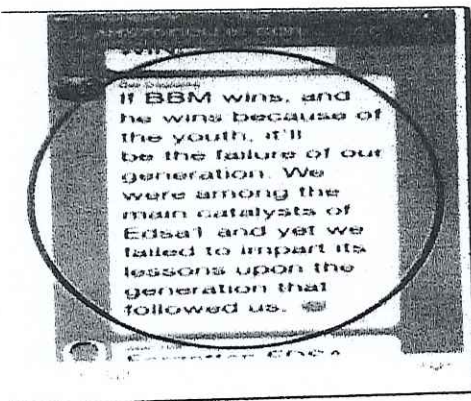
Of course there is always the presumption of regularity and integrity regardless of who appointed Supreme Court Justice Benjamin Caguioa but what if the views of his wife Angela also known as Gel over the Marcoses reflect that of her husband?

What if Gel's comments give a hint on why there is delay in the ruling of the Presidential Electoral Tribunal?

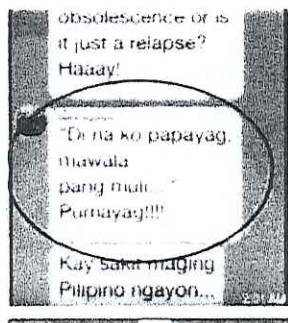
On the series of message exchanges on their private Viber group account named "AHS77/COLL81 COR", Mrs. Gel Caguioa purportedly states that "It was so nice to see everyone! As we begin to take our steps in this new campaign, here's praying our collective hope gives birth to a collective passion to do what we can to keep that hope alive", as shown in this picture.



The exchange of messages in the supposed Viber chat continues as Mrs. Gel Caguioa writes her response, "If BBM wins and he wins because of the youth, it'll be the failure of our generation. We were among the main catalysts of Edsa 1 and yet, we failed to impart its lessons upon the generation that followed us".



At the end of the supposed Viber chat, Mrs. Gel Caguioa also says, "Di na'ko papayag, mawala pang muli..."Pumayag!!!

