



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 4, 2020** which reads as follows:*

**“A.C. No. 12550 (*PJH Lending Corporation v. Atty. Alex L. Monteclar, Atty. Alan C. Trinidad and Atty. Mark Philipp H. Opada*)**

**The Case**

By Complaint-Affidavit<sup>1</sup> dated May 19, 2019, complainant PJH Lending Corporation charged respondents Atty. Alex Monteclar, Atty. Alan Trinidad and Atty. Mark Philipp Opada with obstruction of justice and violation of Canons 10 and 11 of the Code of Professional Responsibility (CPR) and the Lawyer’s Oath.

**Antecedents**

Rosalie Canlom-Farley, complainant PJH Lending Corporation’s former corporate secretary, defected from the then existing BOD led by Wilma Zamora and organized her own faction. Canlom-Farley and her group (Farley Group) managed to conduct a mock election in 2012 where she emerged as the new president of PJH’s BOD.<sup>2</sup>

As a result, a new BOD existed which was separate and distinct from the BOD led by Zamora.<sup>3</sup> This gave rise to the following intra-corporate dispute cases, *viz:*<sup>4</sup>

- a) *PJH Lending Corporation v. Wilma Zamora* (SRC Case No. 204-CEB) – legitimacy of Wilma Zamora’s position as  
- over – thirteen (13) pages ...

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<sup>1</sup> *Rollo*, pp. 1-17.

<sup>2</sup> *Id.* at 191.

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

President of PJH Lending Corporation is being questioned by Rosaly Canlom-Farley, among others; and that as an affirmative defense, the legitimacy of Bernard Twitchett's membership in the Board of Directors (BOD) is also being questioned, among others;

- b) *Wilma Zamora v. Rosaly Canlom-Farley, et al.* (SRC Case No. 205-CEB) – prays, among others, for the disqualification of Bernard Twitchett to sit as member of the BOD;
- c) *PJH Lending Corporation v. Wilma Zamora* (SRC Case No. 206-CEB) and *PJH Lending Corporation v. Bernard Twitchett* (SRC Case No. 207-CEB) – consolidated cases being both election contest pertinent to the election of PJH Lending Corporation's BOD and officers for the fiscal year 2012; and
- d) *PJH Lending Corporation v. Wilma Zamora* (SRC Case No. 223-CEB) – assails the legitimacy of a Deed of Assignment which was purportedly issued and signed by Wilma Zamora.

These cases were raffled to the Regional Trial Court (RTC), Branch 11, Cebu City presided by Judge Ramon Daomilas.

In SRC Case No. 204-CEB, which included a prayer for injunctive relief, the Farley Group questioned the legitimacy of Zamora's position as bona fide president of complainant PJH Lending Corporation's Board of Directors (BOD).

Meanwhile, in SRC Case No. 223-CEB, Judge Daomilas granted complainant's prayer for injunction in his Order dated November 6, 2015. This prompted Zamora to move for reconsideration with prayer to post counter bond. In Order dated January 20, 2016, the trial court allowed Zamora to post counter bond. The Farley Group moved for reconsideration but Judge Daomilas denied the same. The Farley Group moved for Judge Daomilas' inhibition which was granted.<sup>5</sup>

The Farley Group assailed before the Court of Appeals the order allowing Zamora to post counter bond. The case was docketed as C.A. G.R. SP No. 09861. By Decision<sup>6</sup> dated October 18, 2016, the Court of Appeals denied the petition.

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<sup>5</sup> *Id.* at 194-195.

<sup>6</sup> *Id.* at 196.



The Farley Group elevated the matter to this Court in G.R. No. 227931.<sup>7</sup> The Court affirmed the Court of Appeals' ruling in Resolution<sup>8</sup> dated December 5, 2016.

After Judge Daomilas' inhibition, the consolidated intra-corporate cases were transferred to RTC-Branch 12 presided by Judge Estela Alma Singco.<sup>9</sup>

The Farley group, in SRC Case No. 206-CEB, SRC Case No. 207-CEB and SRC Case No. 223-CEB filed another motion for injunction seeking to prevent Zamora from conducting the annual stockholder's meeting and election of board of directors. The motion was denied in an Order<sup>10</sup> dated March 27, 2017.

