REPUBLIC OF THE PHILIPPINES
CONGRESS OF THE PHILIPPINES
SENATE

SITTING AS THE IMPEACHMENT COURT

IN THE MATTER OF THE IMPEACHMENT OF RENATO C. CORONA AS CHIEF JUSTICE OF THE SUPREME COURT OF THE PHILIPPINES,

CASE NO. 002-2011

REPRESENTATIVES NIEL C. TUPAS, JR., JOSEPH EMILIO A. ABAYA, LORENZO R. TAÑADA, III, REYNALDO V. UMALI, ARLENE J. BAG-AO (other complainants comprising one third (1/3) of the total Members of the House of Representatives as are indicated below.)

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REPLY
(To the Answer Dated 21 December 2011)

The HOUSE OF REPRESENTATIVES, through its PROSECUTORS, in reply to respondent's *Answer [To Verified Complaint For Impeachment]* dated 21 December 2011,[1] respectfully states:

[1] A copy of the Answer was received by the House of Representatives on 26 December 2011.

On Respondent's "Prefatory Statement"

1. In his Answer, respondent Chief Justice Renato Corona ("Corona") equates his impeachment to an assault on the independence of the Judiciary[2] and an attack on the rule of law and the Constitution.[3] He posits that his impeachment is nothing but a scheme instigated by President Benigno Aquino III and his Liberal Party so he can "subjugate the Supreme Court" and "have a friendly, even compliant, Supreme Court."[4] Incredibly, and inconsistently, Corona even insinuates that Justice Carpio and his former law firm are also behind the alleged scheme to ensure their "re-emergence into power."[5]

1.1. With such claims and allegations in his Answer, Corona manifests his lack of respect for the constitutional process of impeachment, his refusal to be held accountable for his actions, and his utter contempt for the will of the sovereign people and their craving for justice and accountability. It is apparent that Corona ignores basic Constitutional principles. This impeachment is not the handiwork of President Aquino, the Liberal Party and, much less, Justice Carpio and his ex-partners. The Impeachment Complaint was filed, and shall be prosecuted, by the sovereign Filipino people, acting through their directly elected representatives in Congress.

2. Corona's claim that his impeachment threatens the independence of the Judiciary is grandiose and sham. Corona is not the Judiciary and the Articles of Impeachment are leveled against him and him alone. This impeachment aims to remove him from office and free the Supreme Court from the influence of former President Gloria Macapagal Arroyo (GMA), former First Gentleman Miguel

[2] Answer, page 9.
[3] Answer, page 9.
[4] Answer, page 4.
[5] Answer, page 9.

Arroyo (FG), and their cabal. His removal will not weaken the Supreme Court nor the Judiciary. Rather, it will strengthen and invigorate the institution by ousting GMA's single biggest coddler in the Supreme Court, thereby restoring the people's faith in it.

3. Corona appears oblivious to the fact that even long before this impeachment process began, the people had already lost their faith and trust in him, and perhaps the Supreme Court under his leadership. They lost faith after witnessing how he and his supporters in the Supreme Court went out of their way to help GMA and FG in their attempt to flee and escape from the reach of justice, through a hastily and outrageously issued Temporary Restraining Order (TRO). They lost faith when the Supreme Court thwarted Congress' efforts to render former Ombudsman Merceditas Gutierrez accountable for her misdeeds in office. They lost faith after Corona accepted a midnight appoint from GMA, throwing away long-settled precedents and all sense of *delicadeza*. They lost faith after the Supreme Court rendered a stream of decisions obviously biased in favor of GMA and intended to frustrate all attempts to hold her accountable. They lost faith after the Supreme Court blatantly flip-flopped in its supposedly final decisions, and set aside a final judgment based on a mere letter emanating from the lawyer of a rich and powerful litigant.

4. The sovereign Filipino people, having run out of patience, could no longer take any of these sitting down. And so they acted, through their directly elected representatives, by filing the Articles of Impeachment against Corona. The sovereign people simply want accountability, and to bring back a Supreme Court whose independence is beyond question and deserving of their trust and respect.