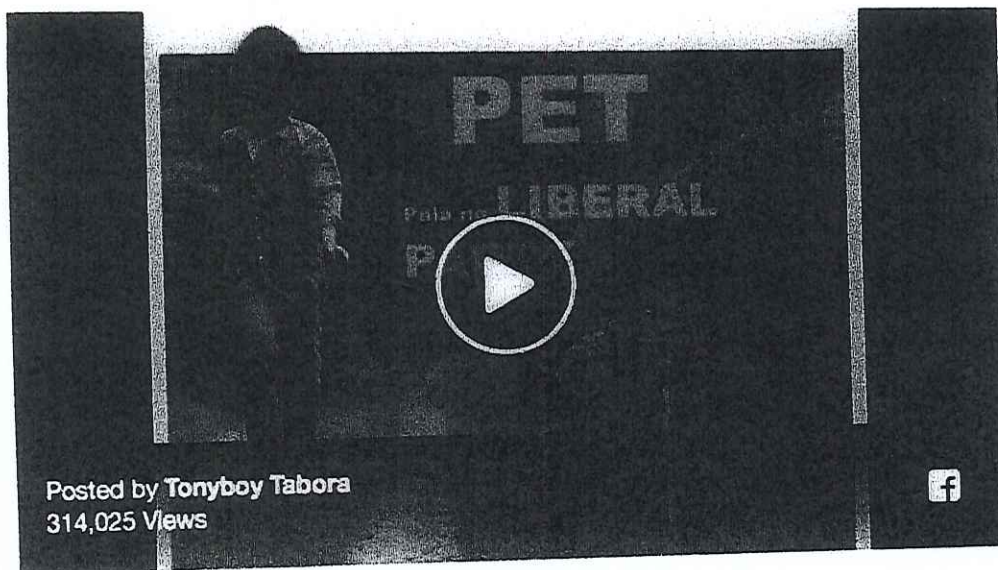


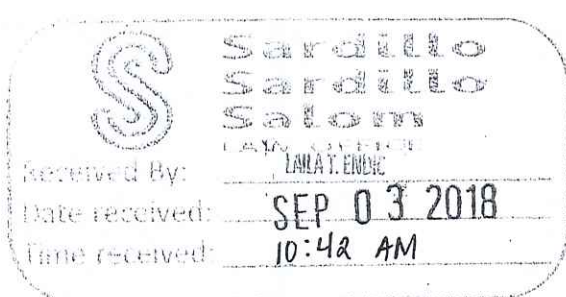
The election protest of Marcos has been pending for two years now-a long time to wait for anyone, Marcos or not. Mrs. Caguioa is not part of PET that's for sure but if her views reflect that of her husband is a matter that remains to be seen.

Curious? Intrigued? Here's the link of that Tabora video upload and these are the screenshots of Viber messages purportedly coming from Mrs. Caguioa to her Viber chat group named "AHS77/COLL81 COR"

circulated online and now a hot trending topic.

Here's the link.





Republic of the Philippines
Presidential Electoral Tribunal
Manila

ANNEX "2"

OFFICE OF THE CLERK OF THE TRIBUNAL

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

Protestant,

-versus -

P.E.T. Case No. 005

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

Protestee.

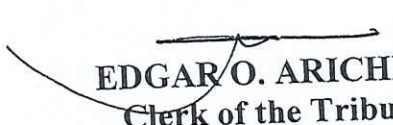
X-----X

NOTICE OF RESOLUTION

Sirs/Mesdames:

Please take notice that on August 28, 2018, a Resolution, copy attached herewith, was rendered by the Presidential Electoral Tribunal in the above-entitled case, the original of which was received by this Office on August 31, 2018 at 8:35 a.m.

Very truly yours,


EDGAR O. ARICHETA
Clerk of the Tribunal *mdme*

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Atty. Irene Ragodon-Guevarra (x)
Lot 12, Blk 25 Carnation Street
Primrose Hills Subdivision
Mahabang Parang, Angono, Rizal

The Chairperson (x)
COMELEC
Atty. Jose M. Tolentino, Jr. (x)
Executive Director
Commissioner Robert S. Lim (x)
Project Director, 2016-AES Project
Ester L. Villaflor-Roxas (x)
Director IV
Election Records and Statistics Department
Commission on Elections
Intramuros, 1002 Manila



Republic of the Philippines
Presidential Electoral Tribunal
Manila

**FERDINAND “BONGBONG” R.
MARCOS, JR.,**

Protestant,

PET Case No. 005

Present:

LEONARDO-DE CASTRO, *C.J.*,
CARPIO,
PERALTA,
BERSAMIN,
DEL CASTILLO,
PERLAS-BERNABE,
LEONEN,
JARDELEZA,
CAGUIOA,
TIJAM,
A. REYES, JR.,
GESMUNDO, and
J. REYES, JR., *JJ.*

- versus -

**MARIA LEONOR “LENI DAANG
MATUWID” G. ROBREDO,**
Protestee.

Promulgated:

August 28, 2018

X

RESOLUTION

PER CURIAM:

For resolution of the Tribunal is protestant's Extremely Urgent Motion to Inhibit Associate Justice Alfredo Benjamin S. Caguioa (Justice Caguioa) dated August 4, 2018 (Motion to Inhibit).

Protestant alleges the following circumstances as bases of the Motion to Inhibit: (i) that Justice Caguioa served under the administration of Former President Benigno Simeon C. Aquino III (President Aquino);¹ (ii) that Justice Caguioa and President Aquino were classmates in grade school, high school, and college at the Ateneo de Manila University;² (iii) that Justice Caguioa was appointed by President Aquino as the 174th Justice of the Supreme Court;³ (iv) that Justice Caguioa's spouse had actively campaigned

¹ Pars. 11 and 13, Motion to Inhibit, p. 7.

