



**Republic of the Philippines
Supreme Court
Manila**

**RULES OF PROCEDURE
IN ELECTION CONTESTS BEFORE THE
COURTS INVOLVING ELECTIVE
MUNICIPAL AND BARANGAY OFFICIALS**

PURSUANT to the provisions of Article VIII, Section 5(5) of the Constitution, and in order to achieve an expeditious, inexpensive and just determination of election cases before the courts, the Supreme Court hereby adopts and promulgates the following rules.

**RULE 1
SCOPE**

SECTION 1. *Coverage.*—These Rules shall govern the filing of pleadings, practice and procedure in election protests and petitions for *quo warranto* before courts of general jurisdiction and courts of limited jurisdiction relating to elective municipal and barangay officials.

SEC. 2. *Application of the Rules of Court.*—The Rules of Court shall apply by analogy or in a suppletory character, and whenever practicable and convenient.

SEC. 3. *Definitions.*—As used in these Rules:

- (a) Courts — refer to the Regional Trial Courts or the Municipal Trial Courts, including the Metropolitan Trial Courts, Municipal Trial Courts in Cities, Municipal Trial Courts and Municipal Circuit Trial

Courts.

- (b) Election — means the choice or selection of candidates to public office by popular vote through the use of the ballot. Specifically, it may refer to the conduct of the polls, including the listing of voters, the holding of the electoral campaign, and the casting and counting of ballots and canvassing of returns.
- (c) Election Contests — refer to election protests or petitions for *quo warranto*.
- (d) Election Protest — refers to an election contest relating to the election and returns of elective officials, grounded on frauds or irregularities in the conduct of the elections, the casting and counting of the ballots and the preparation and canvassing of returns. The issue is who obtained the plurality of valid votes cast.
- (e) *Quo Warranto* under the Omnibus Election Code — refers to an election contest relating to the qualifications of an elective official on the ground of ineligibility or disloyalty to the Republic of the Philippines. The issue is whether respondent possesses all the qualifications and none of the disqualifications prescribed by law.
- (f) Revision of Ballots — refers to the process of a recount of the ballots involving physical counting and segregation of ballots for the protestant, protestee and other candidates for the same position and the recording of objections and claims to ballots.
- (g) Promulgation — refers to the process by which a decision is published, officially announced, made known to the public and delivered to the clerk of court for filing, coupled with notice to the parties or their counsel.

SEC. 4. *Inherent powers of the court.*—When performing its functions, a court shall have the inherent power to:

- (a) Preserve and enforce order in its immediate presence;
- (b) Enforce order in proceedings before it, or before a person or persons empowered to conduct a judicial investigation under its authority;
- (c) Compel obedience to its judgments, orders and processes, and to the lawful orders of a judge out of court, in a case pending therein;
- (d) Control, in furtherance of justice, the conduct of its ministerial officers, and of all other persons in any manner connected with a case before it, in every manner appertaining thereto;
- (e) Compel the attendance of persons to testify in a case pending therein;
- (f) Administer or cause to be administered oaths in a case pending therein, and in all other cases where it may be necessary in the exercise of its powers;
- (g) Amend and control its processes and orders so as to make them conformable to law and justice; and
- (h) Authorize a copy of a lost or destroyed pleading or other paper to be filed and used instead of the original and to restore and supply deficiencies in its records and proceedings.

SEC. 5. *Means to carry jurisdiction into effect.*—All auxiliary writs, processes, and other means necessary to carry into effect its powers or jurisdiction may be employed by the court and, if the procedure to be followed in the exercise of such jurisdiction is not specifically provided by law or these Rules, the court may adopt any suitable process or mode of process which appears conformable to the spirit of said law or rules.

RULE 2 ELECTION CONTESTS

SECTION 1. *Jurisdiction of regional trial courts.*—Regional trial courts shall have exclusive original jurisdiction over all election contests involving elective municipal officials.

SEC. 2. *Jurisdiction of municipal trial courts.*—Municipal trial courts shall have exclusive original jurisdiction over all election contests involving elective barangay officials.

SEC. 3. *How initiated.*—An election contest is initiated by the filing of an election protest or a petition for *quo warranto* against an elective municipal or barangay official. An election protest or a petition for *quo warranto* shall be filed directly with the proper court in three legible copies plus such number of copies corresponding to the number of protestees or respondents.

An election protest shall not include a petition for *quo warranto*, nor shall a petition for *quo warranto* include an election protest.

SEC. 4. *Modes of service and filing.*—Service and filing of pleadings, including the initiatory petition and other papers, shall be done personally. Except with respect to papers emanating from the court, a resort to other modes of service must be accompanied by a written explanation why the service or filing was not done personally. A violation of this Rule shall be cause to consider the pleading or paper as not filed.

SEC. 5. *Election protest.*—A petition contesting the election or returns of an elective municipal or barangay official shall be filed with the proper regional trial court or municipal trial court by any candidate who was voted for the same office and who received the second or third highest number of votes or, in a multi-slot position, was among the next four candidates following the last-ranked winner duly proclaimed, as

reflected in the official results of the election contained in the Statement of Votes By Precinct. The party filing the protest shall be designated as the protestant; the adverse party shall be known as the protestee.

Each contest shall refer exclusively to one office; however, contests for offices of *Sangguniang Bayan* or *Sangguniang Barangay* may be consolidated in one case.

SEC. 6. *Quo Warranto*.—A petition for *quo warranto* against an elective municipal or barangay official shall be filed with the proper regional trial court or municipal trial court by any registered voter who has voted in the election concerned. The party filing the petition shall be designated as the petitioner; the adverse party shall be known as the respondent.

SEC. 7. *Petition must be verified and accompanied by a certificate of non-forum shopping*.—An election protest or a petition for *quo warranto* shall be verified by an affidavit stating that the affiant has read the petition and that the allegations therein are true and correct of affiant's own knowledge or based on authentic records. A verification based on "*information and belief*" or upon the "*knowledge, information and belief*" is not a sufficient verification.