5. Corona contends that his impeachment threatens the rule of law. On the contrary, his impeachment aims to strengthen the rule of law. An essential ingredient for the rule of law is the people's conviction and belief that *no one is*

above the law. When a public officer betrays the public trust, he must be brought to justice and held accountable, even if he is the Chief Justice of the Highest Court. Only then will the people believe that the rule of law truly reigns.

6. By his actions and statements, Corona shows that he considers himself to be above the law. He refuses to be held accountable and be bound by the rules which apply to ordinary citizens and public servants. Any government employee can be removed from office for committing an offense, but Corona asserts he cannot be removed and imperiously equates his impeachment to an attack on the entire Judiciary. Again, Corona is *not* the Judiciary. The ban on midnight appointments applies to ordinary government employees (including judges of the lower courts), but according to Corona, not to the Chief Justice. An ordinary government employee is preventively suspended when he is the subject of a disciplinary proceeding, but Corona will not take a leave of absence during his impeachment. This arrogance and "*I-am-untouchable*" complex must end. Corona and those like him must be made to realize that they are servants of the people and answerable to the people. No one is above the law.

7. Neither is there any basis to the fear raised by Corona that his impeachment "amounts to an unveiled threat against the other justices"[6] that will have a "chilling effect" on the Judiciary. It is an insult to the many good members of the Judiciary to say that just because the Chief Justice is being held accountable, they will consequently cower in fear or kowtow to Congress or the Executive. An upright judge or justice who possesses the character and integrity worthy to be called "*Your Honor*" will uphold the law no matter what. He will resolve his cases upon the law, the evidence and his conscience. Any "chilling effect" will only be felt by the "hoodlums in robes" who are actually guilty of wrongdoings or impeachable offenses.

[6] Answer, page 7.

8. According to Corona, "any president, Mr. Aquino included, hopes for a Supreme Court that consistently rules in his favor."[7] Corona thereupon concludes that this impeachment is but a scheme of President Aquino to give him an opportunity to appoint a Chief Justice who would be at his beck and call. The underlying premise of Corona's conclusion is that an appointee is automatically and necessarily beholden to the appointing power. Accordingly, upon this premise, Corona admits that he is beholden to GMA who appointed him. And because he is in fact beholden to GMA, he ascribes his same perverted notion to President Aquino. Corona has no basis to do so. While Corona has consistently abided by his own notion that he is beholden to the one who appointed him, there is simply no reason to believe that President Aquino seeks to "subjugate" or control the Supreme Court or the next Chief Justice. Besides, as Corona himself avers, he is just one of fifteen Justices. If he is ousted and replaced, this would not entail subjugation or control of the 15-member Supreme Court by President Aquino.

8.1. Corona even implies that the impeachment was motivated by the Supreme Court's decision in the case of *Hacienda Luisita*, "where the Supreme Court ordered the distribution of the lands owned by the Hacienda owned by President Aquino's family, to the farmer-beneficiaries."[8] What Corona failed to mention, however, is that even President Aquino's appointees in the Supreme Court (Justices Sereno, Reyes and Bernabe) voted in favor of the distribution, which belies Corona's claim that President Aquino appoints Justices who will protect his perceived interests.

9. While President Aquino may be passionate in his campaign against graft and corruption and for accountability and reform, this impeachment is not a "scheme" of President Aquino. This impeachment is the action of the sovereign

[7] Answer, page 4.
[8] Answer, pages 5-6.

people, who are now speaking through Congress, and telling Corona that his time is up. He has been tested, and found wanting.

10. **One hundred eighty-eight (188)** Members of the House of Representatives (almost double the required number) filed the complaint against Corona. As stated, these men and women are **directly elected representatives of the people.** They are the people's voice in the government. The representatives who filed the complaint cut across party lines and comprise the entire political spectrum. Contrary to Corona's claim that the impeachment is the handiwork of the Liberal Party,[9] most of those who filed the complaint do not even belong to the Liberal Party (which has only 80 members in the House of Representatives, some of whom did not sign the complaint). None of them was offered any "tangible rewards" or received anything in return for filing the complaint, as Corona has falsely alleged.[10] (Indeed, with the presence of our ever vigilant media and the critical opponents of the President, it would be practically impossible to conceal any "tangible rewards" that may have been exchanged for support for the Impeachment Complaint.) The representatives/complainants and their constituents simply got fed up with Corona and want him to answer for his offenses.

