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

IN RE: ESTATE OF FERDINAND E. MARCOS HUMAN RIGHTS LITIGATION

CELSA HILAO, et. Al., Plaintiffs, v. ESTATE OF FERDINAND E. MARCOS, Defendant

MDL No. 840, C.A. NO. 86-0390

**FINAL JUDGMENT**

This action came on for trial before the Court and a jury, the Honorable Manuel L. Real, presiding, and the issues having been tried, and the jury having rendered its verdict on liability and damages,

The Court enters final judgment pursuant to FRCP 58 in favor of 135 randomly selected Class Claims and the plaintiff Class in accordance with the unanimous verdicts of the jury on September 24, 1992, February 23, 1994 and January 18, 1995 and the Court's Judgment on Liability as follows:

- 1) The Court incorporates herein its Judgment on Liability entered October 20, 1992 and its Order entered December 17, 1992 denying defendant's posttrial motions re liability.
- 2) Judgment for compensatory damages is entered for the below named randomly selected class claims as follows:

Torture Subclass (List of plaintiffs follows)

Summary Execution Subclass (List of plaintiffs follows)

Disappearance Subclass (List of plaintiffs follows)

- 3) Judgment for compensatory damages is entered for the remaining members of the Plaintiff class as follows:
  - a) for the remaining Plaintiff subclass of all current citizens of the Republic of the Philippines, their heirs and beneficiaries, who between September 1972 and February 1986 were tortured while in the custody of the Philippine military or para-military groups in the aggregate of \$251,819,811.00, to be divided pro rata.
  - b) for the remaining Plaintiff Subclass of all current citizens of the Republic of the Philippines, their heirs and beneficiaries, who between September 1972 and February 1986 were summarily executed while in the custody of the Philippine military or para-military groups in the aggregate of \$409,191,760.00 to be divided pro rata.
  - c) for the remaining Plaintiff Subclass of all current citizens of the Republic of the Philippines, their heirs and beneficiaries, who between September 1972 and February 1986 disappeared (and are presumed dead) while in the custody of the Philippine military

~~1988 expenses (and the presumed costs) made in the custody of the Philippine military, or para-military groups in the aggregate of \$94,910,640.00 to be divided pro rata.~~

4) Judgment for exemplary damages, to make an example for the public good, is entered in the aggregate of \$1,197,227,417.90 to be divided pro rata among all members of the Plaintiff class.

*(The following judgment—No. 5—has been crossed-out with the signature of Judge Real from the original document and presumed deleted)*

5) Judgment for prejudgment interest at the rate of 10% per annum is entered on the compensatory damage award of \$766,778,442.00 from the date the Class Complaint filed, April 7, 1986, until the date final judgment is entered, to be divided pro rata among all member of the Plaintiff Class. The Court finds that prejudgment interest is necessary to compensate plaintiffs for the diminution in their award due to the significant lapse of time between their injuries and the entry of judgment, the effects of inflation, and the devaluation of the Philippine Peso relative toto the US dollar. The Court further finds that Hawaiian law authorizes prejudgment interest for personal injury awards at 10% per annum; that the manifest objectives of international law are served by making human rights victims whole for their injuries; that the Torture Victim Protection Act does not address this point; that Philippine law, by authorizing prejudgment interest in certain circumstances, is not offended by the award of interest for jus cogens violations of international law; and that the law of Hawaii, where Ferdinand E. Marcos resided between 1986 and 1989, is the appropriate law to apply on this point.

6) Pursuant to FRCP 54(d)(2)(B), the Court orders that Class Plaintiffs (and their attorneys') claim for counsel fees and their submission in support thereof be deferred and postponed until further order of the Court.

7) Pursuant to FRCP 54(d)(1), Class Plaintiffs are awarded costs previously taxed by the Clerk together with such costs incurred since then as the Clerk may tax.

8) Plaintiffs' Motion to Amend the Pleadings is granted, and Count 2 of the Consolidated Amended Complaint is deemed amended to state a claim for relief for a permanent injunction.

9) Plaintiffs' Motion for Entry of a Permanent Injunction is granted.

a) The Court finds, based upon all evidence submitted in this litigation:

(1) Plaintiffs have succeeded on the merits of this litigation and the judgment herein exceeds the assets of the defendant Estate, both the amount admitted by the defendant and the amount proved by Plaintiffs.

(2) Beginning as early as 1968, Ferdinand F. Marcos and Imelda R. Marcos established secret bank accounts under alias names and the use of Liechtenstein foundations in various countries with banking secrecy laws, including Switzerland.

(3) Ferdinand and Imelda Marcos engaged in a sophisticated pattern and practice of secreting their assets, periodically laundering those assets in various countries, and re-depositing the monies in Swiss bank accounts in the names of multiple Liechtenstein foundations.