The protestant or petitioner shall sign personally the certificate of non-forum shopping which must be annexed to the election protest or petition for *quo warranto*.

An unverified petition or one with insufficient verification or unaccompanied by a certificate of non-forum shopping shall be dismissed outright and shall not suspend the running of the reglementary period to file an election protest or petition for *quo warranto*.

SEC. 8. *Period to file protest or petition; non-extendible*.—The election protest or petition for *quo warranto* shall be filed within the non-extendible period of ten days following the date of proclamation.

SEC. 9. *Pendency of pre-proclamation controversy*.—The

pendency of a pre-proclamation controversy involving the validity of the proclamation as defined by law shall suspend the running of the period to file an election protest or petition for *quo warranto*.

SEC. 10. *COMELEC judgment in disqualification case.*—A decision of the Commission on Elections, either in division or *en banc*, in a disqualification case shall not bar the filing of a petition for *quo warranto* based on the same ground, except when the Supreme Court has affirmed the COMELEC decision.

SEC. 11. *Contents of the protest or petition.*—An election protest or petition for *quo warranto* shall specifically state the following facts:

- (a) the position involved;
- (b) the date of proclamation; and
- (c) the number of votes credited to the parties per proclamation.

An election protest shall also state:

- (d) the total number of precincts of the municipality or the barangay concerned;
- (e) the protested precincts and votes of the parties in the protested precincts per the Statement of Votes By Precinct or, if the votes of the parties are not specified, an explanation why the votes are not specified; and
- (f) a detailed specification of the acts or omissions complained of showing the electoral frauds, anomalies or irregularities in the protested precincts.

SEC. 12. *Raffle of cases.*—The Supreme Court shall designate the courts which shall take cognizance of election protests and petitions for *quo warranto*. Assignment of cases to such courts shall be done exclusively through raffle conducted by the executive judge or by the judges designated by the Supreme Court. No court may assume jurisdiction over an election contest unless assigned to it by raffle.

Twenty-four hours before the raffle, the clerk of court must serve notice personally on the parties, stating its date and time. Proof of service shall be submitted. The raffle shall be open to the public. The Supreme Court shall issue the necessary circular implementing this proviso.

The Court may order a change of venue or place of trial for compelling reasons to avoid a miscarriage of justice.

SEC. 13. *Summary dismissal of election contest.*—The court shall summarily dismiss, *motu proprio*, an election protest, counter-protest or petition for *quo warranto* on any of the following grounds:

- (a) The court has no jurisdiction over the subject matter;
- (b) The petition is insufficient in form and content as required in Section 11 hereof;
- (c) The petition is filed beyond the period prescribed in these Rules;
- (d) The filing fee is not paid within the period for filing the election protest or petition for *quo warranto*; and
- (e) In case of protest where a cash deposit is required, the cash deposit is not paid within five days from the filing of the protest.

RULE 3 SUMMONS

SECTION 1. *Summons.*—Within twenty-four hours from the filing of the protest or petition, the clerk of court shall issue the corresponding summons to the protestee or respondent, together with a copy of the protest or petition, requiring the filing of an answer within a non-extendible period of five days from notice.

SEC. 2. *Service of summons.*—The summons shall be served by handing a copy to the protestee or respondent in person or, in case of refusal of the protestee or respondent to receive and sign for it, by

tendering the same.

If, for justifiable causes, the protestee or respondent cannot be served in person as provided above, service may be effected by leaving copies of the summons at:

- (a) the residence of protestee or respondent with some person of suitable age and discretion residing therein,
or
- (b) the office or regular place of business of protestee or respondent with some competent person in charge thereof.

SEC. 3. *By whom served.*—The summons shall be served by the sheriff, deputy sheriff, process server or any suitable person authorized by the court issuing the summons.

RULE 4

ANSWER AND COUNTER-PROTEST

SECTION 1. *Verified answer; counter-protest.*—The answer shall be verified and may set forth admissions and denials, special and affirmative defenses and a compulsory counterclaim. The protestee may incorporate a counter-protest in the answer. Within five days from receipt of the summons and a copy of the protest or petition, the protestee or respondent shall file an answer in three legible copies, with proof of service of a copy upon the protestant or petitioner.

The counter-protest shall specify the counter-protested precincts and any votes of the parties therein per the Statement of Votes By Precinct, or, if not so specified, an explanation why the votes are not specified, and a detailed specification of the acts or omissions complained of showing the electoral frauds, anomalies or irregularities in the counter-protested precincts.

SEC. 2. *Answer to counterclaim or counter-protest.*—The

protestant or petitioner shall answer the counterclaim or counter-protest within a non-extendible period of five days from notice.

SEC. 3. *Allegations in the answer.*—

(a) *Specific denial.*—A protestee or respondent must specify each material allegation of fact the truth of which is not admitted and, whenever practicable, shall set forth the substance of the matters relied upon in support of the denial. The protestee or respondent shall specify so much of the averments that are true and material and shall deny the remainder.

(b) *Allegations not specifically denied deemed admitted.*—Material averment in the protest or petition, other than the amount of unliquidated damages and issues as to the appreciation of ballots, shall be deemed admitted when not specifically denied.

SEC. 4. *Effect of failure to plead.*—

(a) *Defenses and objections not pleaded.*—Defenses and objections not pleaded are deemed waived. However, when it appears from the pleadings or the evidence on record that the court has no jurisdiction over the subject matter, that there is another action pending between the same parties for the same cause, or that the action is barred by a prior judgment or the statute of limitations, the court shall dismiss the claim.

(b) *Compulsory counterclaim or cross-claim not set up barred.*—A compulsory counterclaim, or a cross-claim not set up shall be barred.

