



Republic of the Philippines

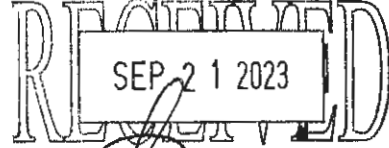
Supreme Court

Manila

EN BANC

NOTICE

SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



BY: 
TIME: 2:43

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated AUGUST 29, 2023, which reads as follows:

“A.M. No. 07-4-15-SC

THE 2023 AMENDED RULES OF PROCEDURE IN ELECTION CONTESTS BEFORE THE COURTS INVOLVING ELECTIVE BARANGAY AND SANGGUNIANG KABATAAN OFFICIALS

WHEREAS, Section 5 (5), Article VIII of the 1987 Constitution empowers the Supreme Court to “[p]romulgate rules concerning the protection and enforcement of constitutional rights, pleading, practice, and procedure in all courts, the admission to the practice of law, the Integrated Bar, and legal assistance to the underprivileged;”

WHEREAS, on May 3, 2007, the Supreme Court promulgated A.M. No. 07-4-15-SC or “The Rules of Procedure in Election Contests Before the Courts Involving Elective Municipal and Barangay Officials,” pursuant to the provisions of Section 5 (5), Article VIII of the 1987 Constitution, and in order to achieve an expeditious, inexpensive, and just determination of election cases before the courts;

WHEREAS, on April 27, 2010, the Supreme Court subsequently promulgated A.M. No. 10-4-1-SC or the “2010 Rules of Procedure in Election Contests Before the Courts Involving Elective Municipal Officials,” further known and cited as “The 2010 Rules of Procedure for Municipal Election Contests” regarding election contests against elective municipal officials filed before the Regional Trial Courts;

WHEREAS, on April 25, 2022, the Supreme Court issued Memorandum Order No. 60-2022 entitled “Creating the Special Committee on the Rules of Procedure in Election Contest before the Second and First Level Courts” that would study, amend and revise A.M. No. 10-4-1-SC or

Date

the “2010 Rules of Procedure in Election Contests before the Courts Involving Elective Municipal Officials,” as well as A.M. No. 07-4-15-SC or “The Rules of Procedure in Election Contest Before the Courts involving Elective Municipal and Barangay Officials” that will be composed of the following:

- Chairperson: **Hon. Antonio T. Kho, Jr.**
Associate Justice, Supreme Court
- Vice Chairperson: **Hon. Remedios A. Salazar-Fernando**
Presiding Justice, Court of Appeals
- Members:
- Hon. Raul B. Villanueva**
Court Administrator, Supreme Court
- Hon. Luvina Padolina Roque**
Presiding Judge, Regional Trial Court
Branch 29, San Pablo City, Laguna
- Hon. Glenda R. Mendoza-Ramos**
Presiding Judge, Regional Trial Court
Branch 36, Calamba City, Laguna
- Hon. Divina Luz P. Aquino-Simbulan**
Presiding Judge, Regional Trial Court
Branch 41, City of San Fernando, Pampanga
- Hon. Ma. Consejo M. Gengos-Ignalaga**
Presiding Judge, Regional Trial Court,
Branch 100, Antipolo City
- Hon. Hermenegildo C. Dumlao II**
Presiding Judge, Regional Trial Court
Branch 81, Malolos City, Bulacan
- Hon. Rigor R. Pascual**
Acting Presiding Judge, Regional Trial
Court, Branch 14, Malolos City, Bulacan
- Hon. Maria Ella Cecilia D. Dumlao-**
Escalante
Presiding Judge, Metropolitan Trial Court
Branch 35, Quezon City
- Hon. Karla A. Funtilla-Abugan**
Presiding Judge, Metropolitan Trial Court
Branch 17, Manila

Atty. Antonio Ceasar R. Manila
Office of the Chief Justice

Secretariat:

Head: **Atty. Christine B. Balajadia**
Office of Associate Justice Antonio T. Kho, Jr.

Members: **Atty. Dreianne B. Ablaza**
Office of Associate Justice Antonio T. Kho, Jr.

Atty. Thomas Elliot Mondez
Office of Presiding Justice Remedios A. Salazar-Fernando

Marian Katrina A. Donato
Office of Associate Justice Antonio T. Kho, Jr.

WHEREAS, in the Commission on Elections (COMELEC) Memorandum No. 230196-1, the COMELEC, during its *En Banc* Meeting held on February 15, 2023, has adopted the conduct of a pilot Automated Election System in one (1) barangay, Pasong Tamo, in District VI, Quezon City, and in two (2) barangays, Paliparan Dos and Zone II, in Dasmariñas, Cavite; and

WHEREAS, the Special Committee on the Rules of Procedure in Election Contest before the Second and First Level Courts has submitted a draft for the consideration and approval of the Supreme Court *En Banc*.

WHEREFORE, the Supreme Court *En Banc* hereby approves and promulgates “The 2023 Amended Rules of Procedure in Elections Contests Before the Courts Involving Elective Barangay and Sangguniang Kabataan Officials.”

The 2023 Amended Rules shall take effect fifteen (15) days after publication once in a newspaper of general circulation or in the Supreme Court Official Website but its effectivity shall in no case be later than October 15, 2023.

August 29, 2023.

(original signed)
ALEXANDER G. GESMUNDO
Chief Justice



(original signed)
MARVIC M.V.F. LEONEN
Senior Associate Justice

(original signed)
ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

(original signed)
RAMON PAUL L. HERNANDO
Associate Justice

(original signed)
AMY C. LAZARO-JAVIER
Associate Justice

(original signed)
HENRI JEAN PAUL B. INTING
Associate Justice

(original signed)
RODIL V. ZALAMEDA
Associate Justice

On official leave
MARIO V. LOPEZ
Associate Justice

(original signed)
SAMUEL H. GAERLAN
Associate Justice

(original signed)
RICARDO R. ROSARIO
Associate Justice

(original signed)
JHOSEP Y. LOPEZ
Associate Justice

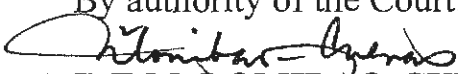
(original signed)
JAPAR B. DIMAAMPAO
Associate Justice

(original signed)
JOSE MIDAS P. MARQUEZ
Associate Justice

(original signed)
ANTONIO T. KHO, JR.
Associate Justice

(original signed)
MARIA FILOMENA D. SINGH
Associate Justice

(adv12)

By authority of the Court:

MARIFE M. LOMIBAO-CUEVAS
Clerk of Court

A.M. No. 07-4-15-SC**THE 2023 AMENDED RULES OF PROCEDURE IN ELECTION CONTESTS BEFORE THE COURTS INVOLVING ELECTIVE BARANGAY AND SANGGUNIANG KABATAAN OFFICIALS**

Pursuant to the provisions of Section 5 (5), Article VIII of the 1987 Constitution, and in order to achieve an expeditious, inexpensive, and just determination of election cases before the first level courts, the Supreme Court hereby adopts and promulgates the following rules.

**RULE 1
SCOPE**

SEC. 1. *Title; Application.* – The 2007 Rules of Procedure in Election Contests Before the Courts Involving Elective Municipal and Barangay Officials shall now be known as “The 2023 Amended Rules of Procedure in Election Contests Before the Courts Involving Elective Barangay and Sangguniang Kabataan Officials,” and shall apply, unless otherwise provided herein, prospectively to all Barangay and Sangguniang Kabataan election contests.

SEC. 2. *Application of the Rules of Court.* – The Rules of Court, as amended, shall apply to aspects of pleadings, practice, and procedure in election contests not specifically provided for in these Rules.

These Rules shall govern the filing of pleadings, practice, and procedure in election protests and petitions for *quo warranto* before Election Courts involving Barangay and Sangguniang Barangay officials.