11. At any rate, whatever may be the stand of the Liberal Party or of the President himself is immaterial as long as the Impeachment Complaint is filed by the constitutionally required number of the Members of the House of Representatives, as in this case.

12. Corona compares his impeachment to a "thief in the night" who comes in stealth and without warning. If he did not sense his impeachment coming, then he is truly deaf to the cry of the people. Any objective observer would have readily seen it in the public outrage that attended Corona's

[9] Answer, page 3.
[10] Answer, page 2.

acceptance of his midnight appointment from GMA in May 2010. Back in January 2010 (several months before the midnight appointment), constitutionalist Fr. Joaquin Bernas (who is favorably cited in Corona's Answer) had already warned that "any person who accepted the post of Chief Justice from Mrs. Arroyo would open himself or herself to impeachment by the next Congress."[11] The truth is, impeachment did not immediately come, as Corona was given a chance for over a year to prove himself and fulfill his promise to faithfully and impartially discharge his office. ("*Everything I say now will just be words. You have to watch me, what I do. Don't judge me now*."[12]) Unfortunately, his decisions in controversial cases involving GMA and the previous administration are the best evidence of his subservience to her and his failure to live up to the high standards of a Chief Justice.

13. As early as December 2010, lawmakers had already been vocal about their intent to impeach Corona. They were constrained to consider this option in the wake of the Supreme Court's issuance of a *status quo ante* order against the impeachment proceedings of then Ombudsman Merceditas Gutierrez, and its nullification of the Truth Commission.[13] Both cases involve the core issue of holding GMA accountable.

14. The last straw came when the Supreme Court, led by Corona, issued the TRO against the Department of Justice (DOJ) and practically allowed GMA and FG to flee from the country ("like a thief in the night", to use Corona's own metaphor), despite the several complaints against them for plunder, graft and corruption, and electoral sabotage. Corona accuses complainants of acting "in *blitzkrieg* fashion," but this is exactly how the TRO was issued by the Supreme Court under his leadership. The TRO was hastily issued without even allowing the

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[11] See *"Bernas: Arroyo appointment may destroy SC credibility,"* http://newsinfo.inquirer.net/inquirerheadlines/nation/view/20100123-248930/Bernas-Arroyo-appointment-may-destroy-SC-credibility, 23 January 2011 (last accessed 27 December 2011).

[12] See "Interactive: Did Corona really protect Arroyo," http://www.abs-cbnnews.com/-depth/12/14/11/interactive-did-corona-really-protect-arroyo, 15 December 2011 (last accessed on 27 December 2011).

[13] *See* Solon Confirms House-NGO Talk on Impeaching Corona, December 9, 2010, available at http://www.gmanetwork.com/news/story/207947/news/nation/solon-confirms-house-ngo-talk-on-impeaching-corona (last accessed December 30, 2011).

government the fullest opportunity to oppose, and without compliance with the very conditions set forth therein.

15. Corona laments that this impeachment singles him out among the fifteen members of the Supreme Court. He insists that "there must be identical consequences for identical acts, and to punish one for his acts, but not another, is to have no law at all."[14] He also repeatedly argues that the orders and decisions of the Supreme Court are collegial in nature, and he cannot bear sole responsibility therefor.

16. In the first place, the power to impeach is the sole prerogative of the House of Representatives under the Constitution. It is the House of Representatives which determines if evidence is sufficient to warrant the filing of articles of impeachment against one and not another. At the moment, the evidence against Corona is stronger and more apparent than against the other Justices. Moreover, it would be difficult to impeach and prosecute several Justices at the same time. But this does not necessarily mean that other Justices will not later on be similarly held accountable.

