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IN RE ESTATE OF FERDINAND E. MARCOS HUMAN RIGHTS LITIGATION: A PERSONAL ACCOUNT OF THE ROLE OF THE SPECIAL MASTER

Sol Schreiber and Laura D. Weissbach***

I. INTRODUCTION

The role of the special master in mass tort litigation is expanding. Courts have long been wary of class certification in such cases because of the potentially crippling time burdens on both judge and jury. A special master, working with the parties, can significantly reduce these burdens and fashion methods of recovery allowing prompt resolution consistent with the mandates of due process.¹ *In re Estate of Marcos Human Rights Litigation*,² the first class action human rights case, tested the ability of the court and its special master to fashion a framework for a jury trial involving 9541 class members seeking compensatory damages.³

II. BACKGROUND

In 1965 Ferdinand E. Marcos ("Marcos") became president of the Philippines.⁴ In September 1972 Marcos imposed martial law on the Philippines purportedly to maintain law and order, but practically

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1. "A due process analysis must weigh defendant's claim to the right to trial in each individual case against judicial economy and manageability by use of a valid statistical procedure [D]ue process is not necessarily limited to the traditional sense" *In re Estate of Marcos Human Rights Litig.*, 910 F. Supp. 1460, 1467 (D. Haw. 1995).

2. 910 F. Supp. 1460 (D. Haw. 1995).

3. *See id.* at 1464-67.

4. *See id.* at 1462.

to avoid term limits.⁵ Marcos' power increased as he issued various orders.⁶ He appointed himself commander in chief of the armed forces,⁷ authorized the arrests of dissidents,⁸ dissolved the legislature,⁹ and granted himself control of the executive and judicial branches of the Philippine government.¹⁰

In February 1986 Marcos and his family fled to Hawaii.¹¹ Shortly after Marcos arrived, and while he was a resident of Hawaii, a number of parties served him with complaints seeking damages for human rights abuses committed against them or their decedents by the Marcos regime.¹² Finding that the cases were nonjusticiable under the "act of state" doctrine, district courts in both Hawaii and California dismissed the complaints.¹³ In *Trajano v. Marcos*,¹⁴ the Ninth Circuit reversed these decisions in consolidated appeals. The Judicial Panel on Multidistrict Litigation then consolidated the various actions in the District of Hawaii.¹⁵ After Marcos died, his estate (the "Estate") was substituted as the defendant in the litigation.¹⁶

In 1991 the district court certified the matter as a class action,¹⁷ defining the class as all civilian citizens of the Philippines or their decedents who, between September 1972 and February 1986, suffered torture, summary execution, or disappearance at the hands of Philippine military or paramilitary groups.¹⁸

District Judge Manuel L. Real ordered that the liability and damages phases would be tried separately.¹⁹ On September 22, 1992, the jury found the defendants liable to the class.²⁰ The damage trial

5. *See id.*

6. *See id.* at 1463.

7. *See id.*

8. *See id.*

9. *See id.* at 1462.

10. *See id.* at 1463.

11. *See id.*

12. *See id.* at 1461.

13. *See Trajano v. Marcos*, Nos. 86-2448, 86-15039, 1989 WL 76894, at *1 (9th Cir. July 10, 1989). The "act of state" doctrine "is a prudential doctrine that prevents the judiciary from embroiling itself in [foreign] affairs over which it has little or no power." *Id.* at *2 (quoting *Republic of the Philippines v. Marcos*, 862 F.2d 1355, 1360 (9th Cir. 1988) (en banc)).

14. *Id.* at *1.

15. *See In re Estate of Marcos Human Rights Litig.*, 25 F.3d 1467, 1469 (9th Cir. 1994).

16. *See id.*

17. *See In re Estate of Marcos*, 25 F.3d at 1469.

18. *See In re Estate of Marcos*, 910 F. Supp. at 1461.

19. *See id.* at 1462.