SEC. 3. *Definition of Terms.* – For purposes of and as used in these Rules, the hereunder terms shall mean as follows:

(a) Audit Log – refers to the electronic document, stored in the vote counting machine’s data storage device, containing the list of all activities the vote counting machine performs from the time it is powered on until it is turned off.

(b) Automated Barangay and Sangguniang Kabataan Elections (BSKE) – refers to the election of Barangay and Sangguniang Kabataan officials using the automated election system.

(c) Automated Election System – refers to an election system using the technology designated by the COMELEC for voting, counting, consolidating, canvassing, transmission of election results, and other related electoral processes.

(d) Certificate of Canvass of Votes and Proclamation (COCVP) – refers to the official document in printed form, containing the names of all candidates who obtained the highest number of votes in a particular barangay and certifying to those candidates' proclamation as winners.

(e) Computation of Period – in accordance with Article 13 of the New Civil Code, in computing a period, the first day shall be excluded and the last day included.

(f) Clustered Precinct – refers to the group of established or regular precincts. The protestant or counter-protestant shall use a clustered precinct as basis in the computation of the pilot protested precincts under Section 10 (c) (iv), Rule 2 of these Rules.

(g) Data Storage Device – refers to the device that stores electronic documents from where the data may be obtained when necessary to verify the accuracy and correctness of election data. The data storage device used in a vote counting machine shall be under the custody and direct responsibility of the election officer after the completion of the voting process. A data storage device includes the back-up storage device under COMELEC's custody that likewise stores authentic electronic copies of data.

(h) Election – means the choice or selection of candidates to public office by popular vote through the use of the ballot. Specifically, it covers 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, and proclamation of winning candidates.

(i) Election Contests – refers to election protests or petitions for *quo warranto*.

(j) Election Courts – refers to first level courts and single-*sala* first level courts, such as the Metropolitan Trial Courts (MeTC), Municipal Trial Courts in Cities (MTCC), Municipal Circuit Trial Courts (MCTC), and Municipal Trial Courts (MTC) designated to handle election contests.

(k) Electronic Election Return – refers to the copy of the election return defined in item (m) of this Section, in electronic form, generated by the vote counting machine for purposes of automated BSKE.

(l) 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.

(m) Election Return – refers to the document showing the date of the election, the province, city, municipality, barangay, and the precinct where voting is held, and the number of votes, both in words and in figures, for each candidate in clustered precincts or mono precinct.

(n) Mono Precinct – refers to an individual regular or established precinct that has not been grouped or clustered with other regular or established precincts. In the the computation of the pilot protested precincts under Section 10 (c) (iv), Rule 2 of these Rules, the protestant or counter-protestant shall only use the mono precinct as basis if the same has not been grouped with other regular or established precincts or does not belong to a clustered precinct.

(o) Official Ballot – refers to the paper ballot, or for purposes of automated BSKE, the paper ballot capable of being optically scanned containing the pre-printed names of all candidates and with ovals corresponding to each of the pre-printed names. The ovals are the designated spaces where voters express their choice through marking or shading using a COMELEC-provided marking pen.

(p) Picture Image of the Ballot – refers to the image of the ballot captured by the Vote Counting Machine (VCM) from the time the voter feeds his/her ballot, which image is later stored in a memory or removable data storage device to the VCMs.

(q) Precinct Count Optical Scan or Vote Counting Machine (VCM) – refers to the machine, as well as the technology using an optical ballot scanner, located in every precinct, that scans or reads paper ballots that voters mark by hand and insert into the scanner to be counted.

(r) Proclamation – refers to an official declaration or announcement by the concerned Board of Canvassers, based on the COCVP, of the candidate who obtained the highest number of votes for a particular Barangay or Sangguniang Kabataan position, or in case of multi-slot positions, such number of candidates obtaining the highest number of votes to complete the multi-slot positions.

(s) Promulgation – refers to the process by which a decision or resolution 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.

(t) *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.

(u) 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.

(v) Statement of Votes by Precinct (SOVP) – refers to the document that records the votes obtained by the candidates in a mono precinct or clustered precinct.

(w) Substantial Recovery – is when the protestant is able to recover at least twenty percent (20%) of the overall vote lead of the protestee based on the SOVP, in relation to Section 4, Rule 10 of these Rules.

SEC. 4. *Inherent Powers of the Court.* – An Election Court, acting on an election contest, shall have all the inherent powers of a court provided under Rule 135 of the Rules of Court, including the power to issue auxiliary writs, processes, and other means necessary to carry out its authority or jurisdiction into effect and to adopt suitable processes not expressly provided by, but conformable with, law, these Rules, or the Rules of Court.

SEC. 5. *Construction.* – These Rules shall be liberally construed to give full effect to the will of the electorate in order to achieve an expeditious, inexpensive, and just determination and disposition of election contests involving Barangay and Sangguniang Kabataan officials.

RULE 2 ELECTION CONTESTS

SEC. 1. *Jurisdiction.* – The Election Courts shall have exclusive original jurisdiction over all election contests involving elective Barangay and Sangguniang Kabataan officials.

SEC. 2. *How Initiated.* – An election contest is initiated by the filing of an election protest or a petition for *quo warranto* against an elective Barangay or Sangguniang Kabataan official. An election protest or a petition for *quo warranto* shall be filed personally or through an accredited private courier with the proper Election Court in three (3) 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. 3. Modes of Service and Filing. – The service or filing of pleadings, motions, and other court submissions in election contests shall be made by:

- (a) submitting personally the original thereof, plainly indicated as such, to the Election Court and to the parties concerned, as the case may be;
- (b) sending them by registered mail;
- (c) sending them through an accredited private courier; or
- (d) if authorized by the Election Court in places where the Election Court is electronically equipped, by transmitting them by electronic mail (e-mail) or other electronic means.

Electronic filing and service of pleadings, motions, and other court submissions shall be done within regular office hours or the office hours as may be fixed by the Supreme Court or the Office of the Court Administrator. Pleadings, motions, and other court submissions filed and served after such hours shall be considered filed the next business day.

SEC. 4. Election Protest. – A petition contesting the election or returns of an elective Barangay or Sangguniang Kabataan official shall be filed with the proper Election 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 (4) candidates following the last-ranked winner duly proclaimed, as reflected in the official results of the election contained in the SOVP. The party filing the protest shall be designated as the protestant, while the adverse party shall be known as the protestee.

Each contest shall refer exclusively to one position. However, contests for positions of Sangguniang Barangay or Sangguniang Kabataan may be consolidated in one case.

SEC. 5. Quo Warranto. – A petition for *quo warranto* against an elective Barangay or Sangguniang Kabataan official shall be filed with the proper Election Court by any registered voter who has voted in the election concerned in the particular barangay subject matter of the petition. The party filing the petition shall be designated as the petitioner; while the adverse party shall be known as the respondent.

SEC. 6. 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 of the protestant, counter-protestant, or petitioner stating:

(a) the allegations in the pleading are true and correct based on his or her personal knowledge, or based on authentic documents; and

(b) the factual allegations therein have evidentiary support or, if specifically identified, shall likewise have evidentiary support after a reasonable opportunity for discovery.

The signature of the protestant or counter-protestant/petitioner shall further serve as a certification of the truthfulness of the allegations in the pleading.

A pleading required to be verified that contains a verification based on "information and belief," or upon "knowledge, information and belief," or lacks a proper verification, shall be treated as an unsigned pleading.

The protestant, counter-protestant, or petitioner shall certify under oath in the protest, counter-protest, petition, or other initiatory pleading asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith: (a) that he or she has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency, and, to the best of his or her knowledge, no such other action or claim is pending therein; (b) if there is such other pending action or claim, a complete statement of the present status thereof; and (c) if he or she should thereafter learn that the same or similar action or claim has been filed or is pending, he or she shall report that fact within five (5) calendar days therefrom to the Election Court wherein his or her aforesaid protest or petition or other initiatory pleading has been filed.