(c) *Effect of failure to answer.*—In an election protest that does not involve ballot revision or a petition for *quo warranto*, if the protestee or respondent fails to file an answer within the time allowed, the court shall, upon motion of the protestant or petitioner with notice to the protestee or respondent and upon proof of such failure, proceed to render judgment on the basis of the allegations of the verified election protest or petition for *quo warranto* granting the relief prayed for, unless the court in its discretion requires the protestant or petitioner to submit evidence *ex*

parte.

However, in the case of election protests involving ballot revision or examination, verification or re-tabulation of the election returns, the court shall order such revision of ballots or examination, verification or re-tabulation of election returns. The court shall proceed to render judgment based on the results of the revision or examination, verification or re-tabulation of election returns. During the revision or examination, verification or re-tabulation of election returns, only the revisors of the protestant may participate. The protestee or duly authorized representative has the right to be present and observe the proceedings without the right to object and make claims to ballots and election returns.

SEC. 5. *How to compute time.*—In computing any period of time prescribed or allowed by these Rules, or by order of the court, or by any applicable statute, the day of the act or event from which the designated period of time begins to run is to be excluded and the date of performance included. If the last day of the period, as thus computed, falls on a Saturday, a Sunday, or a legal holiday in the place where the court sits, the time shall not run until the next working day.

SEC. 6. *Amendments; limitations.*—After the expiration of the period for the filing of the election protest, counter-protest or petition for *quo warranto*, substantial amendments that broaden the scope of the action or introduce an additional cause or causes of action may be allowed only upon leave of court. Such leave may be refused if it appears to the court that the motion was made with intent to delay. Any amendment in matters of form, such as a defect in the designation of the parties and other clearly clerical or typographical errors, may be summarily corrected by the court at any stage of the proceedings, at its initiative or on motion, provided no prejudice is caused thereby to the adverse party.

RULE 5 MOTIONS

SECTION 1. *Motions must be in writing.*—Except those made in open court during the course of the proceedings, all motions shall be in writing.

SEC. 2. *Proof of service necessary.*—No written motion shall be acted upon by the court without proof of service on the adverse party.

SEC. 3. *No hearings on motions.*—Motions shall not be set for hearing, unless the court directs otherwise. No oral argument shall be allowed in support thereof. The adverse party may file written objections five days from its service upon the expiration of which such motion is deemed submitted for resolution. The court shall resolve the motion within five days.

RULE 6 PROHIBITED PLEADINGS

SECTION 1. *Prohibited pleadings and motions.*—The following pleadings, motions or petitions shall not be allowed in the cases covered by these Rules:

- (a) Motion to dismiss the petition except on the ground of lack of jurisdiction over the subject matter;
- (b) Motion for a bill of particulars;
- (c) Demurrer to evidence;
- (d) Motion for new trial, or for reconsideration of a judgment, or for reopening of trial;
- (e) Petition for relief from judgment;
- (f) Motion for extension of time to file pleadings, affidavits or other papers;
- (g) Memoranda, except as provided under Section 7, Rule 13 of these Rules;

- (h) Motion to declare the protestee or respondent in default;
- (i) Dilatory motion for postponement;
- (j) Motion to inhibit the presiding judge except on clearly valid grounds;
- (k) Reply or rejoinder; and
- (l) Third-party complaint.

SEC. 2. *Grounds to dismiss must be set up in the answer.*—All grounds to dismiss an election protest or petition for *quo warranto* must be set up or pleaded as affirmative or special defenses. Defenses not raised are deemed waived. The court may, in its discretion, hold a preliminary hearing on the grounds so pleaded.

RULE 7

FILING FEES AND CASH DEPOSITS

SECTION 1. *Filing fees.*—No protest, counter-protest or petition for *quo warranto* shall be accepted for filing without the payment of a filing fee in the amount of Three Thousand Pesos (₱3,000.00) for each interest.

If claims for damages and attorney's fees are set forth in a protest or counter-protest, additional filing fees shall be paid in accordance with the schedule provided for in Rule 141 of the Rules of Court, as amended.

SEC. 2. *Cash deposit.*—(a) In addition to the fees prescribed in the preceding section, the protestant in an election protest requiring revision of ballots or examination, verification or re-tabulation of election returns, or which may require the bringing to the court of copies of other election documents and paraphernalia, shall make a cash deposit with the court in the following amounts:

- (1) One Thousand Pesos (₱1,000.00) for each precinct involved in the protest or counter-protest; provided

that, in no case shall the deposit be less than Twenty-Five Thousand Pesos (₱25,000.00) to be paid upon the filing of the election protest (counter-protest);

- (2) If the amount to be deposited does not exceed One Hundred Thousand Pesos (₱100,000.00), the same shall be paid in full within ten days after the filing of the protest; and
- (3) If the deposit exceeds One Hundred Thousand Pesos (₱100,000.00), a cash deposit in the amount of One Hundred Thousand Pesos (₱100,000.00) shall be made within ten days after the filing of the protest. The balance shall be paid in such installments as may be required by the court with at least five days advance notice to the party required to make the deposit.

The cash deposit shall be applied by the court to the payment of the compensation of revisors as provided under Section 3, Rule 10 of these Rules and of all expenses incidental to revision but not limited to supplies and miscellaneous expenses of the revision committee. When the court determines that the circumstances so demand, as when the deposit has been depleted, it may require additional cash deposits. Any unused cash deposit shall be returned to the party making the same after complete termination of the protest or counter-protest.

The same amount of cash deposit shall be required from the protestee (counter-protestant), should continuation of revision be ordered pursuant to paragraph 2, Section 9, Rule 10 of these Rules. Once required, the protestee (counter-protestant) shall pay the cash deposit within a non-extendible period of three days from receipt of the corresponding order.

(b) Failure to make the cash deposits required within the prescribed time limit shall result in the automatic dismissal of the protest, or counter-protest.

