

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

**URGENT OMNIBUS MOTION
(1) FOR INVESTIGATION;
(2) TO TREAT THE OSG MOTION FOR INHIBITION
AS A MERE SCRAP OF PAPER; AND,
(3) THEREAFTER, TO EXPUNGE
THE OSG MOTION FOR INHIBITION FROM THE
RECORDS
WITH COMMENT
(ON THE OSG OMNIBUS MOTION FOR INHIBITION OF
ASSOCIATE JUSTICE MARVIC M.V.F. LEONEN AND
RERAFFLE DATED 09 NOVEMBER 2020)**

PREFATORY STATEMENT

**- If the Office of the Solicitor General
is to be the People's Tribune, it
cannot be someone's gladiator. -**

**Mr. Ferdinand Marcos, Jr. is not a pleb;
he is farthest from it. The ordinary Filipino is
not one who can boast of having had the
privilege of calling Malacanang Palace as
home for almost twenty years. Neither can
an ordinary Filipino lay claim to having a
mother who owns thousands of pairs of
shoes. Mr. Marcos never had to worry where
he will get the money for his next meal. To
claim otherwise would be to insult the**

Filipino people. Thus, as much as the Office of the Solicitor General would like to impress upon the Honorable Tribunal that, by appearing as the People's Tribune, it is merely upholding its bounden duty, it is not.

The people's tribune was patterned after Rome when the Patricians and the Plebians, they often had clashes. And there was this tribune appointed to defend the rights of the plebs.

And I have the discretion to decline appearing as counsel for a government agency, if in my opinion, the welfare of the people is at stake and the public interest is that I should side with the people of the Philippines.¹

- Solicitor General Jose Calida

"Pleb: an ordinary person, especially one from the lower social classes." - Oxford Dictionary

The Office of the Solicitor General only has such powers and functions as is authorized and entrusted to him by law; and in this, the Administrative Code is explicit and jurisprudence is consistent that, when faced with the actual dilemma of representing the Republic or the people,² the Solicitor General may choose the latter when doing so "affects the welfare of the people as the ends of justice may require." In exercising his discretion, the Solicitor General must choose carefully, for if he fails to heed the dictates of his conscience and abide by the principle of *delicadeza*, the law may be invoked

¹ <https://pcoo.gov.ph/january-19-2017-press-briefing-by-presidential-spokesperson-ernesto-abella-and-solicitor-general-jose-calida/>

² The first level for analysis, is to determine whether or not the dilemma exists, in the first place, because, as the law states: *Act and represent the Republic and/or the people [...] before any court, tribunal, body or commission in any matter, action or proceeding which, in his opinion, affects the welfare of the people as the ends of justice may require.* [Emphasis supplied.] That is, as the law indicates, the Solicitor General may choose to favor the people and take a contrary position to the Government (to which he is the chief counsel), *only* if he is in a situation where he has to choose between the two.

and step in to correct his course—and he runs the risk that his actions may be mistaken to be tantamount to giving any private party any unwarranted benefits, advantage, or preference in the discharge of his official administrative function—and those he may side with be equally mistaken for capitalizing, exploiting, or taking advantage of close personal relations.³

It must be judicious in asserting his sacred role as the "People's Tribune"—only when it truly and actually *affects the welfare of the people as the ends of justice may require*, so that he may not be accused of claiming it as a mere pretext. After all, the Office of the Solicitor General is, first and foremost, the law office of the Government;⁴ as such, the Solicitor General, being an officious manager, must weigh the opportunity cost of siding with one man against the realities of the office under his charge—lest he imperil the thousands upon thousands of pending cases and matters under his purview that require his equal (or, perhaps, even greater and devoted) attention.⁵

In the interests of justice, the best service that the Solicitor General may do is to let justice run its course, for it is not his duty to intrude into a private litigation between contestants (as in the case of an election protest, involving a defeated candidate-protestant and an incumbent and elected public official). His meaningful participation

³ The Rules Implementing the Code of Conduct and Ethical Standards for Public Officials and Employees, for example, states in Rule X, as "Grounds for Administrative Disciplinary Action:"

(h) Unfair discrimination in rendering public service due to party affiliation or preference;

(i) Disloyalty to the Republic of the Philippines and to the Filipino people;

⁴ It was within these premises that Republic Act No. 9417 was passed: "*to ensure efficient and effective performance in the legal service of the Government, an expansion and streamlining shall be effected in the Office of the Solicitor General.*" Relevantly, for example, as the law office of the Government, "*the legal staff of the Office of the Solicitor General are allowed to receive honoraria and allowances from client departments, agencies, and instrumentalities of the Government.*" No such provision is allowed for and from private litigants, and neither should the Solicitor General

⁵ Relevantly, the existence of these voluminous documents and the fact of the heavy workload of the Office of the Solicitor General are the oft-invoked bases when the OSG moves for extensions.

in the administration of justice is when he does his job and fulfills his duty, that is, for the Government and for the welfare of the people of the Philippines (of which there are plenty of better deserving common folk who are without a tribune).