Failure to comply with the foregoing requirements shall not be curable by mere amendment of the protest, counter-protest, or petition but, upon motion and after hearing, shall be cause for the dismissal of the case without prejudice, unless otherwise provided. Such dismissal without prejudice shall not toll the running of the non-extendible ten (10)-calendar day period to file the protest or petition, or the five (5)-calendar day period to file the counter-protest, as provided under these Rules, and the same may be re-filed within the remaining period. The submission of a false certification or noncompliance with any of the undertakings therein shall constitute indirect contempt of court, without prejudice to the initiation of the corresponding administrative and criminal actions. If the acts of the party or his or her counsel clearly constitute willful and deliberate forum shopping, the same shall be ground for summary dismissal with prejudice and shall constitute direct contempt, as well as a cause for administrative sanctions.

SEC. 7. *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 (10) calendar days following the date of proclamation.

SEC. 8. *Pendency of Pre-proclamation Controversy.* – The pendency of a pre-proclamation controversy before the COMELEC, 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. 9. *COMELEC Judgment in Disqualification Case.* – A decision or resolution of the COMELEC, 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. 10. *Contents of the Protest or Petition.* –

(a) An election protest or petition for *quo warranto* shall specifically allege the following facts:

- (i) the position involved;
- (ii) the date of proclamation;
- (iii) the number of votes credited to the parties per SOVP;
- (iv) the summary of the witnesses' intended testimonies whose judicial affidavits shall be attached in the preliminary conference brief; and
- (v) the documentary and object evidence in support of the allegations contained in the pleading, including but not limited to, the SOVP and COCVP.

(b) A *quo warranto* petition shall also allege:

- (i) if the petitioner is not a candidate for the same Barangay or Sangguniang Kabataan position, the facts giving the petitioner standing to file the petition, in accordance with Section 5, Rule 2 of these Rules;
- (ii) the qualifications for the Barangay or Sangguniang Kabataan position and the disqualifications prescribed by law; and
- (iii) the petitioner's cited ground for ineligibility or the specific acts of disloyalty to the Republic of the Philippines.

(c) An election protest shall also allege:

(i) that the protestant was a candidate who had duly filed a certificate of candidacy and had been voted for the same position. The protestant shall also allege his rank whether in a single or a multi-slot position in accordance with Section 4 of Rule 2 of these Rules;

(ii) the total number of clustered precincts or mono precincts, as the case may be, in the barangay;

(iii) the protested clustered precincts or mono precincts, as the case may be, and the votes of the parties in the protested clustered precincts or mono precincts per the SOVP or, if the votes of the parties are not specified, an explanation why the votes are not specified;

(iv) the precinct number and location of the pilot protested clustered precincts or mono precincts, as the case may be, which shall not be less than and nearest to twenty percent (20%) of the total number of protested clustered precincts or mono precinct that will best illustrate the merits of the protest and which shall be subject to the initial revision of ballots under Section 4, Rule 10 of these Rules, provided that the identification of the pilot protested clustered precincts or mono precincts, as the case may be, is only required in election protests where the total number of protested clustered precincts or mono precincts is at least twenty (20) clustered precincts or mono precincts;

The following formula shall be used in the computation and identification of the pilot protested clustered precincts or mono precincts:

Total Number of Protested Clustered Precincts or Mono Precincts, as the case may be	Multiplied by .20	=	Total Number of Pilot Protested Clustered Precincts or Mono Precincts
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(v) a detailed specification of the acts or omissions complained of showing the electoral frauds, anomalies, or irregularities in the protested clustered precincts or mono precincts.

In all cases, the documentary and object evidence, if any, should be identified and appended to the election protest or petition. Likewise, the

parties and counsels are required to indicate in their pleadings their email addresses and contact numbers.

SEC. 11. Raffle of Cases. – In multi-*sala* stations, the Supreme Court shall designate the Election Courts which shall take cognizance of election protests and petitions for *quo warranto*. In the event that two (2) or more Election Courts are designated in multi-*sala* stations, a raffle shall be conducted by the Executive Judge to determine the assignment of cases to these designated Election Courts. No Election Court shall assume jurisdiction over an election contest unless the case has been properly assigned to it.

At least twenty-four (24) hours before the raffle, the clerk of court must serve personal notice to the parties, stating the date and time of the raffle. Proof of service to the parties shall be submitted to the court, and the raffle shall be open to the public. The Supreme Court, through the Office of the Court Administrator, shall issue the necessary circular implementing this proviso.

The Supreme Court, through the recommendation of the Office of the Court Administrator, may order, upon proper motion, a change of venue or place of trial for compelling reasons to avoid a miscarriage of justice.

SEC. 12. Summary Dismissal of Election Contest. – The Election Court shall summarily dismiss, *motu proprio*, an election protest, counter-protest, or petition for *quo warranto* on any of the following grounds:

- (a) the Election Court has no jurisdiction over the subject matter;
- (b) the election protest, counter-protest or petition is insufficient in form and content as required under Section 10, Rule 2 and Section 1, Rule 4 of these Rules;
- (c) the election protest, counter-protest or 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) the deposit is not paid within the period mentioned in Section 2, Rule 7 of these Rules, in case of an election protest where cash deposit is required.

RULE 3 SUMMONS

SEC. 1. *Summons.* – Within twenty-four (24) hours from the filing of a 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 (5) calendar days from notice.

The summons shall be directed to the protestee or respondent, signed by the clerk of court under seal, and contain:

- (a) the name of the Election Court and the names of the parties to the action;
- (b) when authorized by the Election Court upon *ex parte motion*, an authorization for the protestant or petitioner to serve summons to the protestee or respondent;
- (c) a direction that the protestee or respondent answer within the time fixed by these Rules; and
- (d) a notice that unless the protestee or respondent so answers, the Election Court may render judgment and the relief sought by the protestant or petitioner may be granted.

SEC. 2. *Service of Summons.* – The summons shall be served within forty-eight (48) hours from issuance thereof, by handing copies of the summons and of the protest or the petition to the protestee or respondent in person or, in case of the protestee's or the respondent's refusal to receive and sign such copies, by tendering them to him or her, that is by leaving the summons within the view and in the presence of the protestee or respondent.

If, for justifiable causes, the protestee or respondent cannot be served personally after at least three (3) attempts on two (2) separate dates, service may be effected:

- (a) by leaving copies of the summons at the protestee's or respondent's residence to a person at least eighteen (18) years of age and of sufficient discretion residing therein;
- (b) by leaving copies of the summons at the protestee's or respondent's office or regular place of business to some competent person in charge thereof. A competent person

includes, but is not limited to, one who customarily receives correspondences for the protestee or respondent;

- (c) by leaving copies of the summons, if refused entry upon making his or her authority and purpose known, to any of the officers of the homeowners' association or condominium corporation, or its chief security officer in charge of the community or the building where the protestee or respondent may be found; and
- (d) by sending an electronic mail to the protestee's or respondent's e-mail address, if allowed by the Election Court.

SEC. 3. *By Whom Served.* – The summons shall be served by the sheriff, or other court personnel designated to serve summons and in case of failure of service of summons by them, the Election Court may, upon proper motion, authorize the protestant or petitioner or their counsel to serve the summons together with the sheriff or other court designated personnel.

If the protestant or petitioner misrepresents that the protestee or respondent was served summons, and it is later proved that no summons was served, the case shall be dismissed with prejudice, the proceedings shall be nullified, and the protestant or petitioner shall be meted appropriate sanctions.

If summons is returned without being served on any or all the protestees or respondents, the Election Court shall order the protestant or petitioner to cause the service of summons by other means available under the Rules of Court.