² Par. 12, *id.*

³ Par. 14, *id.*

for protestee in the May 2016 National and Local Elections (NLE) and remains to be one of her supporters;⁴ and (v) that Justice Caguioa's spouse made statements in a private chat group purportedly against protestant.⁵ The foregoing circumstances, protestant claims, display "evident bias, manifest partiality and blatant prejudice" in favor of President Aquino and protestee.⁶ Thus, based on the foregoing, protestant prays that Justice Caguioa be inhibited from further participating in the proceedings and deliberations of the instant Protest, claiming that his continued participation would amount to a violation of protestant's right to due process of law.⁷ He claims in particular that Justice Caguioa has fraternal relations with President Aquino who, in turn, "hand-picked" protestee as Vice-Presidential candidate of the Liberal Party in the May 2016 NLE. Protestant further argues that the purported ties of the spouse of Justice Caguioa with the Aquino family and her show of support for protestee should warrant inhibition following a sense of propriety or *delicadeza*.

In support of these allegations, protestant attached to the Motion to Inhibit a column entitled "Questions that need answers" by Len Montaña published on August 4, 2018 on the website www.radyo.inquirer.net, on the alleged conjugal conspiracy video supposedly circulating in social media, and a copy of the said video posted by Mr. Tonyboy Tabora in social media website Facebook which purportedly garnered 8,800 shares and 312,000 views.

Upon judicious scrutiny of the Motion to Inhibit and after weighing the allegations against the prevailing circumstances of the instant Protest, the Tribunal denies the same for utter lack of merit.

Case law, most recently in *Republic v. Sereno*,⁸ "x x x recognizes the right of litigants to seek disqualification of judges. Indeed, elementary due process requires a hearing before an impartial and disinterested tribunal."⁹ In fact, the Court continued therein that a "judge has both the duty of rendering a just decision and the duty of doing it in a manner completely free from suspicion as to its fairness and as to his integrity."¹⁰

A litigant's right to seek inhibition, however, must be balanced with the judge's sacred duty to decide cases without fear of repression. Thus, a movant seeking the inhibition of a magistrate is duty-bound to present clear and convincing evidence of bias to justify such request. In *Republic v. Sereno*,¹¹ the Court ruled:

⁴ Pars. 21, 24 and 26, *id.* at 8-9.

⁵ Par. 25, *id.* at 9.

⁶ Par. 29, *id.* at 10.

⁷ Pars. 32-34, *id.* at 11.

⁸ G.R. No. 237428, May 11, 2018 [Per J. Tijam, En Banc]
<<http://sc.judiciary.gov.ph/pdf/web/viewer.html?file=/jurisprudence/2018/may2018/237428.pdf>>

⁹ *Id.* at 37.

¹⁰ *Id.*, citing *Query of Exec. Judge Estrada, RTC, Malolos, Bulacan*, 239 Phil. 1, 6 (1987).

¹¹ *Supra* note 8.

However, the right of a party to seek the inhibition or disqualification of a judge who does not appear to be wholly free, disinterested, impartial and independent in handling the case must be balanced with the latter's sacred duty to decide cases without fear of repression. **The movant must therefore prove the ground of bias and prejudice by clear and convincing evidence to disqualify a judge from participating in a particular trial.** "[W]hile it is settled principle that opinions formed in the course of judicial proceedings, based on the evidence presented and conduct observed by the judge, do not prove personal bias or prejudice on the part of the judge."¹² (Emphasis supplied)

Here, the grounds cited by protestant do not form bases for the inhibition of a Member-in-Charge, since none of the grounds raised falls under the first paragraph of Section 1, Rule 8 of the Internal Rules of the Supreme Court (IRSC), likewise being used by the Tribunal:

SECTION 1. *Grounds for inhibition.* – A Member of the Court shall inhibit himself or herself from participating in the resolution of the case for any of these and similar reasons:

- (a) the Member of the Court was the *ponente* of the decision or participated in the proceedings in the appellate or trial court;
- (b) the Member of the Court was counsel, partner or member of a law firm that is or was the counsel in the case subject to Section 3(c) of this rule;
- (c) the Member of the Court or his or her spouse, parent or child is pecuniarily interested in the case;
- (d) the Member of the Court is related to either party in the case within the sixth degree of consanguinity or affinity, or to an attorney or any member of a law firm who is counsel of record in the case within the fourth degree of consanguinity or affinity;
- (e) the Member of the Court was executor, administrator, guardian or trustee in the case; and
- (f) the Member of the Court was an official or is the spouse of an official or former official of a government agency or private entity that is a party to the case, and the Justice or his or her spouse has reviewed or acted on any matter relating to the case.