After seven (7) years of pre-trial and after a series of re-raffling due to separate inhibition of judges, all the intra-corporate dispute cases were reraffled to RTC-Branch 16 presided by Judge Cesar P. Bordialba.<sup>11</sup>

Back to SRC Case No. 204-CEB, on March 18, 2019, the Farley Group filed a Motion for Issuance of Temporary Restraining Order (TRO) and Writ of Preliminary Injunction to stop Zamora from conducting an Annual Stockholders' Meeting on March 31, 2019. RTC-Branch 16 set the application for TRO for hearing on March 29, 2019.<sup>12</sup>

When the case was called, the Farley Group's counsel emphasized the urgency of the TRO resolution, saying that March 29, 2019, a Friday, was the last day within which the court could act on the prayer for a TRO since the scheduled Annual Stockholders' Meeting is on March 31, 2019, a Sunday. The court, thus considered the incident submitted for resolution.<sup>13</sup>

Respondent Atty. Alex Monteclar objected and insisted on a full blown hearing on the TRO but Judge Bordialba emphasized that the motion would become moot if the court failed to act promptly on it. In the course of the proceedings, the following exchange took place, *viz*:<sup>14</sup>

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<sup>7</sup> *Id.*

<sup>8</sup> Penned by Associate Justice Pamela Ann Abella Maxino and concurred in by Associate Justices Pablito Perez and Gabriel Robeniol; *rollo*, at 196.

<sup>9</sup> *Id.* at 196.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 192.

<sup>12</sup> *Id.* at 4.

<sup>13</sup> *Id.* at 6.

<sup>14</sup> *Id.* at 13-14.

Atty. Monteclar: I will read the portion of the ruling of Judge Singco, Your Honor. For your guidance, Judge Singco, in his (sic) ruling said, she is not in the position to overrule the Supreme Court. So, when (sic) this Court be in the position to overrule the Supreme Court? I am raising this matter up, Your Honor, because I would like to warn the Court because this might jeopardize your career here.

Court: I will act (on) the basis of the pleadings or records before me. I will assure you that I will act swiftly and impartially... But if you are not comfortable with me, you can ask for inhibition.

Atty. Monteclar: I will, Your Honor, if that is the actuation of the Court.

Court: I am the acting Presiding Judge here.

Atty. Monteclar: If that is the case, Your Honor, then I ask for the inhibition of this Court. You have shown partiality.

Court: But I have to resolve the issue of the meeting on March 31 because it is already here.

Atty. Monteclar: Yes, but I warn you, Your Honor. This might jeopardize your career, Your Honor. That is very clear in the ruling of Judge Singco, I pray, for the portion of the ruling of Judge Singco, the Supreme Court has already sustained that validity of the ... in its resolution. Accordingly, violation thereof or disobedience thereto is an affront disobedience of the Supreme Court. I'm warning the Court, you will be going against the ruling of the Supreme Court.<sup>15</sup>

Respondents later formally moved for Judge Bordalba's inhibition wherein they alleged that Judge Bordalba "displayed not only lack of fundamental understanding of the law but an alarming display of leanings favoring the (complainant)".<sup>16</sup>

These events prompted the Farley Group to file the present complaint<sup>17</sup> charging respondent lawyers, specifically Atty. Monteclar, with obstruction of justice and violation of Canons 10 and 11 of the Code of Professional Responsibility (CPR).

In their Complaint<sup>18</sup> dated May 19, 2019, the Farley Group essentially alleged:

a) Respondents' insistence for a full blown hearing of the TRO incident was completely unjustified and calculated to obstruct the administration of justice because in determining whether a TRO is

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<sup>15</sup> *Id.* at 10.

<sup>16</sup> *Id.* at unnumbered pages.

<sup>17</sup> *Id.* at 1-21.