Failure of the protestant or petitioner to comply with the order shall cause the dismissal of the election protest or petition without prejudice.

SEC. 4. *Proof of Service.* – The proof of service of a summons shall be made in writing by the server and shall set forth the manner, place, and date of service; shall specify any papers which have been served with the process and the name of the person who received the same; and shall be sworn to when made by a person other than a sheriff.

If summons was served by e-mail, as authorized by the Election Court, a printout of the said e-mail, with a copy of the summons as served, and the affidavit of the person who sent the e-mail, shall constitute as proof of service.

RULE 4
ANSWER AND COUNTER-PROTEST

SEC. 1. *Verified Answer; Counter-protest.* – Within five (5) calendar days from receipt of the summons and the copy of the protest or petition, the protestee or the respondent shall file a verified answer in three (3) legible copies, with proof of service of a copy on the protestant or the petitioner.

The answer may set forth admissions and denials, special and affirmative defenses, and a compulsory counterclaim, if any, the summary of the witnesses' intended testimonies whose judicial affidavits shall be attached in the preliminary conference brief, including documentary and object evidence, if any. Only witnesses whose judicial affidavits are attached to the preliminary conference briefs shall be allowed to testify regarding the allegations in the answer.

The protestee seeking to file a counter-protest must incorporate the same in the answer. A counter-protest alleged in the answer shall specify the counter-protested clustered precincts or mono precincts, as the case may be, the parties' votes per the SOVP, and the summary of the witnesses' intended testimonies whose judicial affidavits shall be attached in the preliminary conference brief, and in the proper case, a detailed specification of the acts or omissions complained of as electoral fraud, anomalies or irregularities in the counter-protested clustered precincts or mono precincts.

The documentary and object evidence, if any, should be identified and appended to the answer or counter-protest. Also, the protestee and counsel are required to indicate in their pleadings their e-mail addresses and contact numbers.

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 (5) calendar 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 they do not admit and, whenever practicable, they 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 rest.

(b) *Allegations not specifically denied deemed admitted.* – Material averments 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. The Election Court shall dismiss the claim when it appears from the pleadings or the evidence on record that: (1) the court has no jurisdiction over the subject matter; or (2) there is another action pending between the same parties for the same cause; or (3) the action is barred by a prior judgment or by the statute of limitations.

(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.* – If the protestee or respondent fails to file an answer within the time allowed in an election protest that does not involve ballot revision or in a petition for *quo warranto*, the Election 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, unless the Election Court, in its discretion, opts to require the protestant or petitioner to submit evidence *ex parte*.

Where the election protest involves revision or examination of ballots or the verification or re-tabulation of the election returns, or electronic election returns, the Election Court shall issue the appropriate order and shall proceed to render judgment based on the results of the revision, examination, verification or re-tabulation. During these proceedings, only the protestant's revisors may participate. The protestee, or his or her duly authorized representative, has the right to be present and to observe the proceedings, without the right to object and to lay claim to ballots and election returns or electronic election returns.

SEC. 5. *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. Leave of court may be refused if the motion for leave appears to the court to be intended for 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 Election 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

SEC. 1. *Motions Must be in Writing.* – All motions shall be in writing, except for those made in open court or in the course of a hearing or trial.

A motion made in open court or in the course of a hearing or trial should immediately be resolved in open court, after the adverse party is given the opportunity to argue his or her opposition thereto. However, in the event that the adverse party is absent when such motion is made, the Election Court is given the discretion to either decide the motion or allow the adverse party to file his comment thereon.

SEC. 2. *Proof of Service Necessary.* – The Election Court shall not act on any written motion, except upon submitted proof of service on the adverse party.

SEC. 3. *No Hearings on Motions.* – No motion shall be set for hearing, and no oral argument shall be allowed in support of any motion, except when ordered by the Election Court. After receipt of the motion, the adverse party may file a comment within five (5) calendar days. Upon filing of the comment or opposition or upon expiration to file the same, the Election Court shall resolve the motion within five (5) calendar days.

RULE 6 PROHIBITED PLEADINGS

SEC. 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, *litis pendentia*, and *res judicata*;
- (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;
- (h) Motion to declare the protestee or respondent in default;
- (i) Motion for postponements, except on the grounds of *force majeure* or Acts of God;
- (j) Motion for the inhibition of the presiding judge, except on clearly valid grounds;
- (k) Reply or rejoinder;
- (l) Third-party complaint;
- (m) Motion to admit additional judicial affidavits, except on meritorious grounds; and
- (n) Motion for execution pending appeal filed beyond the second day after the promulgation of judgment.

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 Election Court may, in its discretion, hold a preliminary hearing on the grounds so pleaded.

RULE 7 FILING FEES AND CASH DEPOSITS

SEC. 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 Five Thousand Pesos (PHP 5,000.00) each.

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 electronic election returns, or which may require the bringing of copies of other election

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documents and paraphernalia to the Election Court, shall make a cash deposit with the court in the following amounts:

(i) One Thousand Pesos (PHP 1,000.00) for each Clustered Precinct or Mono Precinct, as the case may be, covered by the protest or counter-protest, provided that the deposit shall in no case be less than Twenty-Five Thousand Pesos (PHP 25,000.00) to be paid upon the filing of the election protest or counter-protest;

(ii) If the amount to be deposited does not exceed One Hundred Thousand Pesos (PHP 100,000.00), in case of a Sangguniang Barangay position, and Fifty Thousand Pesos (PHP 50,000.00), in case of a Sangguniang Kabataan position, the required sum shall be paid in full within ten (10) calendar days from the filing of the protest or counter-protest, without need for an order from the Election Court; and

(iii) If the required deposit shall exceed One Hundred Thousand Pesos (PHP 100,000.00), in case of a Sangguniang Barangay position, and Fifty Thousand Pesos (PHP 50,000.00), in case of a Sangguniang Kabataan position, a cash deposit in the amount of One Hundred Thousand Pesos (PHP 100,000.00) or Fifty Thousand Pesos (PHP 50,000.00), as the case may be, shall be made within ten (10) calendar days from the filing of the protest or counter-protest, without need for an order from the Election Court. The balance shall be paid in installments under the schedule the Election Court may require after hearing the protestant or counter-protestant on the matter.

The cash deposit shall be applied by the Election Court to the payment of the compensation of revisors as provided under Section 3, Rule 10 of these Rules, and of all the expenses incidental to revision, including but not limited to the cost of supplies and miscellaneous expenses of the revision committee, the cost of the production in Election Court and the storage and maintenance of election equipment and paraphernalia.

When circumstances so demand (such as when the deposit has been or is about to be depleted), the Election Court may require the payment of additional cash deposits. Any unused cash deposit shall be returned to the depositing party after the complete termination of the protest or counter-protest.

(b) The fees and deposits required under these Rules may be paid or settled using the available electronic payment system before the concerned court or station.

(c) 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

SEC. 1. *Issuance of Precautionary Protection Order.* – Where the allegations in a protest so warrant, the Election Court shall issue a precautionary protection order – simultaneously with the issuance of summons – directing the municipal treasurer, election officer, and COMELEC official concerned to take immediate and appropriate measures to safeguard the integrity of all the ballot boxes and the ballots, the lists of voters and voting records, the books of voters and other documents or paraphernalia used in the election evidencing the conduct and results of elections in the contested clustered precincts or mono precincts, as the case may be.

The concerned municipal treasurer, election officer or COMELEC official having custody of the required election materials/documents who fails to comply with the precautionary protection order may be cited in contempt or be subjected to possible administrative liability.

In implementing the precautionary protection order, the Election Court is empowered to deputize appropriate government personnel or law enforcement agencies to secure and expedite the transmission of the ballot boxes. Deliberate delay in implementing the precautionary protection order caused by party litigants to an election protest may be a ground for the summary dismissal of the protest or, if perpetuated by the protestee, a waiver of the latter's right to participate in the revision of ballots.