Indeed, how does siding with one man serve the welfare of the people; and, why would he take up the position of the defeated candidate whose interest is to call into question and effectively disenfranchise the vote of the people of the Philippines?

And yes, if the Office of the Solicitor General is to be the People's Tribune, it cannot be someone's gladiator.

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

FACTUAL ANTECEDENTS

1. In the Resolution dated 12 July 2016, the Honorable Tribunal directed the issuance of Summons and granted the prayer of protestant Ferdinand R. Marcos, Jr., (hereafter "Marcos" for brevity) for a Precautionary Protection Order.⁶

2. Aside from the parties and counsels, the said Notice was also furnished to the Commission on Elections ("COMELEC") and Office of the Solicitor General ("OSG").

3. Thereafter, on 06 September 2016, the Honorable Tribunal directed COMELEC and protestee Maria Leonor G. Robredo (hereafter "Robredo" for brevity) *to file their respective REPLIES to the above Comment within ten (10) days from notice.*⁷

⁶ A copy of the Notice of the Resolution dated 12 July 2016 is hereto attached as **Annex "1"** and made an integral part hereof.

⁷ A copy of the Notice of Resolution dated 06 September 2016 is hereto attached as **Annex "2"** and made an integral part hereof.

4. In compliance therewith, OSG entered its appearance as counsel for COMELEC⁸:

"The **OFFICE OF THE SOLICITOR GENERAL** respectfully enters its appearance as counsel for the **COMMISSION ON ELECTIONS** ('COMELEC') in the captioned case."

5. Further, OSG sought its **first**, on what would be many extensions for time to comply with the orders of the Honorable Tribunal:

"WHEREFORE, the **COMMISSION ON ELECTIONS** respectfully prays that this Honorable Tribunal:

- a. **NOTE** the Entry of Appearance of the Office of the Solicitor General as **counsel for the COMELEC**; and
- b. **GRANT** the COMELEC an **additional period of ten (10) days from 3 October 2016, or until 13 October 2016**, within which to file its Reply." [Emphasis supplied.]

6. To date, OSG, as counsel for COMELEC, managed to ask for a total of **thirteen (13) motions for extension** from the Honorable Tribunal or a total of **One Hundred Fifty (150) days**:

MOTION	NO. OF DAYS
2016	
Entry of Appearance with Motion dated September 29, 2016 ⁹	10

⁸ A copy of the Entry of Appearance with Motion is hereto attached as **Annex "3"** and made an integral part hereof.

⁹ Annex "3" hereof.

Motion dated 10 October 2016 ¹⁰	15
Motion dated November 08, 2016 ¹¹	10
Motion for Additional Time dated December 2, 2016 ¹²	10
Motion dated December 12, 2016 ¹³	5
SUBTOTAL	50
2017	
Motion for Additional Time dated May 5, 2017 ¹⁴	15
Motion for Additional Time to File dated May 17, 2017 ¹⁵	10
Motion for Additional Time dated September 18, 2017 ¹⁶	10
Motion for Additional Time dated September 25, 2017 ¹⁷	10
Motion for Additional Time dated October 4, 2017 ¹⁸	10
SUBTOTAL	55
2018	
Motion for Additional Time to File dated May 28, 2018 ¹⁹	15
Motion for Extension dated June 11, 2018 ²⁰	15
Motion for Extension dated June 26, 2018 ²¹	15

¹⁰ A copy of the Motion dated 10 October 2016 is hereto attached as **Annex "4"** and made an integral part hereof.

¹¹ A copy of the Motion dated 08 November 2016 is hereto attached as **Annex "5"** and made an integral part hereof.

¹² A copy of the Motion for Additional Time dated 02 December 2016 is hereto attached as **Annex "6"** and made an integral part hereof.

¹³ A copy of the Motion dated 12 December 2016 is hereto attached as **Annex "7"** and made an integral part hereof.

¹⁴ A copy of the Motion for Additional Time dated 05 May 2017 is hereto attached as **Annex "8"** and made an integral part hereof.

¹⁵ A copy of the Motion for Additional Time dated 17 May 2017 is hereto attached as **Annex "9"** and made an integral part hereof.

¹⁶ A copy of the Motion for Additional Time dated 18 September 2017 is hereto attached as **Annex "10"** and made an integral part hereof.

¹⁷ A copy of the Motion for Additional Time dated 25 September 2017 is hereto attached as **Annex "11"** and made an integral part hereof.

¹⁸ A copy of the Motion for Additional Time dated 05 May 2017 is hereto attached as **Annex "12"** and made an integral part hereof.