A Member of the Court may in the exercise of his or her sound discretion, inhibit himself or herself for a just or valid reason other than any of those mentioned above.

The inhibiting Member must state the precise reason for the inhibition.¹³

¹² Id. at 37-38, citing *People v. Hon. Ong*, 523 Phil. 347, 358 (2006).

¹³ INTERNAL RULES OF THE SUPREME COURT, Rule 8, Sec. 1.

For voluntary inhibitions of a Member of the Tribunal, the following criteria set by the Court in *Philippine Commercial International Bank v. Spouses Dy*,¹⁴ is followed:

However, the second paragraph of Rule 137, Section 1 does not give judges unfettered discretion to decide whether to desist from hearing a case. The inhibition must be for just and valid causes, and in this regard, we have noted that **the mere imputation of bias or partiality is not enough ground for inhibition, especially when the charge is without basis. This Court has to be shown acts or conduct clearly indicative of arbitrariness or prejudice before it can brand them with the stigma of bias or partiality.** Moreover, **extrinsic evidence is required to establish bias, bad faith, malice or corrupt purpose, in addition to palpable error which may be inferred from the decision or order itself.** The only exception to the rule is when the error is so gross and patent as to produce an ineluctable inference of bad faith or malice.¹⁵ (Emphasis supplied; citations omitted)

Based on the standard laid down in *Philippine Commercial International Bank*, the Motion for Inhibition must therefore be denied outright.

Protestant's empty allegations regarding Justice Caguioa's fraternal relations with President Aquino are only just that — empty. Without more, his imputations cannot form basis for voluntary inhibition under the IRSC. Even conceding that President Aquino appointed Justice Caguioa as a Member of the Supreme Court, and that President Aquino belonged to the same political party as protestee, this alone does not automatically mean that Justice Caguioa is biased in favor of protestee and against protestant. Parenthetically, it may be worthy to note that Justice Caguioa and protestant's spouse, Atty. Liza Araneta-Marcos, were classmates in Ateneo Law School. Hence, protestant's insistence on equating bias on the mere fact that Justice Caguioa and President Aquino were classmates holds no water.

Protestant's narration may be good reading as a conspiracy theory and may even be fodder for discourse in social media, but his theories, when used as a ground to request for an inhibition of a Member of this Tribunal, must transcend fiction. Protestant must, following *Philippine Commercial International Bank*, provide extrinsic evidence of such bias and partiality, which he miserably failed to do.

Quite the contrary, Justice Caguioa, as Member-in-Charge, has shown impartiality in his conduct of the matters involved in the Protest. Amid baseless allegations of delay, the Tribunal has given these no serious consideration as it knows that the proceedings in the Protest have, in fact, been pushed forward with utmost dispatch despite numerous pending incidents arising from it.

¹⁴ 606 Phil. 615 (2009).

¹⁵ Id. at 638-639.

If only to provide context, the preliminary conference for the instant Protest was held in July of 2017, immediately after all the legal questions on the sufficiency of the allegations in the Protest, and the timeliness of the Counter-Protest, and the Answer to the Counter-Protest had been subjected to a series of submissions of pleadings by the contending parties, and finally resolved.

That the actual revision proceedings commenced only in April 2018 — *and this fact was made known to both parties during the preliminary conference*¹⁶ — was because the Tribunal had to renovate the Supreme Court – Court of Appeals (SC-CA) gym to equip it as a proper revision and storage area. The period was also used to hire and train the Tribunal's personnel. As well, during this period of awaiting the gym's renovations, the Tribunal was called upon to also resolve a significant number of legal issues that had been raised by the parties (*i.e.*, protestee's Motion for Reconsideration *Pro Tanto*,¹⁷ dismissal of protestant's first cause action,¹⁸ compliance on the list of witnesses of the parties,¹⁹ protestant's Motion for Technical Examination of election paraphernalia,²⁰ and protestant's Motion for Decryption and Printing of Ballot Images²¹).