RULE 8
PRODUCTION AND CUSTODY OF
BALLOT BOXES AND ELECTION DOCUMENTS

SECTION 1. *Issuance of precautionary protection order.*—Where the allegations in a protest so warrant, and simultaneously with the issuance of summons, the court shall order the municipal treasurer and election officer concerned to take immediate steps or measures to safeguard the integrity of all the ballot boxes, lists of voters with voting records, books of voters and other documents or paraphernalia used in the election.

SEC. 2. *When ballot boxes and election documents are brought before the court.*—Within forty-eight hours from receipt of the answer with counter-protest, if any, and whenever the allegations in a protest or counter-protest so warrant, the court shall order the ballot boxes with their keys, lists of voters with voting records, books of voters and other documents or paraphernalia involved in the protest or counter-protest, to be brought before it.

The court shall notify the parties of the date and time for the retrieval from their respective custodians of the ballot boxes and election documents. The parties may send representatives to witness the activity. The absence, however, of a representative of a party shall not be reason to postpone or delay the bringing of the ballot boxes and election documents into the custody of the court.

The court, in its discretion, may seek the assistance of the Philippine National Police or the Armed Forces of the Philippines in ensuring the safe delivery of the ballot boxes and election paraphernalia into the custody of the court.

Where any of the ballot boxes, ballots, election returns, election documents or paraphernalia mentioned in the first paragraph above are also involved in election contests before other *fora*, such as the Presidential Electoral Tribunal, the Senate Electoral Tribunal, the House

of Representatives Electoral Tribunal or the Commission on Elections, which, under COMELEC Resolution No. 2812 dated 17 October 1995, have preferential right over the custody and revision of ballots involved in simultaneous protests, the court shall make the appropriate coordination and request with the higher tribunal involved as to temporary prior custody of ballot boxes and revision of ballots and other documents, or synchronization of such revision of ballots and other election documents.

The expenses necessary and incidental to the bringing of the ballot boxes and election documents shall be shouldered and promptly paid by the protestant. The expenses necessary and incidental to the return of the ballot boxes and election documents to their original custodians or the proper tribunal after the termination of the case shall be shared proportionately by the protestant and protestee based on the number of precincts respectively contested by them.

RULE 9 PRELIMINARY CONFERENCE

SECTION 1. *Preliminary conference; mandatory.*—Within three days after filing of the last responsive pleading allowed by these Rules, or the expiration of the same period without any responsive pleading having been filed, the court shall conduct a mandatory preliminary conference among the parties to consider:

- (1) The simplification of issues;
- (2) The necessity or desirability of amendments to the pleadings;
- (3) The possibility of obtaining stipulations or admission of facts and of documents to avoid unnecessary proof;
- (4) The limitation of the number of witnesses;
- (5) The nature of the testimonies of the witnesses and whether they relate to evidence *aliunde* the ballots, or otherwise;

- (6) The withdrawal of certain protested or counter-protested precincts (especially those where the ballot boxes or ballots are unavailable or are missing and cannot be located or destroyed due to natural disasters or calamities);
- (7) The number of revision committees to be constituted;
- (8) The procedure to be followed in case the election protest or counter-protest seeks, wholly or partially, the examination, verification or re-tabulation of election returns; and
- (9) Such other matters as may aid in the prompt disposition of the case.

SEC. 2. *Notice through counsel.*—The notice of preliminary conference shall be served on counsel or on the party who has no counsel. Notice to counsel is notice to the party, as counsel is charged with the duty to notify the party represented.

SEC. 3. *Appearances of parties.*—It shall be the duty of the parties and counsel to appear before the court in person at the preliminary conference.

SEC. 4. *Preliminary conference brief.*—The parties shall file with the court and serve on the adverse party, in such manner as shall ensure their receipt at least one day before the date of the preliminary conference, their respective briefs which shall contain the following:

- (1) A summary of admitted facts and proposed stipulation of facts;
- (2) The issues to be tried or resolved;
- (3) The pre-marked documents or exhibits to be presented, stating their purpose;
- (4) A manifestation of their having availed or their intention to avail themselves of discovery procedures or referral to commissioners;

- (5) The number and names of the witnesses, their addresses, and the substance of their respective testimonies. The testimonies of the witnesses shall be by affidavits in question and answer form as their direct testimonies, subject to oral cross examination;
- (6) A manifestation of withdrawal of certain protested or counter-protested precincts, if such is the case;
- (7) The proposed number of revision committees and names of their revisors and alternate revisors; and
- (8) In case the election protest or counter-protest seeks the examination, verification or re-tabulation of election returns, the procedure to be followed.

SEC. 5. *Failure to file brief.*—Failure to file the brief or to comply with its required contents shall have the same effect as failure to appear at the preliminary conference.

SEC. 6. *Effect of failure to appear.*—The failure of the protestant or counsel to appear at the preliminary conference shall be cause for dismissal, *motu proprio*, of the protest or counter-protest. The failure of the protestee or counsel to appear at the preliminary conference shall have the same effect as provided in Section 4(c), Rule 4 of these Rules, that is, the court may allow the protestant to present evidence *ex parte* and render judgment based on the evidence presented.

SEC. 7. *Preliminary conference order.*—Within three days following the date of the preliminary conference, the court shall issue an order summarizing the matters taken up and stipulations or agreements reached during the conference. The court shall specify in the preliminary conference order when the revision of ballots will commence, which shall be within five days from the termination of the preliminary conference.

RULE 10
REVISION OF BALLOTS

SECTION 1. *Start of revision.*—The revision of ballots shall commence on the date specified in the preliminary conference order.

SEC. 2. *Revision committee; under the supervision of the court.*—There shall be constituted such number of revision committees as may be necessary. Each revision committee shall be composed of a chairperson and two members, one designated by the protestant and another designated by the protestee. The court shall designate the chairperson from among its personnel. The parties shall also designate their respective substitute revisors.