¹⁹ A copy of the Motion for Additional Time dated 28 May 2018 is hereto attached as **Annex "13"** and made an integral part hereof.

²⁰ A copy of the Motion for Extension dated 11 June 2018 is hereto attached as **Annex "14"** and made an integral part hereof.

SUBTOTAL	45
GRAND TOTAL	150 DAYS

7. Noteworthy, the opinion and/or comment of COMELEC was solicited only on issues pertaining to the Automated Election System used during the 09 May 2016 National and Local Elections.

8. Thus, it came as a surprise when OSG abandoned COMELEC on the issue of the correct threshold to be applied during the revision, recount and re-appreciation of ballots.

9. Worse, OSG did so after filing four (4) successive motions for extension of time or a total of an additional fifty (50) days to file its Comment.

10. This, despite knowing the extreme urgency to resolve the issue on the correct threshold as the revision, recount and re-appreciation of ballots was already ongoing.

11. In its Manifestation and Motion (In Lieu of Comment) dated 04 July 2018, OSG took the same position as protestant Marcos on **applying the fifty percent (50%) threshold instead of the twenty five percent (25%)** used during the 09 May 2016 National and Local Elections.²²

12. Now abandoned by its statutory counsel, on 23 July 2018, COMELEC filed its Comment (On the Urgent Motion for Reconsideration (of the Resolution dated April 10, 2018) with Reiterative Prayer to Immediately Direct the Head Revisors to Use the Twenty-Five (25%) Threshold Percentage in the Revision, Recount and Re-Appreciation of Ballots dated April 18, 2018 filed by Counsel for Protestee Robredo) dated 18 July 2018.²³

13. In its Comment, COMELEC informed the Honorable Tribunal that the it *decided to calibrate automated voter*

²¹ A copy of the Motion for Extension dated 26 June 2018 is hereto attached as **Annex "15"** and made an integral part hereof.

²² A copy of the Manifestation and Motion (In Lieu of Comment) dated 04 July 2018 is hereto attached as **Annex "16"** and made an integral part hereof.

²³ A copy of the Comment dated 18 July 2018 is hereto attached as **Annex "17"** and made an integral part hereof.

counting system for the 9 May 2016 National and Local Elections to read as valid votes, marks that cover **about 25% (when seen by the human eyes) of the oval for each candidate.**

14. Since then, as the records of the above-captioned Election Protest will reveal, COMELEC has been represented by its Law Department in the submissions to the Honorable Tribunal.

15. At around 9:00 in the morning of 09 October 2020, protestant Marcos personally filed his 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.

16. The said Motion sought the inhibition of Associate Justice Mario Victor F. Leonen (hereafter "Justice Leonen", for brevity), on the ground of his alleged "*bias, partiality and prejudice*" against protestant Marcos:

16.1. Justice Leonen has "*open hatred towards the Marcos family*";

16.2. Further, the employment history of Justice Leonen show that he was previously appointed as the chief negotiator during the MILF peace talks and his efforts at making Bangsamoro an autonomous state was thwarted by protestant Marcos;

16.3. Citing the article of Mr. Jomar Canlas of *The Manila Times*, protestant Marcos claimed that Justice Leonen allegedly sought the dismissal of the above-captioned Election Protest by circulating a 25-page "*Reflections*" before the Honorable Tribunal began its formal deliberations on the matter; and

16.4. Finally, Justice Leonen did not act on the above-captioned Election Protest for more than a year since October 2019.

17. **After a mere three (3) hours**, on even date, OSG, as the alleged Tribune of the People, filed a similar motion -- Omnibus Motion (Motion for Inhibition of Associate Justice Marvic M. V. F. Leonen and Re-Raffle) dated 09 November 2020 ("Motion for Inhibition").

18. The Motion for Inhibition was signed by Solicitor General Jose Calida himself ("Solicitor General Calida," for brevity) and, by show of force, accompanied by nineteen (19) Assistant Solicitors General.

19. While not one to cast aspersions, protestee Robredo invites the attention of the Honorable Tribunal of the eerily similar grounds used by protestant Marcos and OSG:

19.1. Justice Leonen has previously disclosed "*personal biases against President Marcos and his family*";

19.2. OSG also cited and relied on articles by Mr. Jomar Canlas of the tabloid *The Manila Times*, the OSG claimed that he has prejudged PROTESTANT's electoral protest in seeking its dismissal by supposedly circulating a 25-page "*Reflections*";

19.3. The alleged "*unjustified delay*" in the resolution of the case has prejudiced the parties and the electorate.

20. Hence, protestee Robredo is now constrained to file this Motion if only to be clarified on the standing and personality of OSG in the above-captioned Election Protest.

DISCUSSION

**THE APPEARANCE OF THE
OFFICE OF THE SOLICITOR
GENERAL IN THE ABOVE-
CAPTIONED ELECTION
PROTEST IS AS STATUTORY
COUNSEL OF COMELEC.**

COMELEC IS NOT A PARTY-IN-INTEREST IN THE ABOVE-CAPTIONED ELECTION PROTEST.