20. *See id.* at 1463.

was then further bifurcated into one trial for exemplary damages and one for compensatory damages.²¹ Claimants received notice through the mail and U.S. and Philippine publications. In order to opt into the class, members were required to file proof of claim forms. In response, 10,059 proof of claim forms were filed, but the district court found 538 claims facially invalid, of which 20 were reinstated, leaving the number of facially valid claims at 9541.²² On February 23, 1994, the jury awarded plaintiffs \$1.2 billion in exemplary damages.²³

Judge Real appointed Sol Schreiber to serve as special master in the compensatory damages phase of the litigation.²⁴ The special master's responsibilities included determining how to present sufficient testimonial evidence in order to compensate the class since it would have been impracticable to hold a trial for each case or even to depose all claimants.²⁵ The court concluded that a random sampling of a statistically significant number of claimants' depositions would be adequate.²⁶ These depositions were taken in accordance with a computer-generated plan developed by James Dannemiller, the president of a research and consulting company called SMS, Inc., and approved by the court.²⁷ Of the 10,059 claims originally filed in the matter, 137 were randomly selected to represent the class.²⁸ After an evidentiary hearing, these 137 claimants and their witnesses were to be deposed in the Philippines under the supervision of several special masters who were appointed by Special Master Schreiber and approved by Judge Real.²⁹ After arriving there, however, a Philippine court ordered the special masters to cease supervising the depositions and Special Master Schreiber ordered them to return to the United States. The court instructed plaintiffs' counsel to continue taking the depositions. Thus, the 137 claimants and their witnesses were deposed in the Philippines during October and November of 1994.³⁰ The defendant chose not to attend any of the depositions.³¹ In an order dated November 14, 1994, the court directed Special Master Schreiber to review the depositions to determine the following: (1) whether

21. *See id.* at 1462.

22. *See id.* at 1462 & n.1.

23. *See id.* at 1464.

24. *See id.* at 1465 n.9.

25. *See id.* at 1465.

26. *See id.*

27. *See id.* at 1464-65.

28. *See id.*

29. *See id.* at 1465.

30. *See In re Estate of Marcos*, 910 F. Supp. at 1465.

31. *See id.*

the claimed abuse fell within one of the definitions (torture, summary execution, or disappearance) with which the court charged the jury at the liability phase of the trial held in Hawaii; (2) whether the Philippine military or paramilitary was involved in such abuse; and (3) whether the abuse occurred during the period of Marco's regime between September 1972 and February 1986.³² Subsequently, the plaintiffs submitted proof of claim forms along with their supporting deposition transcripts to Special Master Schreiber.³³

Pursuant to Rule 706 of the Federal Rules of Evidence,³⁴ the court also directed Special Master Schreiber to review the proof of claim forms as a court-appointed expert on damages and to recommend to the jury compensatory damages for the 137 claimants as well as the remaining class members.³⁵ The Special Master issued a report for the jury and the court in the compensatory damages trial in which he made recommendations for both the randomly sampled claimants of torture, summary execution, and disappearance as well as for the remaining claimants within each category.³⁶ The court compiled these recommendations from the proof of claim forms and their supporting deposition transcripts.³⁷

Special Master Schreiber reviewed the 137 randomly selected claims and their respective supporting deposition transcripts in accordance with the following: the court's Reference Order;³⁸ the instructions of Judge Real; the court's charges to the jury at the trial held in Hawaii defining torture, summary execution, and disappearance; Plaintiffs' Memorandum re Legal Principles Applicable to Findings of the Special Master submitted pursuant to Special Master Order No. 6, to which defendant did not submit any legal memoranda;³⁹ and Plaintiffs' Supplemental Memorandum re Legal Principles Applicable to Finding of the Special Master.⁴⁰

32. *See id.*

33. *See id.*

34. FED. R. EVID. 706(a). "The court may appoint any expert witnesses agreed upon by the parties, and may appoint expert witnesses of its own selection." *Id.*

35. *See In re Estate of Marcos*, 910 F. Supp. at 1465.

36. *See id.* at 1466.

37. *See id.* at 1465-66.

38. Court's Reference Order, *In re Estate of Marcos*, 910 F. Supp. 1460 (D. Haw. 1995) (No. 86-0390).

39. Plaintiff's Memorandum Re Legal Principles Applicable to Findings of the Special Master, *In re Estate of Marcos*, 910 F. Supp. 1460 (D. Haw. 1995) (No. 86-0390).

40. Plaintiff's Supplemental Memorandum Re Legal Principles Applicable to

The following findings in the Special Master's Report, of approximately 200 pages, were submitted to the jury and the court:

(1) Of the 137 randomly selected claims, 131 were deemed valid within the definitions of torture, summary execution, or disappearance with which the court charged the jury.