<sup>18</sup> *Id.*



to be issued, what the Rules of Court simply requires is a summary hearing.<sup>19</sup>

b) Atty. Monteclar violated Rules 10.01 and 10.02 of the CPR when he claimed that the motion for TRO and Injunction had already been denied in Judge Singco's Order dated November 6, 2015 which affirmed the Court of Appeals and this Court's Resolutions in SRC Case Nos. 206-CEB, 207-CEB and 223-CEB when in fact, there were no rulings on the matter of injunctive relief.<sup>20</sup>

c) Atty. Monteclar's long verbal tussles with Judge Bordalba in court were done in a loud and menacing manner, coupled with finger pointing and alternate waving of documents held in his hands to Judge Bordalba's direction in violation of Rule 11.03 of the CPR.<sup>21</sup>

d) Respondents' attribution of bias against Judge Bordalba in favor of complainant is without factual basis making respondents guilty of violating Rule 11.04 of the CPR.<sup>22</sup>

e) Respondents failed to observe the candor, fairness and good faith toward the court and other judicial officers as mandated under Canon 10 and Canon 11 of the CPR.<sup>23</sup>

f) Atty. Monteclar violated his oath as a lawyer when he accused Judge Bordalba of displaying partiality and lack of fundamental understanding of the law in his Urgent Motion for Inhibition<sup>24</sup> dated March 29, 2019.

In their Comment<sup>25</sup> dated September 28, 2019, respondent lawyers basically countered:

1) This is a mere harassment suit. For this is the third administrative case involving the same intra-corporate dispute case complainant has filed against them. The other two (2) had been dismissed with finality *i.e.* PJH Lending Corporation v. Alex Monteclar, et al. (CBD Case No. 15-4566) and PJH Lending Corporation v. Alex Monteclar, et al. (CBD Case No. 15-4693).<sup>26</sup>

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<sup>19</sup> *Id.* at 13-14.

<sup>20</sup> *Id.* at 14-15.

<sup>21</sup> *Id.* at 12.

<sup>22</sup> *Id.* at 15-16.

<sup>23</sup> *Id.* at 16.

<sup>24</sup> *Rollo*, p. 12.

<sup>25</sup> *Rollo*, pp. 184-222.

<sup>26</sup> *Rollo*, pp. 185-186.

2) The Farley Group admitted filing in the past several motions for injunctive relief in the subject intra-corporate cases which were repeatedly denied. The Farley group failed to illustrate in what way they are guilty of obstruction of justice. They did not even define what constitutes obstruction of justice. Too, obstruction of justice only applies to criminal cases.<sup>27</sup>

3) They insisted for a full-blown hearing because Judge Bordalba just inherited the seven (7) year old case and that all of the Farley Group's past motions for injunctive relief had already been denied by the prior courts. The new court must be informed of this and must be apprised of the reasons for such denials. The transcript of stenographic notes clearly show that Judge Bordalba never read the pleadings filed before his *sala*. Not only that, he also seemed to refuse reading the pleadings.<sup>28</sup>

4) They did not misrepresent but merely quoted pertinent rulings on the prayer for injunctive relief.<sup>29</sup>

5) When Atty. Monteclar told Judge Bordalba that granting the TRO might jeopardize his career in the judiciary, he is but reminding the judge that the matter of TRO and injunction had already been passed upon by this Court and the Court of Appeals as well as other judges who handled the case before him.<sup>30</sup>

6) The motion for inhibition they filed against Judge Bordalba is not violative of Canon 11 of the CPR. They merely lost faith and confidence in Judge Bordalba's capacity to carry out his judicial functions impartially and without bias.<sup>31</sup>

In their Reply<sup>32</sup> dated October 15, 2019, the Farley Group riposted that obstruction of justice should not be technically and restrictively applied. With *res judicata*, respondents' main defense against the admitted factual allegations in the motion for TRO and Injunction, insisting on a full blown hearing, aside from not being required under the Rules of Court, was merely calculated to prevent the commercial court from acting on time on the ancillary relief prayed for by them.

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<sup>27</sup> *Rollo*, p. 199-202.

<sup>28</sup> *Rollo*, p. 202.