THUS, THE OFFICE OF THE SOLICITOR GENERAL HAS NO LEGAL STANDING TO INTERVENE BY SEEKING THE INHIBITION OF THE MEMBER-IN-CHARGE.

21. Neither OSG nor COMELEC are parties-in-interest in the above-captioned Election Protest.

22. Under the law, the mandate of OSG is to *"represent the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer."*²⁴

23. Simplified, OSG is the lawyer of the Republic of the Philippines.

24. This primary role of OSG admits of an exception – in instances when *it represents the best interests of the State, and may take an adverse position from the government agency under litigation*²⁵.

25. In instances when it disagrees with its client and takes an adverse position, OSG can either pull out of the case and let the government agency find alternative representation or it can exceptionally stay in the case and take an adverse position, invoking its role as the "People's Tribune" or "Tribune of the People", when it *affects the welfare of the people as the ends of justice may require*²⁶.

²⁴ Administrative Code of 1987, Book IV, Title III, Chapter 12, Section 35.

²⁵ Republic of the Philippines and National Power Board v. Judge Cortez, G.R. Nos. 187257 & 187776, February 7, 2017.

²⁶ Administrative Code of 1987, Book IV, Title III, Chapter 12, Section 35, paragraph 11.

26. The Supreme Court in a catena of cases has recognized the appearance of OSG as the People's Tribune.²⁷

27. Thus, in order for OSG to act as the People's Tribune, the following requirements must be satisfied:

27.1. The suit should involve the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation and agents in any litigation, proceeding, investigation or matter requiring the services of a lawyer;

27.2. In that suit, OSG takes a position contrary or adverse to the said government agency or instrumentality it was supposed to represent;

27.3. The state should have a direct interest on the outcome of the suit and the Solicitor General is taking an adverse position to uphold that direct state interest.

28. None of these circumstances are present to justify the intervention of OSG as the "*Tribune of the People*."

29. In fact, OSG itself, in its Motion for Inhibition, has admitted this requirement or prior fact, as follows:

"5. Generally, the OSG represents the Government of the Philippines, its agencies and instrumentalities and its officials and agents in any litigation, proceeding, investigation or matter requiring the services of lawyers. The exception to this rule is when it acts as the "People's Tribune." **As such, it represents the best interests of the State, and may take an adverse position from the government agency under litigation.** X X X

²⁷ Republic v. National Power Board, G.R. No. 187257, February 7, 2017; Umali v. JBC, G.R. No. 228628, July 25, 2017; City Warden of Manila City Jail v. Estrella, G.R. No. 141211, August 31, 2011; Pimentel v. COMELEC, G.R. 126394, April 24, 1998.

6. This function of the OSG as Tribune of the People was made explicit in *Orbos v. CSC* where the Supreme Court pronounced that the OSG "should not therefore desist from appearing before this Court even in those cases he finds his opinion inconsistent with the Government or any of its agents he is expected to represent. The Court must be advised of his position just as well."

7. As the People's Tribune, it is therefore incumbent upon the OSG to present to this Honorable Tribunal a legal position that it perceives to be in the best interest of the State and the People, notwithstanding the findings and/or stand of any trial court, government office or party." [Emphasis and underscoring supplied.]

30. In the above-captioned Election Protest, the Government of the Philippines or any of its agencies and instrumentalities, is not a party.

31. While, protestee Robredo is an official or agent of the Government of the Republic of the Philippines, she has already engaged the services of private counsels to represent her in the above-captioned Election Protest.

32. The only known instance where the Solicitor General gets to participate in an election protest is when a final decision or order rendered by the trial court or agency is elevated to an appellate court.

33. Only then may the OSG enter its appearance and participate in the proceedings.

34. However, the above-captioned Election Protest is still pending before the Honorable Tribunal which has original jurisdiction.

35. Further, an election protest—while it involves public interest—remains to be a **private suit** involving a proclaimed elective official and a losing candidate.

36. More importantly, after having abandoned its client, or since 04 July 2018, it is the lawyers of the Law Department who has stood as counsels of COMELEC.

37. Since then, OSG has not represented COMELEC in any of the submissions to the Honorable Tribunal.

38. After having abandoned its own client, OSG cannot, by its own whim, come once more to the Honorable Tribunal under the pretext of being the People’s Tribune.

**OSG SHOULD NOT ACT AS
COUNSEL FOR PROTESTANT
MARCOS.**

39. At the pretext of being the People’s Tribune, using government resources and taxpayer’s money, Solicitor General Calida shielded by his nineteen (19) Assistant Solicitors General comes to the Honorable Tribunal, not to represent any state interest but that of protestant Marcos.