(2) The Philippine military or paramilitary, including but not limited to, elements of the Philippine Army, the Armed Forces of the Philippines, the Philippine Constabulary, the Civilian Home Defense Force, the Composite Infantry Battalion, the National Intelligence Security Agency, the Military Intelligence Group, and the Barrio/Barangay Self-Defense Unit were involved in the abuse of the valid claims.

(3) The abuses occurred during the period of September 1972 through February 1986.⁴¹

III. DETERMINATION OF DAMAGES

The court determined that 6 of the 137 randomly sampled claims were invalid.⁴² Of those 6, 3 were torture claims, 2 were summary execution claims, and 1 was a disappearance claim.⁴³ Thus, out of the 137 reviewed, 64 of the 67 torture claims were found to be valid, 50 of the 52 summary execution claims were found to be valid, and 17 of the 18 disappearance claims were found to be valid, leaving 131 valid randomly sampled claims.⁴⁴

The special master recommended that compensatory damages, determined in U.S. dollars, be awarded to the 131 valid claimants:

(1) *Torture*: \$3,310,000 for the 64 valid claims, an average of \$51,719 per valid claim.

(2) *Summary Execution*: \$6,425,767 also reflective of lost earnings for the 50 valid claims, an average of \$128,515 per valid claim. The total lost earnings for the 50 valid claims in this category was \$2,162,767, an average of approximately \$43,255 per valid claim.

(3) *Disappearance*: \$1,833,515 including lost earnings for the 17 valid claims, an average of \$107,853 per valid claim. The total lost earnings for the 17 valid claims in this category was \$613,605, an average of approximately \$36,094 per valid claim.

Based upon the invalid claims, a five percent invalidity rate was

Findings of the Special Master, *In re Estate of Marcos*, 910 F. Supp. 1460 (D. Haw. 1995) (No. 86-0390).

41. See *In re Estate of Marcos*, 910 F. Supp. at 1465.

42. See *Hilao v. Estate of Marcos*, 103 F.3d 767, 783 (9th Cir. 1996).

43. See *id.* at 783 n.8.

44. See *id.* at 783.

utilized to establish awards for the 9541 claims filed and determined facially valid, less those 137 randomly sampled.⁴⁵ Damages for the entire class of valid claims were calculated in the following manner:

(1) *Torture:*

There were approximately 5372 torture claims filed, 179 of which were ordered facially invalid, leaving 5193.⁴⁶ Using the five percent invalidity rate, about 4933 would be valid. In order to determine approximately how many claims in this category would be compensated, the 64 torture claims found to be valid were subtracted from the 4933 to reach the figure of 4869. The average award of the 64 valid torture claims was \$51,719; this was reached by dividing \$3,310,000, the total damages for the valid claims by 64. Finally, \$51,719 multiplied by 4,869 is \$251,819,811, which was added to \$3,310,000 to reach \$255,129,811, representing the total recommended damages to valid torture claims.

(2) *Summary Execution:*

Approximately 3677 summary execution claims were filed, 273 of which were ordered facially invalid, leaving 3404.⁴⁷ Using the five percent invalidity rate, about 3234 would be valid. In order to determine approximately how many claims in this category would be compensated, the 50 summary execution claims found to be valid were subtracted from the 3234 to reach the figure of 3184. The approximate average award of the 50 valid summary execution claims, including lost earnings, was \$128,515; this was reached by dividing \$6,425,767, total damages for the valid claims, by 50. Finally, \$128,515 multiplied by 3184 is \$409,191,760, which was added to \$6,425,767 to reach \$415,617,527, representing the total recommended damages, including lost earnings, to valid summary execution claims.

To determine total lost earnings for the summary execution category, \$43,255—the average lost earnings for the 50 valid claims—was multiplied by 3184, the approximate number of total valid claims less the 50 already determined to be valid, to reach \$137,723,920. The total lost earnings for the 50 of \$2,162,767 was added to \$137,723,920 to reach \$139,886,687, the total lost earnings for summary execution claims. All 50 valid claims reviewed were factored into the average lost earnings. Although not all claims were awarded lost earnings, this was necessary to account for the claims not reviewed which also had no lost earnings. Thus, of \$415,617,527, the total recommended

45. *See id.*

46. *See id.*

47. *See id.*

damages for the summary execution category, \$139,886,687 represented lost earnings.