<sup>29</sup> *Rollo*, pp. 206-208.

<sup>30</sup> *Rollo*, pp. 208-214.

<sup>31</sup> *Rollo*, pp. 214-218.

<sup>32</sup> *Rollo*, unnumbered pages.



**Issue**

Are respondents guilty of obstruction of justice and violation of Canons 10 and 11 of the CPR?

**Ruling**

The controversy arose from the March 29, 2019 hearing on complainant's application for TRO sought to prevent respondents' client Wilma Zamora from conducting an Annual Stockholder's Meeting and election of BOD members and officers to be held on March 31, 2019.

During the hearing, complainant moved that the incident pertaining to the issuance of a TRO be submitted for resolution while Atty. Monteclar insisted for a full-blown hearing thereon. Complainant, through the Farley Group, argued that to subject the incident of TRO to a full-blown hearing will render the same moot since the Annual Stockholder's Meeting is already scheduled on March 31, 2019, a Sunday. On the other hand, Atty. Monteclar maintained the need for a full-blown hearing in order to prove that the Court, the Court of Appeals and the judge before Judge Bordalda had already denied the Farley's Group's previous applications for injunctive relief.

Complainant claims that respondents' insistence for a full blown hearing constitutes obstruction of justice and Atty. Monteclar's utterances and demeanor during the March 29, 2019 hearing were in violation of Canons 10 and 11 of the CPR.

We resolve.

At the threshold, we note that complainant failed to narrate the specific individual acts supposedly committed by respondents Atty. Alan C. Trinidad and Atty. Mark Philipp H. Opada. There was no mention at all how they purportedly committed obstruction of justice, nay, violated the CPR. Hence, as to these lawyers, the complaint is dismissed.

We now focus on Atty. Monteclar.

Presidential Decree No. 1829<sup>33</sup> (PD 1829) defines obstruction of justice, thus:

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<sup>33</sup> AN ACT PENALIZING OBSTRUCTION OF APPREHENSION AND PROSECUTION OF CRIMINAL OFFENDERS.

**Section 1.** The penalty of *prision correccional* in its maximum period, or a fine ranging from 1,000 to 6,000 pesos, or both, shall be imposed upon any person who knowingly or willfully obstructs, impedes, frustrates or delays the apprehension of suspects and the investigation and prosecution of criminal cases by committing any of the following acts:

(a) preventing witnesses from testifying in any criminal proceeding or from reporting the commission of any offense or the identity of any offender/s by means of bribery, misrepresentation, deceit, intimidation, force or threats;

(b) altering, destroying, suppressing or concealing any paper, record, document, or object, with intent to impair its verity, authenticity, legibility, availability, or admissibility as evidence in any investigation of or official proceedings in, criminal cases, or to be used in the investigation of, or official proceedings in, criminal cases;

(c) harboring or concealing, or facilitating the escape of, any person he knows, or has reasonable ground to believe or suspect, has committed any offense under existing penal laws in order to prevent his arrest prosecution and conviction;

(d) publicly using a fictitious name for the purpose of concealing a crime, evading prosecution or the execution of a judgment, or concealing his true name and other personal circumstances for the same purpose or purposes;

(e) delaying the prosecution of criminal cases by obstructing the service of process or court orders or disturbing proceedings in the fiscal's offices, in Tanodbayan, or in the courts;

(f) making, presenting or using any record, document, paper or object with knowledge of its falsity and with intent to affect the course or outcome of the investigation of, or official proceedings in, criminal cases;

(g) soliciting, accepting, or agreeing to accept any benefit in consideration of abstaining from, discounting, or impeding the prosecution of a criminal offender;

(h) threatening directly or indirectly another with the infliction of any wrong upon his person, honor or property or that of any immediate member or members of his family in order to prevent such person from appearing in the investigation of, or official proceedings in, criminal cases, or imposing a condition, whether lawful or unlawful, in order to prevent a person from appearing in the investigation of or in official proceedings in, criminal cases;



(i) giving of false or fabricated information to mislead or prevent the law enforcement agencies from apprehending the offender or from protecting the life or property of the victim; or fabricating information from the data gathered in confidence by investigating authorities for purposes of background information and not for publication and publishing or disseminating the same to mislead the investigator or to the court.