40. While denying any collusion, the two (2) motions filed by protestant Marcos and OSG are eerily similar:

PROTESTANT FERDINAND "BONGBONG" MARCOS, JR. <i>October 9, 2020</i>	OFFICE OF THE SOLICITOR GENERAL <i>October 9, 2020</i>
"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	OMNIBUS MOTION (MOTION FOR INHIBITION OF ASSOCIATE JUSTICE MARVIC M.V.F. LEONEN AND RERAFFLE)"

INCIDENTS IN THE ABOVE-ENTITLED CASE."	
<p>[Page 6 of 21]</p> <p>In his Dissenting Opinion in the Marcos burial case, Associate Justice Leonen displayed palpable bias and partiality against the entire Marcos family.</p> <p>22. In his dissent in the Marcos burial cases Associate Justice Leonen expressed how much he loathed the late President Ferdinand E. Marcos and the latter's family and friends:</p> <p>"Former President Ferdinand E. Marcos presided over a regime that caused untold sufferings for millions of Filipinos. Gross violations of human rights were suffered by thousands. The public coffers contributed to by impoverished Filipinos were raided. Ferdinand E. Marcos stood by as his family, associates, and cronies engaged in systematic plunder. The national debt ballooned during his regime. <i>[Original emphasis and underscoring retained]</i></p>	<p>[Pages 8 to 9]</p> <p>I. Justice Marvic M.V.F. Leonen unequivocally exhibited bias and partiality against the whole Marcos Family in his Dissent in the Marcos burial cases.</p> <p>13. In his scathing dissent in the Marcos Burial cases, Justice Leonen candidly wrote and expressed his loathsome attitude not just against President Ferdinand E. Marcos but also towards the latter's family and friends:</p> <p>Former President Ferdinand E. Marcos presided over a regime that caused untold sufferings for millions of Filipinos. Gross violations of human rights were suffered by thousands. The public coffers contributed to by impoverished Filipinos were raided. Ferdinand E. Marcos stood by as his family, associates, and cronies engaged in systematic plunder. The national debt ballooned during his regime. <i>[Original emphasis and underscoring retained]</i></p>
<p>[Pages 7 and 8 of 21]</p> <p>25. Veering away from what was supposed to be a</p>	<p>[Page 12]</p> <p>21. Justice Leonen even obscured the legal</p>

legal discussion, **Associate Justice Leonen** even suggested that the **heirs** of the late President issue a public apology:

"The transfer of the remains of Ferdinand E. Marcos negates all these aspects of Satisfaction and Guarantee of Non-Repetition. **There has been no sufficient public apology, full acknowledgement of facts, or any clear acceptance of responsibility on the part of Ferdinand E. Marcos or his Heirs.** Neither was Ferdinand E. Marcos sanctioned specifically for human rights violations. Now that he is dead, the victims can no longer avail themselves of this recourse. To add insult to this injury, **the President decided to acknowledge the heroic acts and other favorable aspects of Ferdinand E. Marcos, the person primarily responsible for these human rights violations.** This affects the accuracy of the accounts of the violations committed on the victims. It reneges on the State's obligation to provide human rights education and humanitarian law education to the Filipino People. It contributes to allowing violations of international human rights law and encourages impunity. If the State

discussion in the Marcos burial cases by suggesting the need for unconditional apology from the heirs of the late President as he wrote:

"The transfer of the remains of Ferdinand E. Marcos negates all these aspects of Satisfaction and Guarantee of Non-Repetition. **There has been no sufficient public apology, full acknowledgement of facts, or any clear acceptance of responsibility on the part of Ferdinand E. Marcos or his Heirs.** Neither was Ferdinand E. Marcos sanctioned specifically for human rights violations. Now that he is dead, the victims can no longer avail themselves of this recourse. To add insult to this injury, the President decided to acknowledge the heroic acts and other favorable aspects of Ferdinand E. Marcos, the person primarily responsible for these human rights violations. This affects the accuracy of the accounts of the violations committed on the victims. It reneges on the State's obligation to provide human rights education and humanitarian law education to the Filipino People. It contributes to allowing violations of international human rights law and encourages impunity. If the State

<p>chooses to revere the person responsible for human rights violations, the perception of its People and the rest of the world on the gravity and weight of the violations is necessarily compromised. <i>[Original emphasis and underscoring retained]</i></p>	<p>chooses to revere the person responsible for human rights violations, the perception of its People and the rest of the world on the gravity and weight of the violations is necessarily compromised. <i>[Original emphasis and underscoring retained]</i></p>
<p>[Page 14 and 16 of 21]</p> <p>Justice delayed is Justice denied, especially in an election protest.</p> <p>45. Under the New Code of Judicial Conduct, magistrates are directed to render decisions efficiently, fairly and with reasonable promptness.</p> <p>xxx xxx xxx</p> <p>The purported delay in the resolution of this election protest is contrary to public policy since it disregards the sanctity of votes and the popular choice of the people.</p>	<p>[Page 24]</p> <p>46. Justice delayed is justice denied, especially in an election protest. The long delay in the resolution thereof is anathema to democracy as it disregards the sanctity of votes and the popular choice of the people.</p>

41. And, **Solicitor General Calida has openly, actively and rabidly campaigned for protestant Marcos for Vice-President in the 09 May 2016 National and Local Elections.**

42. As to who should rightfully be proclaimed winner for Vice President during the 09 May 2016 National and Local

Elections is the very issue before the Honorable Tribunal now.

