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

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**IN RE:**

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

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**THIS DOCUMENT RELATES TO:**

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

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

**MEMORANDUM IN SUPPORT  
OF MOTION FOR A THIRD  
DISTRIBUTION TO  
ELIGIBLE CLASS MEMBERS  
FROM THE SETTLEMENT  
FUND**

**JUDGE: MANUEL L. REAL  
DATE: MARCH 28, 2019**

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Class Counsel have moved this Court for an Order permitting a third distribution of US\$1,500, or the Philippine Peso equivalent, to each eligible Class

member from the Settlement Fund. This proposed distribution is conditional upon Court approval of the Class settlement in the New York artwork litigation.

**A. There Is Adequate Funding to Make the Distribution**

Experience from the first and second distributions suggests that the number of claims to be paid is likely to be about 6,500. In 2011, 6,505 claims were paid. In 2014, 6,375 claims were paid. The value of the Settlement Fund, after final approval by this Court, will be approximately \$10,708,338 after deducting payment of fees and expenses sought by Class Counsel. If this Court awards the recommended \$1,500 on each claim, the total amount distributed will be \$9,750,000. The sum of \$200,000 should be advanced for costs of making the distribution.<sup>1</sup> Based on these assumptions, more than \$750,000 will remain after the distribution is complete. The math is as follows:

\$10,708,338	Balance of Settlement Fund after Settlement Approval and Fees/Costs
- 9,750,000	Payment of 6,500 Claims at \$1,500 per Claim
- <u>200,000</u>	Advance for Distribution Expenses
\$ 758,338	Balance in Settlement Fund after Distribution

**B. The Mode of Distribution**

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<sup>1</sup> The total cost of the 2011 distribution was \$162,121. *See* ECF #10684. The total cost of the 2014 distribution was \$158,496. *See* ECF #10718.

The first phase of distribution will be similar to the initial mode of distribution in 2011 and 2014. Lead Counsel is planning for distribution in May and June 2019 – before the monsoon begins in July. Distribution outside the Philippines will consist of mailing checks to eligible Class members, about 80. Distribution within the Philippines, where the overwhelming number of Class members reside, cannot utilize the postal system to transmit funds because the system is unreliable and the likelihood of checks being stolen is too great. For that reason, distribution needs to be done in person.

Lead Counsel will set up a distribution timetable for distribution to take place at 15 locations in the Philippines on designated dates over an eight-week period. Lead Counsel will utilize a national bank in the Philippines as the depository bank in Manila. The bank will have branches in the 15 cities where distribution will be made. Since most Class members do not have bank accounts, it is important that they have quick and easy access to a bank branch where they can cash their checks without additional fees. Checks will be preprinted with the name of each Class member. Only Lead Counsel will have the authority to re-issue a check where a Class member has died or remarried with a different name and sufficient proof is presented.

Eligible Class members will be notified by letter when and where to appear to receive compensation. They will be asked to bring with them the letter and two forms of photo identification. It is expected that the news media in the Philippines will publicize the distribution, thus supplementing and reinforcing notice to Class members.

Because the logistics for distribution at 15 locations in eight weeks will be complex, Lead Counsel will again engage Claimants 1081, a Philippine human rights group, to arrange for manpower, food, security and a venue. An organizational chart is attached as Exhibit 1. The venues need to be accessible to Class members but have a secure perimeter. Where indoor space cannot be rented, tents or a roofed open-air pavilion will be used. Workers will be hired locally to assist in: reviewing identification papers, employing a triage approach to expedite processing, and funneling eligible claimants to Lead Counsel who will act as paymaster. Local workers are valuable to the process because they speak the local languages and dialects of the Class members. A translator will assist Lead Counsel. The presence of security personnel will deter criminality and keep out non-Class members. The manpower engaged at each location will range from six to over 25. It is expected that the Philippine Commission on Human Rights will provide from two to six staff members, usually attorneys, at each location to assist in screening claimants, and each will receive an *honoraria*. The number of checks

distributed at each location will differ from 50 to over 1,000. Digital photos taken of each Class member at the 2014 distribution will assist in identifying Class members. A photographer will take new digital photos of each Class member for use in any subsequent distribution.

Lead Counsel has not yet decided whether there should be a second or third phase of distribution or what modes of distribution they will take. The percentage of Class members who receive compensation during the first phase will have a bearing on any secondary efforts. The 2014 distribution lasted 10 months and involved three (3) phases. The first phase achieved 90% distribution.

### **C. A Post-Distribution Accounting**

Lead Counsel will deposit the funds for distribution to Class members in special accounts at PNC Bank in Philadelphia and RCBC in Manila. The funds for expenses will be deposited and expended through Lead Counsel's law firm account.

Lead Counsel will advise the Court when the distribution should be terminated. At the conclusion of the 2019 distribution, Lead Counsel will file with the Court an accounting of the compensation distributed and expenses incurred. Any amounts not expended will be returned to the Class Settlement Fund.

**D. Conclusion**

For the foregoing reasons, Class Counsel request that this Court approve the mode of distribution and direct the Clerk of Court to transfer from the Class Settlement Fund to Lead Counsel the funds for a second distribution to eligible Class members of \$9,750,000, plus an advance for expenses of \$200,000, or a total of \$9,950,000. A proposed form of order is attached as Exhibit 2.

Dated: February 11, 2019

/s/Robert A. Swift  
Robert A. Swift  
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Plaintiffs' Class Counsel