SEC. 2. *When Ballot Boxes and Election Documents are Brought Before the Election Court.* – Within forty-eight (48) hours from receipt of the answer, when the allegations in a protest or counter-protest so warrant, the Election Court shall order the ballot boxes with their keys, lists of voters with voting records, books of voters, and other election documents or paraphernalia involved in the protest or counter-protest, to be brought before it.

The Election Court shall notify the parties of the date and time for the retrieval and transfer from their respective custodians of the ballot boxes with their keys, lists of voters with voting records, books of voters, and other election documents or paraphernalia. 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 retrieval or transfer of the ballot boxes, election documents, and paraphernalia.

The Election Court, at its discretion, may seek the assistance of the Philippine National Police (PNP) or the Armed Forces of the Philippines (AFP) in ensuring the safe delivery and storage of the the ballot boxes with

their keys, lists of voters with voting records, books of voters, and other election documents or paraphernalia to its custody.

The expenses necessary and incidental to the production in the Election Court of the ballot boxes, election documents and paraphernalia shall be shouldered and promptly paid by the protestant and counter-protestant in proportion to the clustered precincts or mono precincts, as the case may be, covered by their protests or counter-protests. The expenses necessary and incidental to the return of the materials and documents produced in the Election Court to their original custodians or the proper tribunal after the termination of the case shall likewise be shared proportionately by the protestant and the protestee based on the number of clustered precincts or mono precincts they respectively contest.

In the event that the station where the Election Court is located has been placed on lockdown or other analogous circumstances, the required ballot boxes and election documents for turnover thereto shall remain in the custody of the concerned municipal treasurer or election officer or COMELEC official during the duration of the lockdown or until so ordered by the concerned Election Court. However, if it is only the Election Court that is placed on lockdown or other similar circumstances, but the other courts in the station remain open or operational, then the above items may be turned over either to the Office of the Clerk of Court or the pairing court, in the presence of the parties or their representatives.

RULE 9 PRELIMINARY CONFERENCE

SEC. 1. *Preliminary Conference; Mandatory.* – Within five (5) calendar days after filing of the last responsive pleading allowed by these Rules, the Election Court shall conduct a mandatory preliminary conference among the parties to consider:

- (a) The simplification and limitation of the issues;
- (b) The necessity or desirability of amendments to the pleadings;
- (c) The possibility of obtaining stipulations or admission of facts and of documents to avoid unnecessary proof;
- (d) The limitation of the number of witnesses whose judicial affidavits should be attached to the preliminary conference brief. The witness shall identify in which capacity he or she is testifying. If the witness is a voter of the barangay concerned, he or she shall identify the clustered precinct number or mono precinct number, as the case may be, where he or she is a voter;

- (e) The nature of the testimonies of the witnesses and whether they relate to evidence *aliunde* the ballots, or otherwise;
- (f) The withdrawal of certain protested or counter-protested clustered precincts or mono precincts, as the case may be, (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);
- (g) The number of revision committees to be constituted;
- (h) The precinct number and location of the pilot protested clustered precincts or mono precincts, as the case may be, which shall not be less than and nearest to twenty percent (20%) of the total number of protested clustered precincts or mono precincts that will best illustrate the merits of the protest and which shall be subject to the initial revision of ballots; Provided, that the identification of pilot protested clustered precincts or mono precincts, as the case may be, is only required in election protests where the total number of protested clustered precincts or mono precincts is at least twenty (20) clustered precincts or mono precincts; and
- (i) 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.* – The parties have the duty to appear in person before the Election Court at the preliminary conference. Counsels appearing without their clients should be specifically authorized to appear for and to bind their clients on the matters covered by the preliminary conference.

SEC. 4. *Effect of Failure to Appear.* – The failure of the protestant or petitioner or the duly authorized counsel to appear at the preliminary conference authorizes the Election Court, at its own initiative, to dismiss the protest, or counter-protest or petition. The failure of the protestee or respondent or of the duly authorized counsel to appear at the preliminary conference shall have the same effect provided under the first and second paragraph of Section 4 (c), Rule 4 of these Rules.

SEC. 5. *Preliminary Conference Brief.* – The parties shall simultaneously file with the Election Court, and serve on the adverse party at least two (2) calendar days prior to the scheduled preliminary conference, their preliminary conference briefs in a manner as shall ensure their receipt at least one (1) day

before the date of the preliminary conference. The briefs shall contain the following:

- (a) A summary of admitted facts and proposed stipulation of facts;
- (b) The issues to be tried or resolved (*i.e.*, for election protests, the alleged frauds or irregularities committed in the conduct of the election; for *quo warranto* proceedings, the ground for ineligibility or acts of disloyalty);
- (c) The documents or exhibits to be presented;
- (d) A manifestation indicating the use or the intent to use discovery procedures or referral to commissioners;
- (e) The number and names of witnesses, their addresses, and the substance of their respective testimonies. The testimonies of witnesses shall be by judicial affidavits, in question and answer form, which shall serve as their direct testimonies, subject to oral cross-examination, attached and marked herein;
- (f) A manifestation of withdrawal of certain protested or counter-protested clustered precincts or mono precincts, as the case may be, if such is the case; and
- (g) The proposed number of revision committees and names of their revisors and alternate revisors.

SEC. 6. *Failure to File Brief.* – The failure to file the required brief or to provide the brief's mandatory contents shall have the same effect as the failure to appear at the preliminary conference.

SEC. 7. *Preliminary Conference Order.* – The Election Court shall issue an order summarizing the matters taken up and the stipulations or agreements reached during the conference, which shall include the following:

- (a) an enumeration of the admitted facts;
- (b) the minutes of the preliminary conference;
- (c) the specific legal and factual issue/s to be tried;
- (d) the applicable law, rules, and jurisprudence;
- (e) the evidence marked;

- (f) the specific trial dates;
- (g) a statement that the one-day-examination-of-witness rule and most important witness rule shall be strictly followed; and
- (h) such other matters as may aid in the prompt disposition of the action.

Such order shall be issued within three (3) calendar days following the termination of the preliminary conference. The Election Court shall specify in its order when the revision of ballots or the re-tabulation of election returns or electronic election returns shall commence, the starting date of which shall be within five (5) calendar days from the termination of the preliminary conference.

RULE 10 REVISION OF BALLOTS

SEC. 1. *Start of Revision.* – The revision of ballots shall commence on the date specified in the preliminary conference order, which should not be beyond five (5) calendar days from the termination of the preliminary conference.

SEC. 2. *Revision Committee; Under the Supervision of the Election Court.* – As many revision committees as may be necessary shall be constituted. Each revision committee shall be composed of a chairperson and two (2) members, one of whom is designated by the protestant and the other by the protestee. The Election Court shall designate the chairperson and a recorder, and their respective substitutes, 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 secured place the Election Court may designate within the territorial jurisdiction of the Election 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 Election 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, and the misuse of election paraphernalia.

SEC. 3. Compensation of the Revisors. – The Election Court shall fix the compensation of the revisors at Eight Hundred Pesos (PHP 800.00) per ballot box for the chairperson and Three Hundred Pesos (PHP 300.00) per ballot box for each party revisor. The party revisors shall be entitled to an additional *per diem* of Five Hundred Pesos (PHP 500.00) each per day. The compensation for a recorder shall be Three Hundred Pesos (PHP 300.00) per ballot box. These compensations shall be chargeable against the cash deposit as provided for in Section 2, Rule 7 of these Rules.