The revision committee shall conduct the revision in the court premises or at such other place as may be designated by the court, in every case under its strict supervision.

The revisors shall discharge their duties with the highest degree of integrity, conducting the proceedings with the same dignity and discipline as if undertaken by the court itself. They shall exercise extraordinary diligence and take precautionary measures to prevent the loss, disappearance or impairment of the integrity (such as marking or spoilage by any means) of the ballots and election documents.

SEC. 3. *Compensation of the revisors.*—The court shall fix the compensation of the revisors at Four Hundred Pesos (₱400.00) per ballot box for the chairperson and One Hundred Fifty Pesos (₱150.00) per ballot box for each party revisor. The party revisors shall be entitled to an additional *per diem* of Five Hundred Pesos (₱500.00) each per day. This compensation shall be chargeable against the cash deposit as provided for in Section 2, Rule 7 of these Rules.

SEC. 4. *Continuous revision.*—

(a) *Period for revision.*—Revision shall be conducted from 8:30 o'clock in the morning to 12:00 noon and from 1:30 to 4:30 o'clock in

the afternoon from Monday to Friday, except on non-working holidays. The revisors may take a fifteen-minute break in each session.

(b) *Revision to continue even if a party revisor is absent or late.*—The revision of ballots shall not be delayed or postponed by reason of the absence or tardiness of a party revisor or substitute revisor, as long as the chairperson and one party revisor are present. The court may at any time designate another chairperson if the regular chairperson fails for any reason to report.

(c) *If the revisor of the protestee is absent or late.*—If the revisor of the protestee is absent or late for thirty minutes and no alternate appears as a substitute, the revision shall, nevertheless, commence; the protestee shall be deemed to have waived the right to appear and to object to the ballots in the precinct or precincts scheduled for revision on that particular day.

(d) *If the revisor of protestant or the revisors of both parties fail to appear.*—If the revisor of the protestant or the revisors of both parties and alternates fail to appear for no justifiable reason within one hour after fixed hours from the start of the revision, the ballot boxes scheduled for revision on that day, and the corresponding keys in the possession of the chairperson, shall be returned to the ballot box custodian of the court and shall no longer be revised; it is understood that the parties waive their right to revise the same, and the chairperson concerned shall state such facts in the corresponding revision report.

SEC. 5. *Prohibited access.*—During the revision of ballots, no person other than the judge, the clerk of court, the chairperson and the members of the revision committees, the parties and their duly authorized representatives, shall have access to the revision area.

SEC. 6. *Preparation and submission of revision report.*—The committee shall prepare and submit to the court a revision report per precinct stating the following:

- (a) the precinct number;

- (b) the date, place and time of revision;
- (c) the votes of the parties per physical count;
- (d) the condition and serial numbers of the following:
 - (1) ballot boxes;
 - (2) self-locking security metal or plastic seals (inner and outer) and padlocks of the ballot boxes;
 - (3) security envelopes containing the election returns; and
 - (4) numbered paper seal of the envelopes;
- (e) the votes of the parties per ballot-box copy of the election returns and per the tally sheet/board found inside the ballot box;
- (f) the number of ballots objected to by the parties indicating therein the exhibit numbers;
- (g) the grounds of objections;
- (h) the number of stray ballots;
- (i) the claims on ballots with their exhibit numbers; and
- (j) the entries in the Minutes of Voting and Counting, particularly:
 - (1) the number of registered voters;
 - (2) the number of voters who actually voted;
 - (3) the number of official ballots together with their serial numbers used in the election;
 - (4) the number of ballots actually used indicating the serial numbers of the ballots; and
 - (5) the unused ballots together with their serial numbers.

The revision forms shall be made available prior to revision. The per-precinct revision report shall be signed and certified to by the chairperson and the revisors of the parties, and shall form part of the

records of the case. A copy of the required form for the revision report is hereto attached.

In addition to the per-precinct revision report, the revision committee shall also prepare and submit to the court, within three days from termination of the revision, a committee report summarizing the data, votes, ballot objections and claims, and significant observations made in the revision of ballots from the protested precincts and later from the counter-protested precincts, if so conducted based on the provisions of Section 9 hereof. Each party furnished with a copy of the committee report may submit their comments thereon within a non-extendible period of three days from notice.

SEC. 7. *Order of revision.*—Revision of ballots shall start with those from the protested precincts, subject to the provisions of Section 9 hereof.

SEC. 8. *Inquiry as to security markings and vital information relative to ballots and election documents.*—When a revision of ballots is ordered, and for the guidance of the revisors, the court shall inquire about the security markings on the ballots and election documents from the Chairman, Commission on Elections, who shall be obliged to indicate such markings and other vital information that may aid the court in determining the authenticity of ballots and election documents. The parties shall be notified of the results of such inquiry.

SEC. 9. *Post-revision determination of the merit or legitimacy of protest prior to revision of counter-protest.*—Immediately after the revision of ballots or the examination, verification or re-tabulation of election returns in all protested precincts, the protestant shall be required to pinpoint a number of precincts, corresponding to twenty percent of the total revised protested precincts, that will best attest to the votes recovered or will best exemplify the frauds or irregularities pleaded in the protest. In the meanwhile, the revision of ballots or the examination, verification or re-tabulation of election returns in the counter-protested

precincts shall be suspended for a period not exceeding fifteen days, during which the court shall determine through appreciation of ballots or election documents the merit or legitimacy of the protest relative to the twenty percent pinpointed precincts.

Based on the results of such post-revision determination, the court may dismiss the protest without further proceedings, if and when no reasonable recovery was established from the twenty percent pinpointed precincts, or proceed with revision of the ballots or the examination, verification or re-tabulation of election returns in the counter-protested precincts. In the latter case, the protestee shall be required to pay the cash deposit within a non-extendible period of three days from notice.