Weighed against protestant's imagined misgivings, the foregoing shows that Justice Caguioa's conduct of the matters involved in this Protest has been nothing but impartial.

Further, it bears reiterating that all decisions of the Tribunal have been arrived at through a majority vote of all the members of the Court sitting *en banc*. As provided under Rule 66 of the 2010 PET Rules:

RULE 66. Votes required. – In resolving all matters or questions submitted to the Tribunal, including the rendition of a decision and the adoption of resolutions, the concurrence of a majority of the Members present constituting a quorum, who actually took part in the deliberations on the issue of the case and voted therein, shall be necessary.

On the decision-making process, which ranges from the mundane task of procuring supplies to substantial legal issues such as the determination of the sufficiency of the allegations in the Protest, Rule 13 of the IRSC further provides:

SEC. 3. *Actions and decisions, how reached.* – The actions and decisions of the Court whether *en banc* or through a Division, shall be arrived at as follows:

¹⁶ See Transcript of Stenographic Notes of the Preliminary Conference held on July 11, 2017, pp. 47-48.

¹⁷ *Rollo* (Vol. XXXII), pp. 24504-24506.

¹⁸ *Id.* at 24482-24484.

¹⁹ *Id.* at 24501-24504; 24905.

²⁰ *Id.* at 24508-24512.

²¹ *Id.*

(a) *Initial action on the petition or complaint.* – After a petition or complaint has been placed on the agenda for the first time, **the Member-in-Charge shall, except in urgent cases, submit to the other Members at least three days before the initial deliberation in such case, a summary of facts, the issue or issues involved, and the arguments that the petitioner presents in support of his or her case. The Court shall, in consultation with its Members, decide on what action it will take.**

(b) *Action on incidents.* – **The Member-in-Charge shall recommend to the Court the action to be taken on any incident during the pendency of the case.**

X X X X

SEC. 5. *Decision-making process.* – a) A Member who disagrees with the report and the recommended action of the Member-in-Charge may submit to the Chief Justice or Division Chairperson, furnishing a copy to other Members, his or her reflections, setting forth the reason or reasons for such disagreement.

b) A Member who agrees with the recommended action but based on different reason or reasons may, observing the same procedure, submit his or her reflections stating such reason or reasons.

X X X X

d) After the submission of the reflections, **the Member-in-Charge may request for a vote on the report and the reflections or for time to respond to such reflections within a maximum period of two weeks. Voting shall take place when the final versions of the report and the reflections shall have been submitted.**

e) The Court shall then assign to a Member the writing of its opinion based on the result of the voting. **The Member assigned shall submit the majority opinion and the other Members may submit his or her dissenting, separate, or concurring opinions based solely on the final versions voted upon.** (Emphasis supplied)

Thus, in all actions of the Tribunal on incidents arising from the Protest, the participation of the Member-in-Charge is simply **recommendatory in nature and is always subject to a majority vote of all Members who has taken part in the deliberations of the issues taken up.** Moreover, the Member-in-Charge is tasked with providing a report containing a summary of facts and issues to assist every Member in arriving at an independent assessment and decision on a pending matter or incident. In this regard, it should be noted that, to date, other than the issue on the computation of the parties' respective cash deposits, all actions taken in the Protest have been arrived at by a unanimous vote of all the Members of the Tribunal sitting *en banc*. Unless protestant can prove with tangible evidence how a single Member was able to maneuver the will of 14 other Members into blindly following him with regard to all matters referred to the Tribunal, it is best that he maintain his arguments within the realm of reality. **More importantly, to insinuate that the other Members could be bypassed in the decision-making process is to say that they are incapable of taking**

care of their own affairs and remiss in participating in the deliberations of the Protest. This version of intrigue borders on contumacious behavior and should no longer be allowed to cloud the integrity of the Members of the Tribunal and of the on-going revision process.