17. In the second place, a wrongdoer cannot validly claim to be excused because his fellow wrongdoers are getting away with the same offense. To apply an analogy, a criminal facing charges cannot argue that he should be absolved of his crime unless his fellow conspirators are also caught and prosecuted. That is surely not an acceptable defense, in law and in equity.

18. In the third place, Corona, as *Chief* Justice, is the constitutional head of the Judiciary. Corona must not hide behind the cloak of collegiality and dilute the blame on him by pointing to his fellow Justices who voted with him in the questionable pro-GMA decisions.

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[14] Answer, page 10.

19. Corona, as Chief Justice, has administrative supervision over the affairs of the Supreme Court.[15] He exercises special powers which an ordinary Justice does not have. For instance, (a) he chairs the sessions of the Supreme Court *en banc*.[16] (b) He is the one who directs the special raffle of cases which include an application for a TRO.[17] (c) He is the one who assigns consolidated cases to the "Member-in-Charge" after consolidation[18] (thereby hastening the process of consolidation). (d) He is the one who orders the release of *en banc* resolutions to the parties.[19] These powers, unique to Corona, allowed him to facilitate and expedite the issuance and implementation of the TRO which helped GMA and FG in their attempt to flee from prosecution. (e) It also appears that Corona, as Chief Justice and administrative head, can exert control or influence in the promulgation or suppression of opinions, such as the Dissenting Opinion of Justice Sereno which was submitted on 2 December 2011 but was promulgated only on 13 December 2011. (f) Corona likewise has control over the Supreme Court spokesman who presents the Court's actions and decisions to the public. (g) Corona is also the one chiefly responsible for the finances of the Judiciary.

20. In short, Corona, as Chief Justice, holds a unique and powerful position within the Supreme Court and he cannot misleadingly equate his situation with that of other Justices. Besides, Corona presents himself to be the embodiment of the Judiciary by arguing that an attack on him is an attack on the Judiciary. He cannot now disclaim leadership and responsibility just because it is convenient to his defense.

21. A Chief Justice of the Supreme Court must be "a person of proven competence, integrity, probity, and independence."[20] In the Judiciary, moral integrity is more than a cardinal virtue; it is a necessity.[21] A judge who does not

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[15] Supreme Court Internal Rules, Rule 2, Section 1.
[16] Supreme Court Internal Rules, Rule 2, Section 2.
[17] Supreme Court Internal Rules, Rule 7, Section 6.
[18] Supreme Court Internal Rules, Rule 9, Section 5.
[19] Supreme Court Internal Rules, Rule 11, Section 8.
[20] Section 7(3), Article VIII, Constitution.
[21] *Pascual v. Bonifacio,* 398 SCRA 695 (2003).

have those qualities is undeserving to remain in his post and may be ousted for his lack of moral fitness. The Supreme Court itself has sanctioned or removed ordinary judges of lower courts and lawyers for such offenses as illicit affairs, estafa, issuance of bouncing checks, insubordination, extortion, and gross ignorance of the law.[22] The exacting moral standards expected of ordinary judges and lawyers cannot be lowered in the case of the Chief Justice of the Highest Court. On the contrary, the standards should even be set higher, as demanded by the power and prestige of his office.

22. The office of the Chief Justice is not an absolute right, but a privilege which can be taken away when it is abused. It is incorrect to argue that the Chief Justice, being independent of the other branches of government, and entitled to security of tenure, is thereby "untouchable" and cannot be removed from office. Under the Constitution, Members of the Supreme Court "hold office during good behavior."[23] When they fail to live up to that standard, they can be removed by means of impeachment. Impeaching Corona is not provoking a constitutional crisis; it is exercising a constitutional power to hold an errant official accountable.