SEC. 10. *Continuation of appreciation of ballots.*—While the ballots or election documents from the counter-protested precincts are being revised, the court shall continue with its appreciation of ballots from the remaining revised eighty percent protested precincts and, once completed, shall proceed with the appreciation of ballots from the counter-protested precincts.

RULE 11

TECHNICAL EXAMINATION

SECTION 1. *Motion for technical examination; contents.*—A party may move for the technical examination within five days after completion of revision in the protest or counter-protest, except when it involves allegation of massive substitute voting in the protest or counter-protest, specifying:

- (a) The nature of the technical examination requested (*e.g.*, fingerprint examination, *etc.*);
- (b) The documents to be subjected to technical examination;
- (c) The objections made in the course of the revision of ballots which the movant intends to substantiate with

- the results of the technical examination; and
- (d) The ballots covered by such objections.

SEC. 2. *Technical examination; time limits.*—The court may grant the motion for technical examination at its discretion and under such conditions it may impose. If the motion is granted, the technical examination shall start within five days from notice to both parties and shall be completed within the period specified by the court, in no case to exceed twenty successive working days, unless the court grants an extension based on exceptionally meritorious ground. A party may attend the technical examination, either personally or through a representative. However, the technical examination shall proceed with or without the attendance of the party, provided due notice has been given to the party.

The expenses for technical examination shall be for the account of the party requesting the examination and under the supervision of the clerk of court.

SEC. 3. *Experts; who shall provide.*—Experts necessary for the conduct of technical examination shall be provided by the party requesting the same and may come from the National Bureau of Investigation, the Philippine National Police (PNP) Crime Laboratory, the Commission on Elections, or experts in private practice. The other party may secure the services of an expert who may only observe, not interfere with, the examination conducted by the experts of the movant.

RULE 12

PHOTOCOPYING OF BALLOTS

SECTION 1. *Photocopying simultaneous with revision.*—On motion of a party, the court may allow the photocopying of ballots and election documents, upon such terms and conditions as it may impose. The photocopying, if allowed, must start at the commencement of

revision and, as far as practicable, must be completed simultaneously with the termination of revision.

SEC. 2. *Where conducted; parties to provide own photocopying units.*—Photocopying shall be done within the premises of the court, near the revision area, and shall be under the supervision of the clerk of court. The party concerned shall provide an efficient photocopying unit and shall bear all expenses relative thereto.

RULE 13

PRESENTATION OF EVIDENCE

SECTION 1. *Presentation and reception of evidence; order of hearing.*—If at the preliminary conference the parties have agreed on issues *aliunde* the ballots or other election documents (*e.g.*, vote-buying, fraud, terrorism or violence), the reception of evidence on the issues, including the testimonies of witnesses, shall be done simultaneously with the revision of ballots.

The reception of evidence on all other matters or issues incidental to or interwoven with the ballots and related election documents shall be made upon completion of (a) the revision of ballots or election documents, or (b) the technical examination, if allowed by the court under the provisions of Rule 11 of these Rules.

Reception of evidence shall be made in accordance with the following order of hearing:

- (1) The protestant or petitioner shall present evidence in support of the protest or petition;
- (2) The protestee or respondent shall then adduce evidence in support of the defense, counterclaim or counter-protest, if any;
- (3) The parties may then respectively offer rebutting evidence only, unless the court for good reasons, in the furtherance of justice, permits them to offer

evidence upon their original case; and

- (4) No sur-rebuttal evidence shall be allowed.

In offering testimonial evidence, the party shall require the proposed witness to execute an affidavit which shall be considered as the direct testimony, subject to the right of the adverse party to object to its inadmissible portions and to orally cross-examine the witness. The affidavit shall be based on personal knowledge, shall set forth facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify on the matters stated therein. The affidavit shall be in question and answer form. The affidavit shall be submitted to the court and served on the adverse party at least three days before the hearing. Failure to submit the affidavit of a witness within the specified time shall constitute a waiver of the party's right to present testimonial evidence.

The one-day-cross-examination-of-witness rule, that is, a witness has to be fully cross-examined in one day only shall be strictly adhered to. The court, at its discretion, may extend the cross-examination for justifiable reasons.

The revision reports, as well as the objected and claimed ballots referred to therein, shall automatically form part of court records and may be adopted by the parties as their evidence.

SEC. 2. Offer of evidence.—The court shall consider no evidence that has not been formally offered. Offer of evidence shall be done orally on the last day of hearing allowed for each party after the presentation of the last witness. The opposing party shall be required to immediately interpose objections thereto. The court shall rule on the offer of evidence in open court. However, the court may, at its discretion, allow the party to make an offer of evidence in writing, which shall be submitted within three days. If the court rejects any evidence offered, the party may make a tender of the excluded evidence.

SEC. 3. Reception of evidence continuous.—Reception of

evidence, once commenced, shall continue from day to day as far as practicable until terminated. In no case shall the entire period for reception of evidence exceed ten successive days for each party from the first day of such reception, unless authorized by the Supreme Court.

SEC. 4. *Adjournments and postponements.*—No motion for postponement shall be allowed, except for clearly meritorious reasons, in no case to exceed three times of three calendar days interval each. The filing of dilatory pleadings or motions shall constitute direct contempt of court and shall be punished accordingly.

SEC. 5. *Burden of proof.*—Burden of proof is the duty of a party to present evidence of the facts in issue, necessary to establish one's claim or defense.