(3) *Disappearance:*

Approximately 1010 disappearance claims were filed, 66 of which were ordered facially invalid, leaving 944.⁴⁸ Using a five percent invalidity rate, about 897 would be valid. In order to determine approximately how many claims in this category would be compensated, the 17 disappearance claims found to be valid were subtracted from the 897 to reach the figure of 880. The approximate average award of the 17 valid disappearance claims, including lost earnings, was \$107,853; this was reached by dividing \$1,833,515—total damages for the 17 valid claims—by 17. Finally, \$107,853 multiplied by 880 is \$94,910,640, which was added to \$1,833,515 to reach \$96,744,155 representing the total recommended damages, including lost earnings, to valid disappearance claims.

To determine total lost earnings for the disappearance category, \$36,094, the average lost earnings for the 17 valid claims, was multiplied by 880, the approximate number of total valid claims less the 17 already determined to be valid, to reach \$31,762,720. The total lost earnings for the 17 of \$613,605 was added to \$31,762,720 to reach \$32,376,325, the total lost earnings for disappearance claims. All 17 valid claims reviewed were factored into the average lost earnings. Although not all claims were awarded lost earnings, this was necessary to account for the claims not reviewed which also had no lost earnings. Thus, of \$96,744,155, the total recommended damages for the disappearance category, \$32,376,325 represents lost earnings.

Therefore, the total of \$767,491,493 was the amount recommended as damages to compensate the entire class of valid claimants.⁴⁹ For all three categories, moral damages as a proximate result of defendant's wrongful acts or omissions were weighed into the compensation.⁵⁰

A. *Damages for Torture Victims*

Each of the valid torture claims was given a ranking from one to five, with five representing the worst abuses and suffering. The claims were evaluated based on Judge Real's decision in *Trajano v. Imee Marcos-Manotoc*,⁵¹ as part of this matter as well as the following

48. *See id.*

49. *See id.* at 784.

50. *See* PHIL. CIV. CODE ANN. arts. 2216, 2217.

51. 878 F.2d 1439 (9th Cir. 1989).

considerations: (1) physical torture, including what methods were used and/or abuses were suffered; (2) mental abuse, including fright and anguish; (3) amount of time torture lasted; (4) length of detention, if any; (5) physical and/or mental injuries; (6) victim's age; and (7) actual losses, including medical bills.⁵² Although each claim of torture was unique, the special master determined that sufficient similarities existed within a rating category to recommend a standard damage amount to each victim within that grouping.⁵³ Therefore, the court concluded that valid torture claimants be awarded damages in the following manner:⁵⁴

Rating	Recommended Damages	Number of Valid Claims	Total Damages Within Rating
1	\$ 20,000	6	\$ 120,000
2	\$ 30,000	23	\$ 690,000
3	\$ 50,000	13	\$ 650,000
4	\$ 75,000	14	\$1,050,000
5	\$100,000	8	\$ 800,000
<u>Total Damages for Randomly Selected Claims of Torture Victims</u>			= \$ 3,310,000

B. Damages for Summary Execution and Disappearance Victims

1. Lost earnings

For valid summary execution and disappearance claims, the existence of torture prior to a victim's death or disappearance weighed into the determination of damages for these categories.⁵⁵ Loss of earnings was also factored into each of the recommended damage awards.⁵⁶ The formula applied to determine lost earnings was that established by the Philippine Supreme Court: $2/3 \times (80 - \text{age at death}) \times \text{annual income (in pesos)} = \text{aggregate lost earnings}$.⁵⁷ After the aggregate lost earnings were computed, the result was converted into

52. See *In re Estate of Marcos*, 910 F. Supp. 1460, 1466 (D. Haw. 1995).

53. See *id.*

54. See *Hilao*, 103 F.3d at 783.

55. See *In re Estate of Marcos*, 910 F. Supp. at 1466.

56. See PHIL. CIV. CODE ANN. art. 2206.

57. See *People v. Suitos*, 220 SCRA 419, 430 (1993); *People v. Quilaton*, 205 SCRA 288, 288-90 (1992).

American dollars by dividing the sum by 24, which was the approximate then-current exchange rate between U.S. dollars and Philippine pesos.⁵⁸ Because discrepancies existed among transcripts, with some stating income earned in gross, some in net, and some giving no amount, the special master determined that it was necessary to place a \$120,000 cap upon lost earnings a claimant could receive.⁵⁹

The court used an average for a particular occupation when a witness did not indicate the amount of income earned by a summary execution or disappearance victim.⁶⁰