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[22] *In re Disbarment of Rodolfo Pajo*, A.M. No. 2410, October 23, 1983 and *De Jesus-Paras v. Vailoces*, A.C. No. 439, April 12, 1961 (Respondents were disbarred after having found guilty of falsification of public documents). *Mortel v. Aspiras,* A.M. No. 145, December 28, 1956, *Royong v. Oblena,* A.C. No. 376, April 30, 1963, and *Guevarra v. Eala*, A.C. No. 7136, August 1, 2007 (Respondents were disbarred by reason of their grossly immoral conduct for cohabiting with women other than their wives). *Reyes v. Atty. Gaa*, A.M. No. 1048, July 14, 1995 and *Vitriolo v. Dasig,* A.C. No. 4984, April 1, 2003 (Respondents were disbarred for making unlawful demands to extort money from other persons). *In re: Atty. Isidro P Vinzon,* A.C. No. 561, April 27, 1967 (Respondent was disbarred after having found guilty of estafa). *In re: Atty. Isidro P Vinzon,* A.C. No. 561, April 27, 1967 (Respondent was disbarred after he was convicted by final judgment of violating B.P 22). *In re: Disbarment Proceedings against Atty. Diosdado Q. Gutierrez,* A.M. No. L-363, July 31, 1962 (Respondent was disbarred after having found guilty of murder). *Prudential Bank v. Judge Castro,* A.M. No. 2756, June 5, 1986 and *Greenstar Boracay Mangandingan v. Judge Adiong,* A.M. No. RTJ-04-1826, February 6, 2008 (Respondent-judges were dismissed from service for grave misconduct/gross ignorance of the law, amounting to manifest partiality). *Reyes v. Judge Reyes, et al.*, A.M. MTJ-06-123, September 18, 2009 (Respondent-judge was dismissed from service for grave abuse of authority and grave misconduct). *Atty. Lugares v. Judge Gutierrez-Torres,* A.M. No. MTJ-08-1719, November 23, 2010 (Respondent-judge was dismissed from service for her gross inefficiency, gross ignorance of the law, dereliction of duty and insubordination. *In re: Solicitation of Donations by Judge Benjamin H. Virrey,* A.M. No. 7-1159-MTC, October 15, 1991 (Respondent-judge was dismissed from service for violating R.A. 6713 on solicitation and acceptance of gifts). *Tahil v. Atty. Eisma.* A.M. No. 276-MJ, June 27, 1975 (Respondent-judge was admonished by the Supreme Court for his failure to exercise the degree of independence expected of judges). *Tahil v. Atty. Eisma,* A.M. No. 276-MJ, June 27, 1975, (Respondent-judge was given a stern warning by the Supreme Court for influencing a colleague in connection with a case pending in the latter's sala).

[23] Article VIII, Section 11 of the 1987 Constitution.

23. Corona was right in stating that our constitutional system - with its bedrock principles of Separation of Powers and Checks and Balances - simply cannot survive without a robust and independent Judiciary.[24] A robust and independent Judiciary is in fact what the impeachment seeks to promote. Let the impeachment process take its course. Let Corona be held accountable. Let the sovereign People be heard.

On Respondent's "Preliminary Objections"

24. Corona asks for the outright dismissal of the Impeachment Complaint on the ground that "the Impeachment Court may not proceed to trial on the basis of the Complaint because it is constitutionally infirm and defective, for failure to comply with the requirement of verification." Without any convincing evidence, he surmises that the signatories did not read the contents of the Impeachment Complaint pursuant to Section 4, Rule 7 of the Rules of Court.[25]

25. It is extremely surprising for Corona to hide behind a technicality to avoid or delay trial. After all, there were boasts of his "powerhouse" legal team, that he is ready and willing to face trial in the Senate and welcomes the opportunity to prove his innocence. In his 14 December 2011 speech[26] delivered at the Supreme Court grounds, he boldly declared:

> "*Huwag na po nating isubo ang Korte Suprema sa ano pang pagsubok o batikos ng mga mapagsamantala. Yaman din lang na ang ipinaglalaban dito ay ang Korte Suprema at ang demokrasya, karangalan at katungkulan ko po na labanan itong impeachment para sa ating lahat.* ***Haharapin ko nang buong tapang at talino ang mga walang basehang paratang na ito, punto por punto, sa Senado. Handanghanda akong humarap sa paglilitis***."