43. In order to promote the candidacy of protestant Marcos, Solicitor General Calida even organized the group *Alyansang Duterte-Bongbong* ("ALDUB").

44. Solicitor General Calida admits this in his candid video interview filmed in 2016 by reporter Pia Ranada of Rappler:²⁸

SOLGEN CALIDA *It is called Alyansang Duterte-Bongbong... "ALDub."*

PIA RANADA *So what are you fighting for, Sir? Why do you support Bongbong and Duterte as a tandem?*

SOLGEN CALIDA *Personally, because I am not member of any party. I volunteered for this job because I believe that the Philippines needs real change and the best tandem so far would be Mayor Duterte from Davao, representing Mindanao, and Senator Bongbong Marcos ...representing Luzon, especially Northern Luzon.*

PIA RANADA *Why sir these two?*

SOLGEN CALIDA *Well they have charisma, they have vision. And they are you know sincere in their efforts to change ...to effect change in the Philippines.*

²⁸ Pia Ranada, *In charge of recovering ill-gotten wealth? But Calida is pro-Marcos*, Rappler (March 27, 2017) published at <https://www.rappler.com/newsbreak/inside-track/solicitor-general-jose-calida-marcos-wealth-pcgg> and accessed on November 12, 2020 at 1:20 pm.

45. In the interview released by the *Presidential Communications Operations Office (PCOO)*,²⁹ on 16 May 2018, no less than President Rodrigo R. Duterte confirmed the intimate relationship between Solicitor General Calida and protestant Marcos:

Q: *Sir, comment on the action by the Supreme Court to oust si Chief Justice Sereno?*

PRESIDENT DUTERTE: *No, no. Ayaw kong pati ako diyan dinadamay nila eh.*

I said if there is one congresswoman or congressman, or a Justice, single Justice magsabi may kinausap ako diyan na, I can guarantee you, I will resign.

Sinabi ko na nga kay Sereno, "hindi ako nakialam." Kaya 'yung galing akong China, akong pinagbintangan, nagalit na ako but that was — hindi ako tumatago ng sentimento kay... [garbled]

*But tanungin niya maski sino, I never lifted a finger. Calida, well, Calida was... **You know Calida is an Ilocano. I think he's related to the Marcoses.***

Calida, it is his job to find faults. Hindi ko inaano. Sabi ko, I do not order Cabinet members to work on this, work on that.

²⁹ Full Transcript of the May 16, 2018 Media Interview with President Roa Duterte by the PCOO published at <https://pcoo.gov.ph/media-interview/media-interview-with-president-roa-duterte/> and accessed on November 11, 2020 at 8:45 am.

Whatever he thinks that it is his duty to perform, hindi ako nakikialam. But in one of those meetings here regarding the issue of the burial of President Marcos, siya 'yung pinaka-ano and Calida is passionately, pro-Marcos 'yan. Ilocano eh.

[Emphasis and underscoring supplied.]

46. Given his vocal and well-known support for protestant Marcos, then, it is not the most prudent course of action for Solicitor General Calida to ask any relief from the Honorable Tribunal in the above-captioned Election Protest.

47. In fact, in **Gonzales v. Chavez**³⁰, the Supreme Court reminded OSG to *distinguish between the institution which, from the very beginning, had been constituted as the law office of the Government and the individuals through whom its powers and duties are exercised. No emotions, of whatever kind and degree, should be allowed to becloud their high sense of duty and commitment to country and people.*

48. The duty of OSG in the above-captioned Election Protest is to represent COMELEC and not protestant Marcos.

49. The timing and synchronicity of the actions of OSG and protestant Marcos are too perfect to be accidental.

50. Their supposedly "separate" filings were made on the exact same day, containing similar arguments and relying on the same sources.

51. Finally, while OSG may have the experience and expertise on election related contests, its sudden appearance after abandoning its client, is rendered suspect by the vocal

³⁰ G.R. No. 97351, February 4, 1992.

expression of support made by its Solicitor General to protestant Marcos.

THE GROUND OF "BIAS AND PARTIALITY" AS PERCEIVED BY PROTESTANT MARCOS IS PERSONAL TO HIM AND, THUS, MAY ONLY BE RAISED BY HIM.