For example, when the victim was a farmer, the average earnings for one harvesting the same crop on the same amount of land was used. If a person stated the victim's income in terms of per-harvest, and if there were three harvests per year, for example, then that victim's earnings would be multiplied by three. For any victim who did not work, there was no award given for lost earnings.⁶¹

2. Total damages

Computation of the total amount of damages for summary execution and disappearance victims depended on individual facts. Different variables went into the equation, including: (1) torture prior to death or disappearance; (2) the actual killing or disappearance; (3) the victim's family's mental anguish; and (4) lost earnings, calculated in the above described manner.⁶²

IV. DAMAGES LAW

In calculating the amount of damages awarded to the 137 individual claims, the special master determined the law to be applied.⁶³ After reviewing the issue of human rights violations, it appeared that various jurisdictions' precedents and codes were determinative. In *Filartiga v. Pena-Irala*,⁶⁴ Judge Nickerson found that Congress had entrusted the task of enforcing international law prohibiting torture "to the federal courts and gave them power to choose and develop federal remedies to effectuate the purposes of the international law

58. See *In re Estate of Marcos*, 910 F. Supp. at 1466.

59. See *id.*

60. See *id.*

61. *Id.*

62. See *id.* at 1466-67.

63. See *id.* at 1466.

64. 577 F. Supp. 860 (E.D.N.Y. 1984).

incorporated into the United States common law."⁶⁵ In order to ascertain the award of damages, the *Filartiga* court found that it was "appropriate to look first to Paraguayan law [the nation where the abuse occurred] in determining the remedy for the violation of international law."⁶⁶

Although the judgment in *Trajano* did not explicitly state which jurisdiction's law(s) applied,⁶⁷ Special Master Schreiber found that in this case Judge Real appeared to utilize Philippine, international, and American law, given that he made findings for the following: (1) lost earnings; (2) physical suffering, mental anguish, fright, bodily injury, and wrongful death; (3) loss of comfort, society and support, and mental anguish; and (4) punitive damages.⁶⁸ Moreover, Judge Real placed the amount of damages in U.S. dollars.⁶⁹ Other cases involving similar issues had done the same.⁷⁰ Thus, the court based the recommended damages upon Philippine law, including its Civil Code as well as its damage case law, international law, and American law.⁷¹

V. APPROVAL OF METHODOLOGY

A. District Court

In *In re Estate of Ferdinand E. Marcos Human Rights Litigation*,⁷² Judge Real held that the use of inferential statistics to ascertain the damages suffered by the class members was constitutional on both due process and Seventh Amendment grounds.⁷³ The District Court found the Estate was afforded its due process rights under the three-

65. *Id.* at 863.

66. *Id.* at 864.

67. See *Trajano v. Marcos*, Nos. 86-2448, 86-15039, 1989 WL 76894, at *1-2 (9th Cir. July 10, 1989).

68. See *In re Estate of Marcos*, 910 F. Supp. at 1466.

69. See *id.*

70. See *Filartiga v. Pena-Irala*, 577 F. Supp. 860, 867 (E.D.N.Y. 1984).

71. See *Abebe Jira v. Negewo*, No. 90-2010, 1993 WL 814304 (N.D.Ga. Aug. 20, 1993) (awarding \$200,000 for physical and non-physical injuries to a victim of torture); *Letelier v. Republic of Chile*, 502 F. Supp. 259, 266-67 (D.D.C. 1980) (awarding \$110,000 for pain and suffering to the families of two murder victims).

72. 910 F. Supp. 1460.

73. See *id.* at 1469. The Seventh Amendment to the United States Constitution provides for trial by jury in suits at common law. U.S. CONST. amend. VII. The amendment "was designed to preserve the basic institution of jury trial in only its most fundamental elements, not the great mass of procedural forms and details, varying even then so widely among common-law jurisdictions." *In re Estate of Marcos*, 910 F. Supp. at 1468 (quoting *Galloway v. United States*, 319 U.S. 372, 392 (1943)).

prong test identified in *Mathews v. Eldridge*.⁷⁴ Under that test, the court must balance the following three factors “in determining what kind of process is due[:] . . . (1) the private interest affected, (2) the risk of erroneous deprivation of the interest through the procedures used, and (3) the government’s interest, including all fiscal and administrative burdens that the additional procedure would require.”⁷⁵ Because defendant had its day in court with a jury, Judge Real found the Seventh Amendment right was maintained.⁷⁶

