

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII**

IN RE:

**ESTATE OF FERDINAND E. MARCOS
HUMAN RIGHTS LITIGATION**

**MDL NO. 840
No. 86-390
No. 86-330**

THIS DOCUMENT RELATES TO:

**Hilao et al v. Estate of Ferdinand
E. Marcos,
and
DeVera et al v. Estate of Ferdinand
E. Marcos.**

NOTICE OF CLASS ACTION SETTLEMENT

TO: ALL CLASS MEMBERS

This notice is sent pursuant to the Order of the United States District Court for the District of Hawaii to inform you that (1) the Court will decide whether a settlement between the Class and other parties contesting entitlement to artwork formerly the property of Imelda Marcos is fair, reasonable and adequate, (2) the Court will decide whether Class Counsel's third interim request for an award of fees and reimbursement of expenses is reasonable, and (3) the Court will decide whether the request for an incentive award to a Class Representative is reasonable.

BACKGROUND

In April 1986 a proceeding was commenced against Ferdinand E. Marcos in Hawaii Federal Court on behalf of a Class of 9,539 Philippine citizens (or their heirs) who had been tortured, summarily executed or disappeared during the Marcos rule between September 1972 and February 1986. The Estate of Ferdinand E. Marcos (the "Marcos Estate") was substituted as defendant upon Marcos's death in 1989. Following trials in 1992, 1994 and 1995, the Hawaii Federal Court entered judgment on February 3, 1995 in favor of the Class in the amount of US\$1,964,000,000. Class Counsel actively pursued collection of the 1995 Judgment, but were hindered by the concealment of assets belonging to the Marcos Estate. The Marcos Estate and its representatives, Imelda R. Marcos and Ferdinand R. Marcos, were found in contempt of Court for their conduct. In January 2011 the Court entered a judgment on contempt against the Marcos Estate, Imelda R. Marcos and Ferdinand R. Marcos for US\$353,600,000 (the "Judgment").

THE LITIGATION IN NEW YORK

In November 2012, the District Attorney for New York County unsealed an indictment against Vilma Bautista, a former personal assistant to Imelda Marcos. The indictment alleged that Bautista sold a valuable impressionist painting (the "Painting") once owned by or in the art

collection of Imelda Marcos to a buyer without the authority of Imelda Marcos for US\$32,000,000. Within 10 days, Class Counsel filed a lawsuit against Bautista in New York Supreme Court seeking the Painting, the proceeds from the sale of the Painting, and other artwork once owned by or in the art collection of Imelda Marcos. In June 2013, the new owner of the Painting agreed to pay to the Class US\$10,000,000, which was then distributed to eligible Class members in 2014. Since that time, Class Counsel litigated against Bautista, the Republic and other parties over the remaining proceeds from the sale of the Painting and certain other artwork which total about US\$23 million.

THE SETTLEMENT

Class counsel have concluded that it would be in the best interests of the Class to settle its entitlement to the artwork. After six (6) years of intensive litigation, Class Counsel engaged in arm's length settlement negotiations with counsel for Bautista, the Republic of the Philippines and other parties. Following settlement negotiations conducted by a federal judge in New York, Class Counsel agreed to a settlement pursuant to which US\$13,750,000 will be deposited into the Class' Settlement Fund in the Hawaii Federal Court (the "Fund"). In exchange for this payment, the Class and the other parties will mutually release their claims to the property at issue. The full Settlement Agreement is available for review at <https://kohnewift.com/2018/09/26/ksg-marcos-litigation/>.

Class Counsel and the Class Representative, Jose Duran, consider the terms of this Settlement Agreement to be fair, reasonable, adequate, and in the best interests of the Class. Among the considerations which affected the decision to settle were: the uncertainty of success at trial or on appeal; the delay and expense entailed by trial and appeal; and the need of Class members to receive a third distribution after 32 years of hard-fought litigation which began in 1986.

Class Counsel are engaged in other litigation on behalf of the Class. Class Counsel will continue to seek to locate and execute on Marcos assets in satisfaction of the Judgment.

HEARING

The Hawaii Court will hold a Hearing on March 28, 2019 at 10:00 a.m. At that Hearing the Court will consider whether to finally approve the Settlement Agreement as fair, reasonable and adequate. The Hearing will be held in Courtroom 880, Roybal Federal Building, 255 East Temple Street, Los Angeles, CA 90012.