As regards the purported political leanings of Justice Caguioa's spouse, the Tribunal finds instructive the Resolution dated May 11, 2018 of Justice Francis H. Jardeleza (Justice Jardeleza) in *Republic v. Sereno*,²² where he referred to a motion for inhibition of U.S. Supreme Court Justice Clarence Thomas in the cases involving the Patient Protection and Affordable Care Act of 2010. In that case, Justice Thomas's inhibition was sought because his spouse had actively engaged with a conservative policy group that challenged the constitutionality of the said statute. Without any explanation, Justice Thomas did not recuse but, as Justice Jardeleza explained, Chief Justice Roberts was led to write the following in his 2011 Year-End Report:

Congress has directed that federal judicial officers must disqualify themselves from hearing cases in specified circumstances. As in the case of financial reporting and gift requirements, the limits of Congress's power to require recusal have never been tested. **The Justices follow the same general principles respecting recusal as other federal judges, but the application of those principles can differ due to the unique circumstances of the Supreme Court.** The governing statute, which is set out in Title 28, Section 455, of the United States Code, states, as a general principle, that a judge shall recuse in any case in which the judge's impartiality might reasonably be questioned. That objective standard focuses the recusal inquiry on the perspective of a reasonable person who is knowledgeable about the legal process and familiar with the relevant facts. Section 455 also identifies a number of more specific circumstances when a judge must recuse. All of the federal courts follow essentially the same process in resolving recusal questions. In the lower courts, individual judges decide for themselves whether recusal is warranted, sometimes in response to a formal written motion from a party, and sometimes at the judge's own initiative. In applying the Section 455 standard, the judge may consult precedent, consider treatises and scholarly publications, and seek advice from other sources, including judicial colleagues and the Judicial Conference's Committee on Codes of Conduct. A trial judge's decision not to recuse is reviewable by a court of appeals, and a court of appeals judge's decision not to recuse is reviewable by the Supreme Court. **A court normally does not sit in judgment of one of its own members' recusal decision in the course of deciding a case. The process within the Supreme Court is similar. Like lower court judges, the individual Justices decide for themselves whether recusal is warranted under Section 455. They may consider recusal in response to a request from a party in a pending case, or on their own initiative. They may also examine precedent and scholarly publications, seek advice from the Court's Legal Office, consult colleagues, and even seek counsel from the Committee on Codes of Conduct. There is only one major difference in the recusal process: There is no higher court to review a**

²² J. Jardeleza, Resolution, G.R. No. 237428, May 11, 2018
http://sc.judiciary.gov.ph/jurisprudence/2018/may2018/237428_jardeleza.pdf.

Justice's decision not to recuse in a particular case. This is a consequence of the Constitution's command that there be only "one supreme Court." The Justices serve on the Nation's court of last resort. As in the case of the lower courts, the Supreme Court does not sit in judgment of one of its own Members' decision whether to recuse in the course of deciding a case. Indeed, if the Supreme Court reviewed those decisions, it would create an undesirable situation in which the Court could affect the outcome of a case by selecting who among its Members may participate. Although a Justice's process for considering recusal is similar to that of the lower court judges, the Justice must consider an important factor that is not present in the lower courts. **Lower court judges can freely substitute for one another. If an appeals court or district court judge withdraws from a case, there is another federal judge who can serve in that recused judge's place. But the Supreme Court consists of nine Members who always sit together, and if a Justice withdraws from a case, the Court must sit without its full membership. A Justice accordingly cannot withdraw from a case as a matter of convenience or simply to avoid controversy. Rather, each Justice has an obligation to the Court to be sure of the need to recuse before deciding to withdraw from a case.**²³ (Additional emphasis and underscoring supplied)

Applied to this case, that the spouse of the Member-in-Charge has political beliefs is not, by any means, evidence to show the existence of bias or impartiality on the part of the Member-in-Charge. Aside from the fact that they are two separate individuals with separate identities, it is simply reckless to assume that a husband would have the same exact political sentiments as his wife, or vice versa. Such arguments are plainly conjectural and cannot stand scrutiny in a court of law. Justices are not to inhibit as a matter of convenience or simply to avoid controversy.²⁴ Given the significance of the present Protest, the participation of all Members of the Tribunal is very important and voluntary inhibitions must be with clear and convincing basis — one that is utterly lacking here.