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[24] Answer, par. 10 at p. 9.

[25] Section 4, Rule 7 of the Rules of Court states:

> "A pleading is verified by an affidavit that the affiant has read the pleading and that the allegations therein are true and correct of his personal knowledge or based on authentic records."

[26] See "Ako ang Unang Tagapagtanggol ng Hustisya," http://sc.judiciary.gov.ph/pio/speeches/12-14-11-speech.pdf, 14 December 2011, at 2, 3, 5, 12, 14, 15 (last accessed on 27 December 2011).

Apparently, now that the time has come for him to face the impeachment charges, he is not as bold after all.

26. At any rate, the technical objection that Corona is citing has no basis. ***First***, under the Constitution, the House of Representatives has the "exclusive power to initiate all cases of impeachment."[27] The Impeachment Complaint in this case has been "*filed by at least one-third of all the Members of the House.*"[28] Thus, under Article XI, Section 3 (4) of the Constitution, the Senate has the ministerial duty to "*forthwith proceed*" with the trial of the case.[29] The Senate has in fact already issued summons to Corona and set the case for trial on 16 January 2012. The Senators have already taken their oath as Members of the Impeachment Court. With these developments, it cannot be denied that the Impeachment Complaint is sufficient to proceed to trial. Any technical objections on the Impeachment Complaint are now barred and should no longer be entertained.

27. ***Second***, the Impeachment Complaint, including the verification, enjoys a strong presumption of regularity in the performance by the Members of the House of Representatives of their official duties.[30] This presumption is not overcome by hearsay news reports that some congressmen supposedly failed to read the Complaint, particularly in the absence of evidence that those representatives are withdrawing their signatures. There is likewise no evidence that the congressmen who supposedly failed to read the Impeachment Complaint are so numerous as to reduce the number of the complainants to less than the required one-third (1/3) of the Members of the House of Representatives.

28. ***Third***, even assuming (without admitting) that some representatives failed to read the Impeachment Complaint, it would not render the verification of

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[27] Sec 3 (1), Article XI of the 1987 Constitution.
[28] Sec. 3 (4), Article XI of the 1987 Constitution.
[29] Section 3(4), Article XI of the 1987 Constitution.
[30] Rules of Court, Rule 131, Section 3(m).

the Impeachment Complaint defective. Article XI, Section 3 (4) of the Constitution merely speaks of the *filing* by at least one-third of the Members, and *not verification* by all of the said Members.

> "(4). In case the verified complaint or resolution of impeachment is **filed by at least one-third of all the Members of the House**, the same shall constitute the Articles of Impeachment, and trial by the Senate shall forthwith proceed."

Under the foregoing provision, it is sufficient that there is a verified complaint (i.e., verified by at least one person), and that such complaint is filed by at least one-third of the Members of the House of Representatives. The Constitution does not require that all of the complainants verify the Impeachment Complaint. Even in ordinary proceedings, the Rules of Court and jurisprudence do not require that a pleading be verified by all of the parties:

> "**[T]he verification requirement is deemed substantially complied with when *some of the parties* who undoubtedly have sufficient knowledge and belief to swear to the truth of the allegations in the petition had signed the same.** Such verification is deemed a sufficient assurance that the matters alleged in the petition have been made in good faith or are true and correct, and not merely speculative. … Hence, the failure of some of the respondents to sign the verification attached to their Memorandum of Appeal filed with the NLRC is not fatal to their cause of action."[31] (Emphasis supplied)

24. ***Fourth***, even assuming (without admitting) that the verification of the Impeachment Complaint falls short of the verification requirements of the Rules of Court, it would not render the verification defective for purposes of the impeachment proceedings. The provisions of the Rules of Court, particularly on such a technical matter as what constitutes proper verification, are not strictly applicable to an impeachment proceeding, as it is not a judicial proceeding but rather, a political process (as admitted by Corona himself[32]). Under the

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[31] *Prince Transport, Inc. and Mr. Renato Claros v. Diosdado Garcia, et al.,* G.R. No. 167291, 12 January 2011.