SEC. 6. *Disputable presumptions.*—The following presumptions are considered as facts, unless contradicted and overcome by other evidence:

- (a) On the election procedure:
 - (1) The election of candidates was held on the date and time set and in the polling place determined by the Commission on Elections;
 - (2) The Boards of Election Inspectors were duly constituted and organized;
 - (3) Political parties and candidates were duly represented by pollwatchers;
 - (4) Pollwatchers were able to perform their functions; and
 - (5) The Minutes of Voting and Counting contains all the incidents that transpired before the Board of Election Inspectors.
- (b) On election paraphernalia:
 - (1) Ballots and election returns that bear the

- security markings and features prescribed by the Commission on Elections are genuine;
- (2) The data and information supplied by the members of the Boards of Election Inspectors in the accountable forms are true and correct; and
 - (3) The allocation, packing and distribution of election documents or paraphernalia were properly and timely done.
- (c) On appreciation of ballots:
- (1) A ballot with appropriate security markings is valid;
 - (2) The ballot reflects the intent of the voter;
 - (3) The ballot is properly accomplished;
 - (4) A voter personally prepared one ballot, except in the case of assistants; and
 - (5) The exercise of one's right to vote was voluntary and free.

SEC. 7. *Submission of memoranda.*—The court may allow the parties to submit their respective memoranda within a non-extendible period of ten days from the verbal ruling of the court on the last offer of exhibits; or, if the offer was made in writing, within ten days from receipt of the written ruling of the court. No supplemental, reply or rebuttal memorandum shall be allowed.

RULE 14 DECISION

SECTION 1. *Rendition of decision.*—The court shall decide the election contest within thirty days from the date it is submitted for decision, in no case beyond six months after its filing, unless the

Supreme Court authorizes an extension in writing. Failure to comply herewith shall be considered a serious offense and shall be ground for disciplinary action against the judge. In addition, after the expiration of six months, the judge shall be relieved of all duties and functions, except to decide the election case.

An election protest is deemed submitted for decision after completion of the reception of evidence or, if the parties were allowed to submit memoranda, upon submission of such memoranda or the expiration of the period for their filing, whichever is earlier. In an election protest, the winner shall be the candidate who obtained the plurality of the valid votes cast.

SEC. 2. *Form of decision in election protests.*—After termination of the revision of ballots and before rendering its decision in an election protest that involved such revision, the court shall examine and appreciate the original ballots. The court, in its appreciation of the ballots and in rendering rulings on objections and claims to ballots of the parties, shall observe the following rules:

- (a) *On Marked Ballots* — The court must specify the entries in the ballots that clearly indicate that the intention of the voter is to identify the ballot. The specific markings in the ballots must be illustrated or indicated;
- (b) *On Fake or Spurious Ballots* — The court must specify the COMELEC security markings that are not found in the ballots that are considered fake or spurious;
- (c) *On Stray Ballots* — The court must specify and state in detail why the ballots are considered stray;
- (d) *On Pair or Group of Ballots Written by One or Individual Ballots Written By Two* — When ballots are invalidated on the ground of written by one person, the court must clearly and distinctly specify

why the pair or group of ballots has been written by only one person. The specific strokes, figures or letters indicating that the ballots have been written by one person must be specified. A simple ruling that a pair or group of ballots has been written by one person would not suffice. The same is true when ballots are excluded on the ground of having been written by two persons. The court must likewise take into consideration the entries of the Minutes of Voting and Counting relative to illiterate or disabled voters, if any, who cast their votes through assistants, in determining the validity of the ballots found to be written by one person, whether the ballots are in pairs or in groups; and

- (e) On *Claimed Ballots* — The court must specify the exact basis for admitting or crediting claimed votes to either party.

SEC. 3. *Several judgments*.—In a protest or petition against several protestees or respondents, the court may, when a several judgment is proper, render judgment against one or more of them, leaving the protest or petition to proceed against the others.

SEC. 4. *Promulgation of decision*.—The decision signed by the presiding judge shall be promulgated by the reading of the dispositive portion in open court and its filing with the clerk of court, on a date set with due notice to the parties, or through delivery of a copy of the signed decision to the clerk of court who shall forthwith indicate the date of rendition and cause true copies thereof to be served, personally or by registered mail, upon the counsel or the parties, if not represented by counsel.

SEC. 5. *Finality of decision*.—The decision of the court shall become final and executory five days after filing with the clerk of court

and receipt of notice by the parties.

SEC. 6. *Entry of judgment.*—If no appeal is filed within the time provided in these Rules, the judgment shall be entered by the clerk in the book of entries of judgments. The date of finality of the judgment shall be the date of its entry. The record shall contain the dispositive part of the judgment and shall be signed by the clerk, with a certificate that such judgment has become final and executory.

SEC. 7. *Notice of final decision.*—As soon as the decision becomes final, the clerk of court shall send notices to the Commission on Elections, the Department of the Interior and Local Government, and the Commission on Audit.

SEC. 8. *Appeal.*—An aggrieved party may appeal the decision to the Commission on Elections, within five days after promulgation, by filing a notice of appeal with the court that rendered the decision, with copy served on the adverse counsel or party if not represented by counsel.

SEC. 9. *Appeal fee.*—The appellant in an election contest shall pay to the court that rendered the decision an appeal fee of One Thousand Pesos (₱1,000.00), simultaneously with the filing of the notice of appeal.

SEC. 10. *Immediate transmittal of records of the case.*—The clerk of court shall, within fifteen days from the filing of the notice of appeal, transmit to the Electoral Contests Adjudication Department, Commission on Elections, the complete records of the case, together with all the evidence, including the original and three copies of the transcript of stenographic notes of the proceedings.

SEC. 11. *Execution pending appeal.*—On motion of the prevailing party with notice to the adverse party, the court, while still in possession of the original records, may, at its discretion, order the execution of the decision in an election contest before the expiration of the period to

appeal, subject to the following rules:

- (a) There must be a motion by the prevailing party with three-day notice to the adverse party. Execution pending appeal shall not issue without prior notice and hearing. There must be good reasons for the execution pending appeal. The court, in a special order, must state the good or special reasons justifying the execution pending appeal. Such reasons must:
 - (1) constitute superior circumstances demanding urgency that will outweigh the injury or damage should the losing party secure a reversal of the judgment on appeal; and
 - (2) be manifest, in the decision sought to be executed, that the defeat of the protestee or the victory of the protestant has been clearly established.
- (b) If the court grants an execution pending appeal, an aggrieved party shall have twenty working days from notice of the special order within which to secure a restraining order or *status quo order* from the Supreme Court or the Commission on Elections. The corresponding writ of execution shall issue after twenty days, if no restraining order or *status quo order* is issued. During such period, the writ of execution pending appeal shall be stayed.