YOU NEED NOT APPEAR AT THE HEARING OR TAKE ANY OTHER ACTION IF YOU APPROVE OF, OR DO NOT OBJECT TO, THE SETTLEMENT, THE APPLICATION OF CLASS COUNSEL FOR ATTORNEYS FEES AND EXPENSES OR THE INCENTIVE FEE TO THE CLASS REPRESENTATIVE.

Any member of the class may appear at the Hearing and show cause, if any, why the Settlement Agreement, counsel fees and expenses, and incentive fee should not be approved by the Court. No person will be heard at the Hearing unless a written notice of intention to appear, stating all grounds for the objection or other statement of position, together with all supporting papers and

briefs, are sent to the Clerk of the Court by first-class mail and **received no later than March 15, 2019** at the following address:

Clerk of the Court
United States Courthouse
300 Ala Moana Boulevard
Honolulu, Hawaii 96850

The envelopes and objections must bear the caption: "Marcos Human Rights litigation, MDL No. 840 (D. HI)." A copy of such papers must be served by first class mail upon Class Counsel and **received no later than March 15, 2019** at the following address:

Robert A. Swift, Esquire
Kohn, Swift & Graf, P.C.
1600 Market Street, 25th Floor
Philadelphia, PA 19103

DISTRIBUTION OF THE FUND

Should the Court grant final approval to the Settlement Agreement, the proceeds from the Settlement, US\$13.75 million, will become the property of the Fund. The Hawaii Federal Court will distribute the Fund (less court costs, administrative costs of the distribution, counsel fees, incentive award, and expenses) to the Class Members. **The Hawaii Federal Court has not yet decided distribution issues, so you should not assume you will receive any specific amount or when distribution will be made.** However, Class Counsel will request the Court to make a distribution of US\$1,500 to eligible Class members from the Settlement proceeds in 2019. The Hawaii Federal Court will make distributions to individual Class members directly, not through intermediaries, in the same manner as it did in 2011 and 2014. Consistent with its prior Orders, the Hawaii Federal Court will not recognize the validity of special powers of attorney solicited by certain persons and groups.

ELIGIBILITY OF CLASS MEMBERS

Not all of the original Class Members are eligible to receive payment. The Hawaii Federal Court required Class Members in both 1993 and 1999 to submit Claim Forms. Only those Class Members who submitted complete Claim Forms in each of those years will be eligible to receive payment. It is too late to submit or supplement a Claim Form.

APPLICATION FOR AN AWARD OF ATTORNEYS' FEES AND EXPENSES

In more than 32 years of litigation, Class Counsel have advanced all litigation expenses and have only received two prior (partial) payments of counsel fees and expenses. Class Counsel will request the Hawaii Federal Court to render a third interim award of counsel fees not to exceed 30% of the Fund plus expenses. In addition, it is expected that the Class Representative will request an incentive fee of US\$20,000 to Jose Duran from the Fund. The aforesaid applications will be filed with the Clerk of the Court in Hawaii listed below and will be available for inspection there and on the website of Class Counsel listed above in advance of the hearing on this Settlement. Any objection thereto should be in writing and sent via first class mail to:

Clerk of the Court
United States Courthouse
300 Ala Moana Boulevard
Honolulu, Hawaii 96850

The objections must be **received** by the Court and Class Counsel no later than seven (7) days before the Hearing, and must bear the caption: "Estate of Ferdinand E. Marcos Human Rights Litigation, MDL No. 840 (D.HI)."

ADDITIONAL INFORMATION

If you have changed your address, if you change your address at any time in the future, if this Notice reached you at a place other than the one to which it was directed, or if you have additional questions concerning this Notice, you should immediately notify Robert A. Swift at the address above, or:

Atty. Rodrigo C. Domingo
Filipino Co-Counsel
LPL Center, Unit 15-B
130 L.P. Leviste Street
Salcedo Village, Makati City 1227
Philippines

PLEASE DO NOT CONTACT THE CLERK OF THE COURT OR JUDGE REAL

BY ORDER OF THE COURT:

/s/ Sue Beitia
Sue Beitia, Clerk
United States District Court
District of Hawaii

Dated: February 11, 2019