The Tribunal likewise finds it disturbing that protestant would even go as far as to insinuate the intervention of Justice Caguioa in the raffling of the instant Protest:

14. Barely 4 months after Noynoy Aquino appointed him as the 174th Justice of the Supreme Court, Associate Justice Caguioa (*sic*) became the *ponente* of Marcos' election protest before the Supreme Court, acting as the Presidential Electoral Tribunal (PET).

x x x x

18. On June 29, 2016 – barely four (4) months after Noynoy Aquino appointed Associate Justice Caguioa (*sic*), the election protest filed by protestant Marcos curiously landed on the latter's lap.²⁵ (Emphasis omitted)

²³ Id. at 30-31.

²⁴ Id. at 31.

²⁵ Motion to Inhibit, pp. 7-8.

Under the IRSC, a Member of the Tribunal, prior to becoming the Member-in-Charge, has no participation in the assignment of cases. Moreover, the current raffling system through the use of a random raffle device bars any exertion of influence by any Member of the Tribunal, to wit:

SEC. 2. *Raffle Committee*. – Two Raffle Committees – one for the *en banc* and the other for Division cases, each to be composed of a Chairperson and two members – shall be designated by the Chief Justice from among the Members of the Court on the basis of seniority.

X X X X

SEC. 8. *Conduct of the raffle*. – The cases included in a previously prepared list shall be raffled using a reasonably acceptable random raffle device under a system that shall ensure the fair and equitable distribution of case load among all Members of the Court.²⁶

Clearly, protestant's allegation that the Protest "curiously landed" on the lap of Justice Caguioa unduly creates an impression of bias or impropriety even on the part of the members of the Court's raffle committee. This too borders on the contumacious.

The Tribunal also observes that only protestant signed the Motion to Inhibit and was merely "assisted" by counsel. Section 3, Rule 7 of the Revised Rules of Court provides that every pleading must be signed by the party or counsel representing him. This provision was taken from Section 5,²⁷ Rule 7 of the old Rules of Court, which was interpreted to mean that when a party is represented by counsel, any pleading or motion must be signed by the counsel. It is only when a party is not represented by counsel that the party himself may sign.²⁸ The conjunctive "or" in the new rule, clearly indicates the intent to maintain the requirement in the old rule. Thus, when a party is represented by counsel of record, service of orders and notices must be made upon said attorney; and notice to the client and to any other lawyer who is not the counsel of record, is not notice in law.²⁹

Furthermore, in support of his Motion to Inhibit, protestant appended a column entitled "Questions that need answers" by Len Montaña published on August 4, 2018 on the website www.radyo.inquirer.net, on the alleged

²⁶ INTERNAL RULES OF THE SUPREME COURT, Rule 7, Secs. 2 and 8.

²⁷ SEC. 5. *Signature and Address*. — Every pleading of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign his pleading and state his address. Except when otherwise specifically provided by rule or statute, pleadings need not be verified or accompanied by affidavit. The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If a pleading is not signed or is signed with intent to defeat the purpose of this rule, it may be stricken out as sham and false and the action may proceed as though the pleading had not been served. For a willful violation of this rule an attorney may be subjected to appropriate disciplinary action. Similar action may be taken if scandalous or indecent matter is inserted. (*Rules of Court, January 1, 1964.*)

²⁸ I Moran, COMMENTS ON THE RULES OF COURT (1979), pp. 305-306.

²⁹ *Cervantes v. City Service Corporation*, 784 Phil. 694, 699 (2016).

conjugal conspiracy video supposedly circulating in social media, and a copy of the said video. An opinion piece in a news website and an unauthenticated video circulating on social media websites are not credible and admissible supporting evidence; these are not even worthy of cognizance by the Court.

All these deficiencies in the Motion to Inhibit, coupled with the utter lack of legal and factual bases therefor, relegate the document to a mere scrap of paper.