SEC. 4. Initial Recount of the Ballot. – If the election protest consists of at least twenty (20) protested clustered precincts or mono precincts, as the case may be, the pilot protested clustered precincts or mono precincts, which shall not be less than and nearest to twenty percent (20%) of the total number of protested clustered precincts or mono precincts, that will best illustrate the merits of the protest shall be the subject of an initial recount of the ballots, in accordance with the provisions of Sections 6, 7, and 8, Rule 10 of these Rules. The initial recount in the protest is intended to determine if there is a substantial recovery wherein the protestant is able to recover from the pilot protested clustered precincts or mono precinct, as the case may be, at least twenty percent (20%) of the overall vote lead of the protestee, through the appreciation of ballots and other submitted election documents.

The following formula shall be used in the computation of substantial recovery:

Overall Lead of the Protestee	Vote of the Protestee	Multiplied by .20	=	Substantial Recovery that must be established by the protestant after the initial recount of the pilot protested clustered precincts or mono precincts, as the case may be.
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Based on the above determination, the Election Court shall dismiss the protest, without further proceedings, if no substantial recovery could be established from the pilot protested clustered precincts or mono precincts, as the case may be.

If substantial recovery could be established by the protestant from the pilot protested clustered precincts or mono precincts, as the case may be, the recount of the ballots in the remaining protested clustered precincts or mono precincts shall proceed. If there are counter-protested clustered precincts or mono precincts in the answer of the protestee then the revision thereof shall follow.

If no substantial recovery could be established from the pilot protested precincts or mono precincts, the Election Court shall dismiss the protest without further proceedings. However, the dismissal of the protest without further proceedings shall apply only to election protests that purely involve revision of ballots. If the protest, aside from revision and appreciation of the ballots, involve other grounds, such as, but not limited to vote-buying, substitute voting, fraud, terrorism or violence, and the protestant failed to establish substantial recovery in accordance with this Section, the Election Court shall not dismiss the election protest but shall proceed to hear and determine such other grounds raised in accordance with the provisions of Rule 13 of these Rules.

SEC. 5. *Determination of the Merit or Legitimacy of the Protest Prior to Revision of the Remaining Contested Precincts.* – The recount of the ballots in the remaining protested clustered precincts or mono precincts, as the case may be, shall not commence until the Election Court shall have determined substantial recovery based on the results of the recount of the votes from the pilot protested clustered precincts.

The provisions of Sections 4 and 5 of these Rules shall not apply if the total number of protested clustered precincts or mono precincts, as the case may be, in the election protest is less than twenty (20) clustered precincts or mono precincts.

SEC. 6. *Continuous Revision.* –

(a) *Period for revision.* – Revision shall be conducted from 8:30 a.m. to 12:00 noon and from 1:30 p.m. to 4:30 p.m. from Monday to Friday, except on non-working holidays. The revisors may take a 15-minute break in each session.

(b) *Revision to continue in case of failure to report of the Chairperson.* – The revision shall not be delayed or postponed in case of failure to report of the Chairperson for any reason, so long as his or her substitute designated by the Election Court, and the parties' revisors are present.

(c) *If the revisor of the protestee or counter-protestee is absent or late.* – If the revisor of the protestee or counter-protestee is absent or late for

thirty (30) 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 during his or her revisor's absence or tardiness

(d) If the revisor of protestant or counter-protestant is absent or late or the revisors of both parties are absent or late. – If the protestant's or counter-protestant's revisor is absent or late for thirty (30) minutes and no alternate appears as a substitute, the protestant or counter-protestant is deemed to have waived his or her right to the revision for that day and the ballots shall no longer be revised.

The parties are likewise deemed to have waived their right to the revision for that day, and the ballots shall no longer be revised, if the revisors of both parties and their alternates are also absent or late within thirty (30) minutes after the scheduled start of the revision.

In both instances, the ballot boxes scheduled for revision on that day, and the corresponding ballot box keys in the possession of the chairperson, shall be returned to the Election Court's ballot box custodian. The chairperson concerned shall state the facts of absence or tardiness and waiver in the revision report.

SEC. 7. *Prohibited Access.* – During the revision, 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. 8. *Conduct of Revision.* – The revision of the votes on the ballots shall be done manually and visually according to the procedure below:

(a) On the scheduled day of revision, the ballot boxes containing the ballots in protested and counter-protested clustered precincts or mono precincts, as the case may be, should be in the custody of the Election Court.

(b) The revision committee shall initially note the condition of the ballot box and its locks and locking mechanism, and record this condition in the revision report.

(c) The ballot box shall then be opened and the ballots taken out. The valid-ballots shall first be counted, without regard to the votes obtained by the parties. This will be followed by the counting of the torn, unused stray and rejected ballots, as classified at the polling place.

- (d) The votes appearing in the election returns or electronic election returns copy for the ballot box shall then be recorded in the minutes.
- (e) Prior to the actual revision, the revision committee must authenticate each and every ballot to make sure that it was the same ballots cast, and in case of automated BSKE, cast and fed to the VCM, during the voting. The authentication shall be through any method or device certified by the COMELEC to be capable of performing the desired authentication requirement through the use of bar codes and ultra-violet ray code detection mechanism;
- (f) For purposes of automated BSKE, the revision shall only proceed after the revision committee, through its chairperson and members, has determined that the integrity of the ballots has been preserved. In the event that the revision committee determines that the integrity of the ballots and the ballot box have not been preserved, as when proof of tampering or substitution exists, the Election Court shall issue an order directing the COMELEC to decrypt and print the picture image of the ballots stored in the data storage device for the precinct in accordance with the COMELEC's Minute Resolution No. 22-0787. The expenses for the decryption and printing of the picture image of the ballots shall be borne by the protestant or protestee, as the case may be.
- (g) The revision committee shall thereafter proceed to look at the ballots and count the indicated votes for the contested position.
- (h) The revision committee shall bear in mind that the will of the voters reflected as votes in the ballots shall as much as possible be given effect, setting technicalities aside. Furthermore, the votes are presumed to have been made by the voter and shall be so considered unless reasons exist to justify their rejection. The rules on the appreciation of ballots under Section 211 of the Omnibus Election Code shall apply.
- (i) However, for purposes of automated BSKE, marks or shades that are less than twenty-five percent (25%) of the oval, based on visual examination, shall not be considered as valid votes, unless circumstances show otherwise. The rules on the appreciation of the ballots under Section 211 of the Omnibus Election Code shall apply suppletorily when appropriate.
- (j) There shall be a tally sheet in at least five (5) copies, plus additional copies depending on the number of additional parties, that shall be used to tally the votes as they are counted through the use of *taras* and sticks.
- (k) After all the ballots from one ballot box have been counted, the revision committee shall secure the contested ballots and complete the recount report for the precinct. Thereafter, it shall proceed to recount the votes from the ballots of the next precinct.

(l) In case of multiple revision committees, the recount shall be done simultaneously.

(m) In the event that the area where the revision is being conducted is placed on lockdown or other analogous circumstances, the judge should determine a suitable place for the continuation thereof taking into consideration the health, safety, and security protocols that should be observed and that the subject place should be within his or her territorial jurisdiction, provided that the parties or their representatives are duly notified of such transfer.

SEC 9. Preparation and Submission of Revision Report. – The committee shall prepare and submit to the Election Court a revision report per precinct stating the following:

- (a) the precinct number;
- (b) the date, the place, and the 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 or electronic election returns; and
 - (4) numbered paper seal of the envelopes;
- (e) for purposes of automated BSKE, the availability of and other circumstances attendant to the VCM and other automated election devices and paraphernalia used in the revision, if required;
- (f) the votes of the parties *per* ballot box copy of the election returns or electronic election returns and *per* the tally sheet/board found inside the ballot box;
- (g) the number of ballots objected to by the parties indicating therein the exhibit numbers;
- (h) the grounds of objections;
- (i) the number of stray ballots;

- (j) the claims on ballots with their exhibit numbers; and
- (k) 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 Election Court, within five (5) calendar 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 clustered precincts or mono precincts, as the case may be, and later from the counter-protested clustered precincts or mono precincts, if so conducted, based on the provisions of Section 4, Rule 10 of these Rules. Each party furnished with a copy of the committee report may submit their comments thereon within a non-extendible period of five (5) calendar days from notice, failure of which shall be deemed a waiver on the part of the said party to do so. No further pleadings are allowed.