(Emphasis supplied)

Obstruction of justice applies only to criminal cases. Here, what is involved are intra-corporate cases between factions asserting conflicting claims of leadership over PJH Lending Corporation.

Even assuming that obstruction of justice under PD 1829 applies to intra-corporate cases, a lawyer's insistence that a full-blown hearing on a party's prayer for TRO does not amount to intentionally "*impeding and delaying court proceedings*" under Section 1 (e). In doing so, Atty. Monteclar merely intended to inform Judge Bordalba that complainant's previous prayer for injunctive relief had already been denied by the Judge Singco who handled the cases prior to Judge Bordalba, and that such denial was even affirmed by the Court of Appeals and this Court. As such, the charge for obstruction of justice must be dismissed for lack of merit.

As for the alleged violation of Canon 10 of the CPR, Rules 10.01 and 10.02 thereof provide:

**Rule 10.01** - A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

**Rule 10.02** - A lawyer shall not knowingly misquote or misrepresent the contents of a paper, the language or the argument of opposing counsel, or the text of a decision or authority, or knowingly cite as law a provision already rendered inoperative by repeal or amendment, or assert as a fact that which has not been proved.

Complainant alleged that Atty. Monteclar wrongly claimed that its prayer for injunctive relief had already been ruled upon by Judge Singco, the Court of Appeals and this Court when in fact there were no such rulings.

Judge Singco's Order dated March 27, 2017 states:

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This is to resolve the Counter Motion of plaintiff-movants PJH Lending Corp., et al., seeking to stop Wilma L. Zamora, et al., to conduct a separate annual stockholder’s meeting on March 31, 2017.

x x x    x x x    x x x

At the core of this controversy is the question whether or not the November 6, 2015 [Order] still stands despite the Supreme Court’s Resolution dated December 5, 2016, which sustained the Decision of the Court of Appeals, promulgated on October 18, 2016, finding no grave abuse of discretion that can be attributed to RTC-Branch 11 in allowing Zamora’s group to post a counter-bond.

The Court finds the counter motion of movants to be untenable.

x x x    x x x    x x x

Further, since the Supreme Court sustained the validity of the dissolution of the injunction in its Resolution, accordingly, violation thereof or disobedience thereto is an affront directly against the court which issued it, and directly against the court which issued it, and indirectly against the Supreme Court. to reiterate, the dissolution of the injunction came to be after the Supreme Court affirmed that “no grave abuse of discretion amounting to lack or excess of jurisdiction can be imputed to the RTC for allowing private respondents to post a counter-bond in order to dissolve the injunction issued in petitioner’s favor.” This court is bound by said disposition of the Supreme Court. Thus, non-compliance therewith is no more than non-recognition of the Supreme Court’s Resolution on this matter, which this court does not intend to do so.

During the hearing, Atty. Monteclar mentioned the issuance of the aforementioned order as well as this Court’s Decision dated December 5, 2016 which affirmed the denial of complainant’s prayer of injunctive relief by the Court of Appeals. He did so only to apprise Judge Bordalba that complainant had previously prayed for injunctive relief which was already denied. We do not see how this act violates Rules 10.01 and 10.02 of the CPR.

As for the purported violation of Rules 11.03<sup>34</sup> of Canon 11 of the CPR, the transcript of stenographic notes during the March 29, 2019 hearing reads:

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<sup>34</sup> Rule 11.03 - A lawyer shall abstain from scandalous, offensive or menacing language or behavior before the Courts.





Atty. Monteclar: I will read the portion of the ruling of Judge Singco, Your Honor. For your guidance, Judge Singco, in his (sic) ruling said, she is not in the position to overrule the Supreme Court. So, when (sic) this Court be in the position to overrule the Supreme Court? I am raising this matter up, Your Honor, because I would like to warn the Court because this might jeopardize your career here.