The court also held that the aggregation of compensatory damage claims was appropriate on federal common law grounds.⁷⁷ The case arose under both the Alien Tort Statute (“ATS”)⁷⁸ and the Torture Victim Protection Act (“TVPA”).⁷⁹ Because Congress in the TVPA did not offer a methodology for determining damages, the court reasoned that “federal courts are free to and should create federal common law to provide justice for any injury contemplated” by the ATS or the TVPA.⁸⁰ The court applied this approach through the aggregation methodology.⁸¹

B. Ninth Circuit

The Ninth Circuit, in a two-to-one panel decision, affirmed the district court’s opinion.⁸² In a thorough analysis, Judge Betty B. Fletcher determined that the methodology, while unorthodox, was justified by the unusual nature of the case and met the requirements of due process.

VI. THE REFLECTIONS OF THE SPECIAL MASTER

When Judge Real asked me to serve as special master in this case, I knew that it would be impractical, if not impossible, to hold hearings on approximately 10,000 claims. I relied in part on Judge Robert M. Parker’s analysis in *Cimino v. Raymark Industries, Inc.*⁸³ In

74. See *In re Estate of Marcos*, 910 F. Supp. at 1468 (quoting *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976)).

75. *Id.* at 1468 (quoting *Mathews*, 424 U.S. at 335).

76. See *id.* at 1469.

77. See *id.*

78. 28 U.S.C. § 1350 (1994).

79. Pub. L. 102-256, Mar. 12, 1992, 106 Stat. 73.

80. *In re Estate of Marcos*, 910 F. Supp. at 1469.

81. See *id.*

82. See *Hilao v. Estate of Ferdinand Marcos*, 103 F.3d 767, 768 (9th Cir. 1996).

83. 751 F. Supp. 649 (E.D. Tex. 1990).

that case, the court ordered a random sampling to determine overall damages for the class.⁸⁴ *Cimino*, along with other Rule 23 precedents,⁸⁵ provided procedural guidance for handling the claims in the *Marcos* matter.

Substantively, various issues determined what type of damages were recoverable. For example, the court concluded that, based upon Philippine law, lost earnings were relevant only to summary execution and disappearance claims.⁸⁶ What was often difficult to decipher, however, was the amount a victim earned. Because claimants often spoke in terms of hectares or growing/harvesting seasons, no standard existed by which to determine an individual's income or to compare one person's earnings to that of another. The lack of education of many of the claimants often prevented them from completely explaining their earnings. Therefore, the imposition of a floor and ceiling on lost earnings proved to be the most equitable course of action.

In determining compensation for torture victims, I was confronted with placing a value on a range of tortious conduct, ranging from relatively short detentions to brutal beatings. Again, the deposition transcripts revealed that many claimants lacked the vocabulary to fully describe the horrors which they endured. Considering the relative lack of education on the part of some claimants and the range of suffering, I believed it was equitable to assign a specific ranking to each torture claim. By assigning a number upon completion of the initial review of a transcript, I could justly compare each torture claim upon completion of reading all the depositions. I found this procedure necessary given my unfamiliarity at the start of the review with the considerable range of brutalities. After examining each of the claims, I summarized them into one-page synopses so comparisons could be made. The summaries also aided the jury in making comparisons.

Under the unusual and egregious circumstances of this case, I believe the Report, submitted to the jury for its ultimate determination, abides by constitutional due process and Seventh Amendment law. The fact that the jury's decision differed slightly from my determinations adds support to the methodology utilized in the Report. For example, the jury reinstated three of the five claims which I found to be invalid, did not follow 46 of the recommendations for statistically sampled claims, and returned a verdict of \$770 million, after

84. *See id.* at 664.

85. *See In re Estate of Marcos*, 910 F. Supp. at 1469.

86. *See id.* at 1466.

seven days of trial and deliberation, which was only slightly higher than the recommended awards for damages of approximately \$767.5 million.

VII. CONCLUSION

The compensatory damages trial of the *Marcos* litigation illustrates the use of the science of inferential statistics to overcome the laborious and inefficient method of individual proof of damages. The special master played an important role in fashioning the methodology, coordinating the pretrial phase, and summarizing the evidence for the jury. The end result, an aggregate award based upon individual proof from 137 randomly selected class members, fully satisfied due process and protected against an excessive award.