SEC. 10. Order of Revision. – Revision of ballots shall start with those from the protested precincts or mono precincts, as the case may be, of the protestant, subject to the provisions of Sections 4 and 5, Rule 10 of these Rules.

SEC. 11. 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 Election Court shall inquire about the security markings on the ballots and election documents from the Chairperson of the COMELEC who shall be obliged to indicate these markings, measures and other vital information that may aid the Election Court in determining the authenticity of ballots and election documents. The parties shall be notified of the results of such inquiry.

RULE 11
TECHNICAL EXAMINATION

SEC. 1. *Motion for Technical Examination; Contents.* – A party may move for the technical examination of the presented evidence within five (5) calendar days after completion of the revision 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.

However, when the protest or counter-protest involves an allegation of massive substitute voting, a motion for technical examination may be filed within five (5) calendar days after the issuance of the preliminary conference order. Failure to file such motion within the period provided shall constitute a waiver to avail of such technical examination.

SEC. 2. *Technical Examination; Time Limits.* – The Election 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 (5) calendar days from notice to both parties and shall be completed within the period specified by the Election Court, and in no case to exceed twenty (20) calendar days, unless the Election Court grants an extension based on exceptionally meritorious grounds. 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 that 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 PNP Crime Laboratory, the COMELEC, the Department of Science and Technology or experts from the private sector. The other party may secure the services of

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their own expert who may only observe, not interfere with, the examination conducted by the movant's experts.

RULE 12 PHOTOCOPYING OF BALLOTS

SEC. 1. *Photocopying Simultaneous with Revision.* – On motion of a party, the Election Court may allow the photocopying of ballots and other 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 Election 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

SEC. 1. *Presentation and Reception of Evidence; Order of Hearing.* – If at the preliminary conference the parties have agreed on issues that do not involve the examination and appreciation of 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 that may be required.

The reception of evidence on all other matters or issues incidental to or involving 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 Election Court under the provisions of Rule 11 of these Rules.

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

- (a) the protestant or petitioner shall present evidence in support of the protest or petition. In case of election protests, the protestant shall also present evidence to prove the manner of handling, storing and/or safeguarding of the ballot boxes and its contents for the determination of whether the integrity of the ballot boxes and its contents have been preserved.

- (b) the protestee or respondent shall then adduce evidence in support of the defense, counterclaim or counter-protest, if any; and
- (c) no rebuttal or sur-rebuttal evidence shall be allowed.

In offering testimonial evidence, the judicial affidavits attached to the preliminary conference briefs shall be considered as the witness' direct testimony, subject to the right of the adverse party to object to its inadmissible portions and to orally cross-examine the witness.

The one-day-cross-examination-of-witness rule – *i.e.*, a witness has to be fully cross-examined in one day – shall strictly be followed, subject to the Election Court's discretion to extend the cross-examination for justifiable reasons.

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

Proceedings in election contests shall be conducted in-court. However, if the Election Court finds that the conduct of a videoconference will be beneficial to the fair, speedy, and efficient administration of justice, the Election Court, upon motion, may set the case for videoconference at any stage of the proceedings.

SEC. 2. Offer of Evidence. – The Election 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 party's last witness. The opposing party shall be required to immediately interpose objections to the offer. The Election Court shall rule on the offer of evidence in open court. However, the Election Court may, at its discretion, allow the party to make an offer of evidence in writing, which shall be submitted within three (3) calendar days. If the Election 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 at the Election Court's order. In no case shall the entire period for reception of evidence exceed ten (10) calendar days for each party from the first day of such reception, unless otherwise authorized by the Supreme Court.

SEC. 4. Adjournments and Postponements. – No motion for postponement shall be allowed, except for *force majeure* or Acts of God. In no case shall the resetting of hearings have an interval exceeding three (3) calendar days, nor

shall the postponements of hearing granted to each party exceed three (3) times of three (3) 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.

In considering the results of the revision, *vis-à-vis* the results reflected in the official canvassing, the following shall be observed:

(1) The ballots cannot be used to overturn the official count as reflected in the election returns or electronic election returns unless it is first shown affirmatively that the ballots have been preserved with care which precludes the opportunity of tampering and suspicion of change, abstraction, or substitution;

(2) The burden of proving that the integrity of the ballots has been preserved in such a manner is on the protestant;

(3) Where a mode of preserving the ballots is enjoined by law, proof must be made of such substantial compliance with the requirements of that mode as would provide assurance that the ballots have been kept inviolate notwithstanding slight deviations from the precise mode of achieving that end;

(4) It is only when the protestant has shown substantial compliance with the provisions of law on the preservation of ballots that the burden of proving actual tampering or likelihood thereof shifts to the protestee; and

(5) Only if it appears to the satisfaction of the Election Court that the integrity of the ballots has been preserved should it adopt the result as shown by the recount and not as reflected in the election returns or electronic election returns.

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

(a) On the election procedure:

- (i) The election of candidates was held on the date and at the time set and in the polling place determined by the COMELEC;
- (ii) The Boards of Election Inspectors were duly constituted and organized;
- (iii) Political parties and candidates were duly represented by pollwatchers;
- (iv) Pollwatchers were able to perform their functions;
- (v) The Minutes of Voting and Counting contains all the incidents that transpired before the Board of Election Inspectors; and
- (vi) For purposes of automated BSKE, the Audit Log contains the list of all activities performed by the VCM from the time it was powered on until it was turned off.

(b) On election paraphernalia:

- (i) Ballots and election returns or electronic election returns that bear the security markings and features prescribed by the COMELEC are genuine;
- (ii) The data and information supplied by the members of the Boards of Election Inspectors in the accountable forms are true and correct;
- (iii) The allocation, packing, and distribution of election documents or paraphernalia were properly and timely done; and
- (iv) For purposes of automated BSKE, the VCM and consolidation machines and the data storage devices are all in order, and the data generated reflect the activities entered in these electronic machines and devices.

(c) On appreciation of ballots:

- (i) A ballot with appropriate security markings is valid;
- (ii) The ballot reflects the intent of the voter;

- (iii) The ballot was properly accomplished;
- (iv) A voter personally prepared one ballot, except in the case of assistants; and
- (v) The exercise of one's right to vote was voluntary and free.

RULE 14 DECISION

SEC. 1. *Rendition of Decision.* – The Election Court shall decide the election contest within thirty (30) calendar days from the date it is submitted for decision, in no case beyond six (6) months after its filing, unless the Supreme Court, through the Office of the Court Administrator, authorizes an extension in writing. After the submission of the case for decision, the judge, during the thirty (30)-day period to decide the election contest or until the promulgation of the decision therein, prior to the lapse of the said period, shall prioritize the resolution of the election contest over his or her other adjudicative duties and functions.

An election protest is deemed submitted for decision after completion of the reception of evidence. 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 the termination of the revision of ballots and before rendering its decision in an election protest that involved such revision, the Election Court shall examine and appreciate the original ballots. The Election Court, in its appreciation of the ballots and in rendering rulings on objections, shall observe the following rules:

- (a) *On Marked Ballots* – The Election Court must specify and point to the marking clearly indicating the voter's intent to identify the ballot;
- (b) *On Fake or Spurious Ballots* – The Election Court must specify the COMELEC security markings or features that are not found in the ballots, election documents or paraphernalia, or for purposes of automated BSKE, machine, device or paraphernalia considered fake or spurious, or the operation aspects of the machine, device or paraphernalia that resulted in fake or spurious results;
- (c) *On Stray Ballots* – The Election 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 being written by one person, the Election 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 (2) persons. The Election Court must likewise take into consideration the entries of the Minutes of Voting and Counting relative to illiterate or differently abled voters, if any, who cast their votes through assistors, 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 Election Court must specify the exact basis for admitting claimed votes or crediting these to either party.