(4) Federal courts have twice enjoined the transfer of Marcos assets finding a pattern and practice of secreting their assets, and the courts of appeals have thrice affirmed the injunctions. See Hilao v. Estate of Ferdinand Marcos, 25 F.3d 1467 (9<sup>th</sup> Cir. 1994), cert. denied \_\_\_ U.S. \_\_\_ (1/23/95); Republic of the Philippines v. Marcos, 862 F.2d 344 (2<sup>nd</sup> Cir. 1986).

(5) Imelda Marcos and Ferdinand R. Marcos, the substituted legal representatives of the Estate, have never opened a probate proceeding, and opposed the opening of involuntary probate proceedings in the United States and the Philippines.

(6) This Court previously found the deposition testimony of Imelda Marcos evasive as regards the amount and location of Estate assets.

(7) There is a probability that the Estate has assets other than the foreign bank accounts identified by the Estate's legal representatives.

(8) Imelda Marcos refused to consent to the disclosure of documents in the possession of Swiss banks.

(9) Imelda Marcos collaterally attacked in Switzerland this Court's letters rogatory addressed to Swiss authorities requesting documents from Swiss banks.

(10) Credit Suisse and Swiss Bank Corporation were served with subpoenas in New York as ordered by this Court, but failed to produce any documents regarding Estate accounts in Switzerland.

(11) Imelda Marcos has vigorously defended this litigation and paid millions of dollars in legal fees.

(12) After issuance of the Preliminary Injunction in this litigation, Imelda Marcos and Ferdinand R. Marcos, on behalf of the Estate, entered into two agreements with the Republic of the Philippines in June 1992 to transfer and split all the assets of the Estate.

(13) The Republic of the Philippines has no judgment against the Estate, but has possession of millions of dollars of assets owned by or in which the Estate has an interest.

(14) Because the Plaintiffs' judgment exceeds the assets of the Estate, the heirs and beneficiaries of the Estate have no expectation of receiving any monies therefrom.

(15) Credit Suisse and Swiss Bank Corporation continue to hold several hundred million dollars in accounts owned by or in which the Estate has an interest.

(16) The Republic of the Philippines is in privity of contract and acting in concert with the Estate to transfer and split the assets of the Estate.

(17) Credit Suisse and Swiss Bank Corporation are agents and representatives of the Estate.

(18) The Republic of the Philippines is an agent, representative, aider or abettor of the Estate.

(19) The defendant Estate, its legal representatives, Credit Suisse, Swiss Bank Corporation and the Republic of the Philippines received notice of the hearing for permanent injunction and had an opportunity to participate and present evidence.

(20) There is a substantial likelihood that the Marcoses' pattern and practice of transferring and secreting assets will continue and prevent the satisfaction of the judgment herein unless a permanent injunction is entered.

(21) The Plaintiffs have no adequate remedy at law.

b) The defendant Estate, and its agents, representatives, aiders and abettors are, until satisfaction of the judgment herein, permanently enjoined and restrained from directly or indirectly:

(1) transferring, conveying, encumbering, dissipating, converting, concealing, or otherwise disposing of in any manner any funds, assets, claims or other property

or assets owned actually, equitably or beneficially by, or in the possession or custody of or held by or in any way on behalf of or for the benefit of the Estate of Ferdinand F. Marcos; and

(2) destroying, mutilating, concealing, transferring, altering or otherwise disposing of in any manner any books, records, computer programs, computer files, computer printouts, correspondence, memoranda, brochures, or any other documents of any kind, or pertaining in any manner to Ferdinand Marcos, the Estate of Ferdinand Marcos or its representatives, except to their attorneys or in compliance with orders of this Court.

c) Non-parties Credit Suisse, Swiss bank Corporation and the Republic of the Philippines are identified to this permanent injunction as agents, representatives, aiders or abettors of the defendant Estate and subject to its terms.

d) Plaintiffs' counsel may serve this permanent injunction upon legal counsel for the Defendant Estate, it appearing that the estate's legal representatives are currently outside the United States, as follows:

(1) on Imelda R. Marcos by service on her attorney Lex Smith by hand or facsimile; and

(2) on Ferdinand R. Marcos by service on his attorneys John Bartko by certified mail or facsimile.

10) Any monies collected by settlement or execution on judgments entered in any of the MDL 840 cases against the defendant Estate shall be held and disbursed as directed by the Court.

11) Pursuant to FRCP 23, the Court retains continuing jurisdiction over the Motion for Contempt, the Permanent Injunction, settlement, the distribution of any monies collected by settlement or execution, the determination of counsel fees, and any other matters as may properly come before the Court.

DATED: January 27, 1995

(Sgd.)

MANUEL L. REAL, MDL 840 Transferee Judge

*(Filed in the United States District Court, District of Hawaii February 3, 1995.)*