Court: I will act (on) the basis of the pleadings or records before me. I will assure you that I will act swiftly and impartially... But if you are not comfortable with me, you can ask for inhibition.

Atty. Monteclar: I will, Your Honor, if that is the actuation of the Court. Court: I am the acting Presiding Judge here.

Atty. Monteclar: If that is the case, Your Honor, then I ask for the inhibition of this Court. You have shown partiality.

Court: But I have to resolve the issue of the meeting on March 31 because it is already here.

Atty. Monteclar: Yes, but I warn you, Your Honor. This might jeopardize your career, Your Honor. That is very clear in the ruling of Judge Singco, I pray, for the portion of the ruling of Judge Singco, the Supreme Court has already sustained that validity of the ... in its resolution. Accordingly, violation thereof or disobedience thereto is an affront disobedience of the Supreme Court. I'm warning the Court, you will be going against the ruling of the Supreme Court.

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Court: Why is it that you did not put that ruling in your pleading?

Atty. Monteclar: We have not [?] You did not read probably, Your Honor. But it is here. We attached.

Court: I will read that...<sup>35</sup>

While, indeed, Atty. Monteclar's utterances emphasized the existence of rulings on the matter of complainant's application for TRO rendered by Judge Singco, the Court of Appeals and this Court, the manner by which he delivered his statements were menacing. Also, Atty. Monteclar's choice of words *i.e.* "I warn you.", "This might jeopardize your career" is not only menacing but also offensive especially as those words were directed to Judge Bordalba. Atty. Monteclar could have simply informed Judge Bordalba of the rulings without threatening the latter of a supposed jeopardy on his judicial career.

In *Monticalbo v. Judge Maraya, Jr.*,<sup>36</sup> complainant's counsel was reminded to choose his words carefully and refrain from hurling

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<sup>35</sup> *Rollo*, p. 10.

<sup>36</sup> 664 Phil. 1, 12 (2011).

insults at respondent judge. His use of insulting language and unfair criticism is a violation of his duty as a lawyer to accord due respect to the courts. For Canon 11 of the CPR requires that "a lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others."

In *Cruz, v. Atty. Cabrera*,<sup>37</sup> for using intemperate language in open court, respondent lawyer, was admonished by this Court with stern warning.

Going now to Rules 11.04<sup>38</sup> and 11.05<sup>39</sup> of Canon 11 of the CPR, Atty. Monteclar's imputed violations thereon must fail. Because of Atty. Monteclar's doubt pertaining to Judge Bordalba's impartiality, the former moved for the latter's inhibition. Certainly, Atty. Monteclar ought to give a valid reason in seeking Judge Bordalba's inhibition. Here, he cited "*lack of fundamental understanding of the law but an alarming display of leanings favoring the (complainant)*". This statement does not necessarily violate Rules 11.04 and 11.05 of the CPR.

Finally, as for violation of the lawyer's oath, complainant failed to specify which part of the oath was violated and in what manner respondents violated the same.

**WHEREFORE**, the complaint is **DISMISSED** as against respondents **Atty. Alan C. Trinidad and Atty. Mark Philipp H. Opada**.

As for respondent Atty. Alex Monteclar, the Court resolves as follows:

- 1) The complaint for obstruction of justice and violation of Rules 10.01, 10.02, 11.04 and 11.05 of the Code of Professional Responsibility against him is **DISMISSED** for lack of merit; and
- 2) He is found **GUILTY** of violation of Rule 11.03, Canon 11 of the Code of Professional Responsibility. He is **ADMONISHED** to observe due care in the performance of his functions and duties and **STERNLY WARNED** that a repetition thereof would be dealt with more severely.

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<sup>37</sup> 484 Phil. 173, 183 (2004).

<sup>38</sup> **Rule 11.04** - A lawyer shall not attribute to a Judge motives not supported by the record or have no materiality to the case.

<sup>39</sup> **Rule 11.05** - A lawyer shall submit grievances against a Judge to the proper authorities only.



**SO ORDERED.”** *Peralta, C.J., on official business.*

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court

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