SEC. 3. *Several Judgments.* – In a protest or petition against several protestees or respondents, the Election 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 reading, upon motion, its dispositive portion in open court on a date set with notice to the parties and filing the decision with 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, on the counsels or on the parties if they are not represented by counsel.

In the event that the decision is scheduled for promulgation on a Friday or a day before a national or local holiday, the hearing should be held in the morning.

SEC. 5. *Finality of Decision.* – The Election Court's promulgated decision shall become final and executory after the lapse of five (5) calendar days after filing with the clerk of court and receipt of notice by the parties if no appeal is taken.

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 of court in the book of entries of judgments. The date of finality of the judgment shall be deemed to be the date of its entry. The record shall contain the dispositive part of the judgment and shall be signed by the clerk of court, 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 COMELEC, 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 COMELEC, within five (5) calendar days after promulgation, by filing a notice of appeal with the Election Court that rendered the decision, with copy served on the adverse counsel or the adverse party who is not represented by counsel. The Election Court has three (3) calendar days within which to act on the notice of appeal.

SEC. 9. *Appeal Fee.* – The appellant in an election contest shall pay to the Election Court that rendered the decision an appeal fee of Two Thousand Pesos (PHP 2,000.00), simultaneously with the filing of the notice of appeal.

The appeal fee provided in this section shall be separate and distinct from the COMELEC appeal fee which the appellant may be required to pay with the COMELEC pursuant to the provisions of the COMELEC Rules of Procedure. Further, any expense that may be required for the transmission of election paraphernalia shall be shouldered by the interested party.

SEC. 10. *Immediate Transmittal of Records of the Case.* – The clerk of court shall, within fifteen (15) calendar days from the perfection of the appeal, transmit to the Electoral Contests Adjudication Department of the COMELEC, the complete records of the case, together with all the evidence, including the original and three (3) 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 or counsel, which must be filed strictly within two (2) days from the promulgation of the decision, either personally or through electronic means during regular office hours, the Election Court, while still in possession of the original records, but within the five (5)-calendar day period to appeal, may order the execution of the decision in an election contest before the expiration of the period to appeal, subject to the following rules:

- (a) Execution pending appeal shall not issue except upon motion and hearing within the five (5)-day calendar period to appeal. The motion for execution pending appeal, which must be filed by the prevailing party, must be supported by good reasons cited and stated by the Election Court in a special order. These reasons must:

(1) constitute superior circumstances demanding urgency that would 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) The mandatory due process requirements to resolve such motion, including the submission of comment and hearing, must be completed within the five (5)-calendar day period. The comment to the motion must be filed within twenty-four (24) hours from the filing of the motion, which must be served to the other party via personal service or electronic mail. Failure to timely file a comment waives the right of the litigant to submit a written responsive pleading, but they may orally manifest their position in the hearing to be conducted by the Election Court, which must be scheduled not later than a day before the lapse of the five (5)-calendar day period to appeal. No extension of time shall be granted.

(c) If the Election Court grants an execution pending appeal, an aggrieved party shall have twenty (20) calendar days from notice of the special order or denial of the motion for reconsideration within which to secure a restraining order or *status quo order* from the Supreme Court or the COMELEC. The corresponding writ of execution shall issue after twenty (20) calendar days if no restraining order or *status quo order* is issued. During the twenty (20)-calendar day period, the issuance of a writ of execution pending appeal shall be stayed.

SEC. 12. *Jurisdiction of the Commission on Elections in Certiorari Cases.* - The COMELEC has the authority to issue the extraordinary writs of *certiorari*, prohibition and *mandamus* only in aid of its appellate jurisdiction over decisions of the Election Courts in election cases involving Barangay and Sangguniang Kabataan officials.

SEC. 13. *Preferential Disposition of Election Contests.* - The Election Courts shall give preference to election contests over all other cases, except petitions for *habeas corpus* and for the writs of *amparo* and *habeas data*.

RULE 15
COSTS, DAMAGES, AND ATTORNEY'S FEES

SEC. 1. *Costs; When Allowed.* – Costs shall be allowed to the prevailing party as a matter of course. The Election Court shall have the power, for special reasons, to apportion the costs, as may be equitable. The Election 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 Election 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
FINAL PROVISIONS

SEC. 1. *Repealing Clause.* – All other rules, resolutions, regulations or circulars of the Supreme Court or parts thereof that are inconsistent with any of the provisions of these Rules are hereby deemed repealed or modified accordingly.

SEC. 2. *Effectivity clause.* – The 2023 Amended Rules shall take effect fifteen (15) days after publication once in a newspaper of general circulation or in the Supreme Court Official Website but its effectivity shall in no case be later than October 15, 2023.

HON. ANTONIO T. KHO, JR. (x)
Associate Justice and Chairperson
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Supreme Court

HON. REMEDIOS A. SALAZAR-FERNANDO (x)
Presiding Justice and Vice-Chairperson
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Court of Appeals
Manila

*HON. RAUL B. VILLANUEVA (x)
Court Administrator and Member
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Supreme Court

ATTY. ANTONIO CEASAR MANILA (x)
Member
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Office of the Chief Justice
Supreme Court

ATTY. CHRISTINE B. BALAJADIA (x)
Head Secretary
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Office of Associate Justice Antonio T. Kho, Jr.
Supreme Court

HON. ROSMARI D. CARANDANG (x)
Chancellor
PhilJA, Supreme Court

MANDATORY CONTINUING LEGAL EDUCATION
OFFICE (reg)
4th Flr., IBP Bldg., 15 Doña Julia Vargas Ave.
Ortigas Center, Pasig City

PUBLIC INFORMATION OFFICE (x)
Supreme Court

**for circularization*
***party added*

HON. LUVINA PADOLINA ROQUE (reg)
Presiding Judge and Member
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Regional Trial Court, Branch 29
San Pablo City, Laguna

HON. GLENDA R. MENDOZA-RAMOS (reg)
Presiding Judge and Member
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Regional Trial Court, Branch 36
Calamba City, Laguna

**HON. DIVINA LUZ P. AQUINO-SIMBULAN (reg)
Presiding Judge and Member
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Regional Trial Court, Branch 41
City of San Fernando, Pampanga

HON. MA. CONSEJO M. GENGOS-IGNALAGA (reg)
Presiding Judge and Member
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Regional Trial Court, Branch 100
Antipolo City

HON. HERMENEGILDO C. Dumlao II (reg)
Presiding Judge and Member
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Regional Trial Court, Branch 81
Malolos City, Bulacan

HON. RIGOR R. PASCUAL (reg)
Acting Presiding Judge and Member
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Regional Trial Court, Branch 14
Malolos City, Bulacan

HON. MARIA ELLA CECILIA D. Dumlao-
Escalante (reg)
Presiding Judge and Member
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Metropolitan Trial Court, Branch 35
Quezon City

HON. KARLA A. FUNTILA-ABUGAN (reg)
Presiding Judge and Member
Special Committee on the Rules of Procedure
in Election Contest Before the Second and
First Level Courts
Metropolitan Trial Court, Branch 17
Manila

THE SECRETARY (x)
Department of Justice
DOJ Building, Padre Faura St.,
Ermita, Manila

THE SOLICITOR GENERAL (reg)
Office of the Solicitor General
134 Amorsolo Street
Legaspi Village, Makati City

INTEGRATED BAR OF THE PHILIPPINES (reg)
15 Doña Julia Vargas Avenue
Ortigas Center, Pasig City 16

COMELEC (x)
Intramuros, Manila



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kat 8/29/23 (signed res) 9/21/23