52. Only protestant Marcos can raise the issue of alleged "*bias and partiality*" of Justice Leonen. This is something personal to protestant Marcos.

53. The State, through OSG, has no obligation to assuage the insecurities, impatience or hurt feelings of protestant Marcos.

54. The personal feelings of protestant Marcos are not the concern of the Republic or of the people.

55. These personal grudges of protestant Marcos are best conveyed to the Honorable Tribunal through his battery of private lawyers, who are some of the best in the country.

56. Protestant Marcos is already represented by one of the known election lawyers of high caliber. He does not need to be lullabied and spoiled further by Solicitor General Calida and a buildingful of tax-paid state solicitors.

57. Thus, the Motion to Inhibit should be treated as a mere scrap of paper, for being filed by someone who is not a party or has any legal standing in the above-captioned Election Protest.

JUST LIKE PROTESTANT MARCOS, OSG ALSO UNDULY RELIED ON THE ARTICLES OF MR. JOMAR CANLAS.

58. In perfect synchrony with protestant Marcos, OSG also cited articles written by Mr. Jomar Canlas for The Manila Times.

59. Like an opera in perfect harmony, Mr. Jomar Canlas, OSG and protestant Marcos has achieved to discredit the Member-in-Charge based largely on an alleged 25-page Reflections:

"37. At first glance the news articles appear to be mere hearsay but careful perusal discloses and suggests that a certain document denominated as *Reflections* was indeed circulated, *albeit* in confidence, among the Members of the Tribunal to investigate why such news or information started in the first place. And it does not help that there has been no categorical denial from Justice Leonen.

38. The sharing of the so-called *Reflections*, in deference to the Tribunal may be best resolved among the Members, but certain facts and factors lead to doubts in the impartiality of Justice Leonen. The reported document, as reported by *The Manila Times*, was distributed (a) in the early stages of the protest case, and (b) while the case as in the hands in the former Member-in-Charge. We may add further that based on our review of the case records, following the directive to file Comment, the *Reflections*, assuming such document indeed exists, appears to favor the legal theory espoused by protestee on the alleged "lack of specificity" in protestant's allegations which, from our own evaluation or opinion, may not necessarily be the case. Without prejudice to further verification, protestant has averred that there are already findings from the COMELEC Voters Identification Division that the 2016 elections were marked by the electoral fraud based on a technical examination of precincts in Lanao del Sur, Maguindanao and Basilan.

39. The new report from *The Manila Times* triggered renewed public interest in the electoral protest. A simple internet search of the relevant names, words and/or phrases, e.g. "Leonen," "Marcos," "Robredo," "vice president," "election protest," "Supreme Court," "inhibition," etc., will reveal increased activity both in mainstream media sites and social media.

40. Whether true or not, the news that Justice Leonen has prejudged the electoral protest affects the integrity of the Tribunal, if he remains to be the ponente. A judge must not only be impartial, but must appear to be impartial."

60. The undue reliance of OSG on these newspaper articles is **irresponsible**, **reckless** and **uncalled for**.

61. It is unfortunate that an esteemed institution such as OSG would resort to gossip mongering despite knowing fully-well that Canlas' gossips were not only unsubstantiated, but inadmissible hearsays.

62. Conveniently, OSG seems to be blissfully unaware or just choose to turn a blind eye on the previous warning given to Mr. Jomar Canlas by the Supreme Court in RE: News Report Of Mr. Jomar Canlas In The Manila Times Issue of 08 March 2016.³¹

63. The Honorable Supreme Court already found Mr. Jomar Canlas guilty of indirect contempt and severely reprimanded him with a stern warning that a repetition of the same or similar act in the future shall merit a more severe sanction:

"First, the Court notes that the statement of the unnamed Justice did not confirm the allegation of bribery; the

³¹ A.M. No.16-03-10-SC, October 15, 2019.

unnamed Justice only stated that the Court will not allow itself to be pressured by anyone. **Second, the legitimacy of the news article is misleading and has not been sufficiently established. Third, a reading of the article shows its intention to sensationalize. The article reports of grave accusations that were not shown to have been verified.** It imputed bribery charges against a female lawyer, who was a former Malacañang lawyer and who supported the candidacy of Mar Roxas and President Benigno Aquino III. It gave a false impression against the Justices who did not vote in favor of Poe. It compared the bribery attempts to the one that allegedly occurred during the impeachment of Chief Justice Renato C. Corona. The article, in full, emphasizes the bad that overshadows the short disclaimer that the Justices refused the bribe. Again, because of the close voting in the Poe cases, the article created a doubt in the minds of the readers, against some of the Justices and in the process, the Court as a whole."

64. These articles of Mr. Jomar Canlas on Justice Leonen which were quoted by the OSG are of the same nature as the Grace Poe article for which he was held in contempt.