SEC. 12. *Jurisdiction of the Commission on Elections in certiorari cases.*—The Commission on Elections has the authority to issue the extraordinary writs of *certiorari*, prohibition and *mandamus* only in aid of its appellate jurisdiction over decisions of the courts in election cases involving elective municipal and barangay officials.

SEC. 13. *Preferential disposition of election contests.*—The courts shall give preference to election contests over all other cases, except *habeas corpus*.

RULE 15 COSTS, DAMAGES AND ATTORNEY'S FEES

SECTION 1. *Costs; when allowed.*—Costs shall be allowed to the prevailing party as a matter of course. The court shall have the power, for special reasons, to apportion the costs, as may be equitable. The court may render judgment for costs if a protest, a counter-protest or a petition for *quo warranto* is dismissed. When a protest, a counter-protest or a petition for *quo warranto* is found to be frivolous, double or treble costs may be imposed on the protestant, the counter-protestant or the petitioner.

SEC. 2. *Damages and attorney's fees.*—In all election contests, the court may adjudicate damages and attorney's fees, as it may deem just and as established by the evidence, if the aggrieved party has included such claims in the pleadings.

RULE 16 TRANSITORY PROVISION

SECTION 1. *Applicability.*—These Rules shall apply to election protests and petitions for *quo warranto* that remain pending and undetermined after their effectivity.

RULE 17 FINAL PROVISIONS

SECTION 1. *Repealing clause.*—All rules, resolutions, regulations or circulars of the Supreme Court or parts thereof that are

inconsistent with any provision of these Rules are hereby deemed repealed or modified accordingly.

Rules 35 and 36 of the 1993 COMELEC Rules of Procedure governing election contests and *quo warranto* cases before the trial courts are deemed superseded by these Rules.

SEC. 2. *Effectivity clause.*—These Rules shall take effect on May 15, 2007 following their publication in two newspapers of general circulation in the Philippines not later than May 3, 2007.

PRESCRIBED REVISION FORM

 Protestant,
 Case No. _____
 - versus -

 Municipality

 Protestee.
 Revision Committee No. _____

Protest ()
 Counter-Protest ()

REVISION REPORT

Barangay:	Precinct No.
Date revised:	Time commenced:
	Time finished:

I. Condition of the Ballot Box

Ballot Box Serial No.:	Type of padlocks:
No. of padlocks:	No. of keys:
Outer Metal Seal Serial No.:	Inner Metal Seal Serial No.:
Condition (State if properly attached and locked or not):	Condition (State if properly attached and locked or not):

II. Contents of Ballot Box

A. Data from Minutes of Voting	
Condition of Envelope and Paper Seal:	No. of Illiterate/Physically Disabled Voters:
	No. of ballots found inside compartment for valid ballots:
Inner Paper Seal Serial No.:	No. of "EXCESS" ballots (ballots cast in excess of the number of voters who actually voted):
Total No. of Registered Voters:	
No. of Voters who Actually Cast Their Votes:	Serial Numbers of Official Ballots Issued: _____ to _____
No. of Ballots Read and Counted:	
No. of Marked Ballots:	Serial Numbers of Official Ballots left unused: _____ to _____
No. of Ballots marked "SPOILED," withdrawn from compartment of valid ballots:	

B. Data from Tally Board/Sheet	
Votes for Protestant:	Votes for other Candidates:
Votes for Protestee:	
C. Data from the Election Returns	
Condition of Envelope and Paper Seal:	
Envelope Return Serial No.:	Paper Seal Serial No.:
No. of Registered Voters	No. of Voters Who Actually Voted
Votes for Protestant:	Votes for other Candidates:
Votes for Protestee:	

III. Revision of Ballots

A. Envelope for Valid Ballots	
Condition of Envelope and Paper Seal:	4. No. of BALLOTS FOR OTHER CANDIDATES:
	a. Claimed by Protestant: Exhibits Nos. _____ to _____ (See Annex "B")
1. No. of Ballots Inside Envelope:	b. Claimed by Protestee: Exhibits Nos. _____ to _____ (See Annex "B-1")
2. No. of Ballots for PROTESTEE:	c. Unclaimed ballots:
a. Objected to by Protestant: Exhibits Nos. _____ to _____ (See Annex "A")	5. No. of STRAY BALLOTS:
b. Uncontested Ballots for Protestee:	a. Claimed by Protestant: Exhibits Nos. _____ to _____ (See Annex "C")
3. No. of Ballots for PROTESTANT:	
a. Objected to by Protestee: Exhibits Nos. _____ to _____ (See Annex "A-1")	b. Claimed by Protestee: Exhibits Nos. _____ to _____ (See Annex "C-1")
b. Uncontested Ballots for Protestant:	c. Unclaimed Ballots:

	B. Envelope for Spoiled Ballots	C. Envelope for Marked Ballots	D. Envelope for Excess Ballots
Condition of Envelope and Paper Seal			
1. Ballots Inside Envelope			
2. Claimed by Protestant	Exhibits Nos. _____ to _____ (See Annex "D")	Exhibits Nos. _____ to _____ (See Annex "E")	Exhibits Nos. _____ to _____ (See Annex "F")
3. Claimed by Protestee	Exhibits Nos. _____ to _____ (See Annex "D-1")	Exhibits Nos. _____ to _____ (See Annex "E-1")	Exhibits Nos. _____ to _____ (See Annex "F-1")
4. Unclaimed Ballots			