Finally, it bears noting that the Tribunal has, in a previous occasion, affirmed Justice Caguioa's impartiality as Member-in-Charge of the Protest. In the session of the Tribunal held on July 24, 2018, the Tribunal *unanimously* denied Justice Caguioa's request to have the Protest re-raffled. This arose from Justice Caguioa's concern that despite all efforts of the Tribunal to move the proceedings forward with utter dispatch and insulated from external influences, the parties and even the media have still managed to tarnish the process based solely on the fact that Justice Caguioa is the Member-in-Charge. Knowing that there is no basis for his inhibition, but only to obviate further unfounded criticism from the public, Justice Caguioa requested a re-affle of the case.

In this regard, the Tribunal denied such request because there is no reason to indulge the controversy created by some opinion writers and the protestant himself in the face of the remarkable progress achieved in the Protest under the guidance of Justice Caguioa. Borrowing the words of Chief Justice Roberts, as cited by Justice Jardeleza in his Resolution³⁰ dated May 11, 2018, a Justice cannot withdraw from a case as a matter of convenience or as a means to avoid controversy.

IN VIEW OF THE FOREGOING, the Tribunal resolves to **DENY** protestant's Extremely Urgent Motion to Inhibit Associate Justice Alfredo Benjamin S. Caguioa dated August 4, 2018. Further, protestant and his counsels of record are **STERNLY WARNED** that any unfounded and inappropriate accusation made in the future will be dealt with more severely.

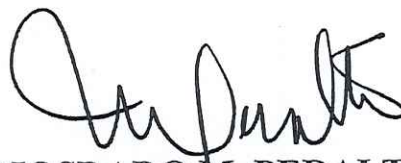
SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Chief Justice
Chairperson

³⁰ Supra note 22, at 31.



ANTONIO T. CARPIO
Associate Justice
Member



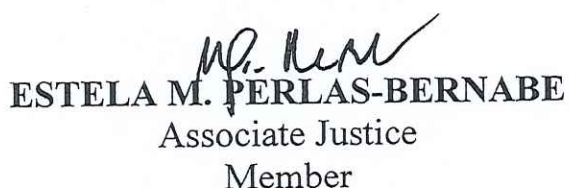
DIOSDADO M. PERALTA
Associate Justice
Member



LUCAS P. BERSAMIN
Associate Justice
Member



MARIANO C. DEL CASTILLO
Associate Justice
Member



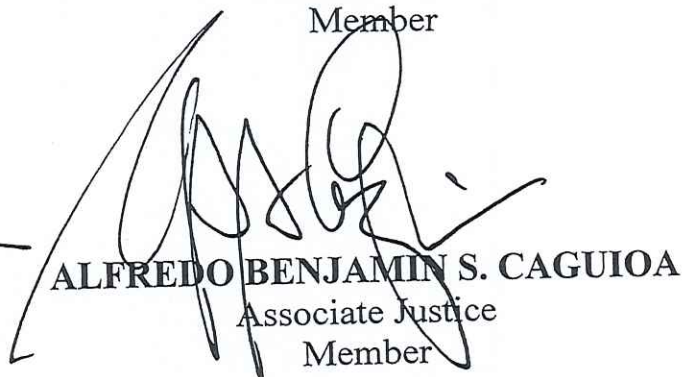
ESTELA M. PERLAS-BERNABE
Associate Justice
Member



MARVIC M.V.F. LEONEN
Associate Justice
Member



FRANCIS H. JARDELEZA
Associate Justice
Member



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice
Member



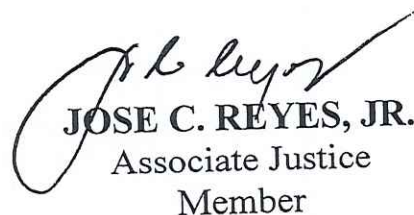
NOEL GIMENEZ TIJAM
Associate Justice
Member



ANDRES B. REYES, JR.
Associate Justice
Member



ALEXANDER G. GESMUNDO
Associate Justice
Member



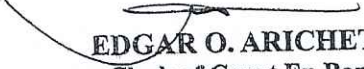
JOSE C. REYES, JR.
Associate Justice
Member

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court.

Teresita Leonardo de Castro
TERESITA J. LEONARDO-DE CASTRO
Chief Justice

CERTIFIED TRUE COPY


EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court