65. Had OSG been circumspect, it would have realized that these are intended for no other purpose but to sensationalize.

66. Worse, the articles were perfectly timed to create the situation of seeking the inhibition of the Member-in-Charge.

67. Thus, if it were to be argued that Mr. Jomar Canlas is credible, this begs the question on how a person who is not a member of the Honorable Tribunal can possibly have knowledge on inside information that only the magistrates should be privy to?

**NO LESS THAN OSG
CONTRIBUTED TO THE DELAY
IN THE RESOLUTION OF THE
ABOVE-CAPTIONED ELECTION
PROTEST.**

68. The records are clear. No less than thirteen (13) motions for extensions have been filed by OSG.

69. Simply put, OSG asked for a total of **One Hundred Fifty (150) days** or **five (5) months** by way of extension.

70. Ironically, OSG seeks the inhibition of the Member-in-Charge for his perceived delay, when it has largely contributed to the delay in the proceedings in the above-captioned Election Protest.

71. Meanwhile, in 2018, OSG had a backlog of 1,069,856 cases.³²

72. Hounded by its own backlog in handling of cases, OSG now castigates the Honorable Tribunal for perceived delay.

73. Maybe the time of OSG is better served attending to its cases rather than meddling in a privately contested matter.

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

³² Lian Buan, *Calida runs after Duterte critics amid 1M OSG backlog*, Rappler (July 25, 2019) published at <https://www.rappler.com/nation/calida-runs-after-duterte-critics-amid-solgen-case-backlogs> and accessed on November 12, 2020 at 3:21 pm.

PRAYER

WHEREFORE, premises considered, it is respectfully prayed of this Honorable Tribunal to:

1. TREAT the Omnibus Motion (Motion for Inhibition of Associate Justice Marvic M. V. F. Leonen and Reraffle) dated 09 November 2020 as a mere scrap of paper; and,

2. EXPUNGE the Omnibus Motion (Motion for Inhibition of Associate Justice Marvic M. V. F. Leonen and Reraffle) dated 09 November 2020 for being filed by someone who is not a party or has any legal standing in the above-captioned Election Protest; or, in the alternative,

3. OUTRIGHTLY DENY the Omnibus Motion (Motion for Inhibition of Associate Justice Marvic M. V. F. Leonen and Reraffle) dated 09 November 2020; and,

4. Finally, conduct an IMMEDIATE INVESTIGATION for possible collusion between Solicitor General Jose Calida, the Nineteen (19) Assistant Solicitors General, Mr. Jomar Canlas of The Manila Times and protestant Ferdinand R. Marcos, Jr. in besmirching the reputation of the Member-In-Charge.

Protestee Robredo prays for such other reliefs just and equitable in the premises.

Makati City for Manila, 16 November 2020.

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REQUEST

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

Please submit the foregoing "*Urgent Omnibus Motion (1) For Investigation; (2) To Treat the OSG Motion For Inhibition as a Mere Scrap of Paper; and, Thereafter, To Expunge the OSG Motion for Inhibition from the Records*" for the consideration and approval of the Honorable Tribunal immediately upon receipt hereof without need for oral arguments.


REAGAN F. DE GUZMAN

NOTICE OF HEARING

ATTY. GEORGE ERWIN M. GARCIA

ATTY. JOAN M. PADILLA

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LAW DEPARTMENT

COMMISSION ON ELECTIONS

8th Floor, Palacio del Gobernador,
Intramuros, Manila

Please take note that undersigned counsel will submit the foregoing "*Urgent Omnibus Motion (1) For Investigation; (2) To Treat the OSG Motion For Inhibition as a Mere Scrap of Paper; and, Thereafter, To Expunge the OSG Motion for Inhibition from the Records*" for the consideration and approval of the Honorable Tribunal immediately upon receipt thereof without need for further oral arguments.


REAGAN F. DE GUZMAN

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EXPLANATION

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


REAGAN F. DE GUZMAN

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 Urgent Omnibus Motion (1) For Investigation; (2) To Treat the OSG Motion For Inhibition as a Mere Scrap of Paper; and, Thereafter, To Expunge the OSG Motion for Inhibition from the Records with Comment submitted electronically by use of compact disc in accordance with the Efficient Use of Paper Rule are complete and are true copies of the Urgent Omnibus Motion (1) For Investigation; (2) To Treat the OSG Motion For Inhibition as a Mere Scrap of Paper; and, Thereafter, To Expunge the OSG Motion for Inhibition from the Records with Comment filed with the Presidential Electoral Tribunal.

Pasig City. 16 November 2020.

Loman
LAILA ENDIC-GUAN
Secretary

Sardillo Sardillo Salom Law Office

SUBSCRIBED AND SWORN TO BEFORE ME, a notary public in and for Pasig City, this 16th 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. 120;
Page No. 25;
Book No. I;
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

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