[32] Answer, page 6.

circumstances, it is plain that the verification requirement has been substantially complied with.

29. ***Fifth***, even assuming (without admitting) that the verification is in any way "defective," it is not fatal to the Impeachment Complaint or the jurisdiction of the Impeachment Court. It is elementary that verification is a formal, not jurisdictional, requisite:

> "In any case, the settled rule is that a pleading which is required by the Rules of Court to be verified, may be given due course even without a verification if the circumstances warrant the suspension of the rules in the interest of justice. Indeed, **the absence of a verification is not jurisdictional, but only a formal defect, which does not of itself justify a court in refusing to allow and act on a case.**"[33] (Emphasis supplied)

30. ***Sixth***, Corona himself did not even sign his Answer, much less verify it under oath (probably to avoid the risk of perjuring himself). He should be the last person to harp on insignificant technicalities.

31. It should also be noted that even assuming (without admitting) that some of the complainants may not have initially read the Impeachment Complaint, sufficient time has passed by now to allow them to read it and withdraw their signatures if they find anything wrong with it. None of them has withdrawn their signatures, and it can be deduced therefrom that they are standing by their original signatures and verification. It would not be right to junk the Impeachment Complaint based on the trivial objection raised by Corona. And presuming that the Impeachment Complaint is dismissed for lack of a proper verification, the complainants would simply re-file it after correcting the purported technical violation. Nothing but delay would be gained by that.

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[33] *Prince Transport, Inc. and Mr. Renato Claros v. Diosdado Garcia, et al.,* G.R. No. 167291, 12 January 2011.

32. Corona also alleges, in his "Preliminary Objections," that "the Complaint was initiated by President Aquino, and filed by his subalterns. Accordingly, the complaint could not be directly transmitted to the Senate."[34] As already explained, however, there is no basis to Corona's paranoia that the impeachment is a scheme hatched by President Aquino, the Liberal Party, and Justice Carpio.

33. To repeat, what matters is that the Impeachment Complaint was undeniably filed by one-third of all the Members of the House, as provided for in Article XI, Section 3 (4) of the Constitution. Any political motivations or reasons behind such filing are irrelevant and are not looked into by the Constitution or by the Impeachment Court. Besides, Corona himself admits that the impeachment process is a political one.[35]

Article I

Partiality and Subservience to GMA

34. In his Answer to Article I of the Impeachment Complaint, Corona argues that complainants failed to define "betrayal of public trust" and that it is not supposed to be "a catch-all phrase to cover every misdeed committed."[36]

35. The Supreme Court itself recognized that the concept of "betrayal of public trust" has no precise definition. In the case of *Francisco, Jr. vs. House of Representatives,*[37] the Supreme Court held that the definition of "betrayal of public trust" is a non-justiciable political question which is beyond the scope of its judicial power under the Constitution. The Court held:

> "Although Section 2 of Article XI of the Constitution enumerates six grounds for impeachment, two of these, namely, other high crimes and **betrayal of public trust, elude a precise**

[34] Answer, page 17.
[35] Answer, page 6.
[36] Answer, page 18.
[37] G.R. No. 160261, November 10, 2003 (and other cases consolidated therewith).

> **definition.** In fact, an examination of the records of the 1986 Constitutional Commission shows that **the framers could find no better way to approximate the boundaries of betrayal of public trust and other high crimes than by alluding to both positive and negative examples of both, without arriving at their clear cut definition or even a standard therefor.** Clearly, the issue calls upon this court to decide **a non-justiciable political question which is beyond the scope of its judicial power under Section 1, Article VIII.**" (Emphasis supplied)

36. The deliberations of the Constitutional Commission also indicate an intent by the framers to treat "betrayal of public trust" as a catch-all ground that would cover a broad range of criminal and non-criminal acts which "render the officer unfit to continue in office":

> "MR. REGALADO. x x x Just for the record, **what would the Committee envision as a betrayal of public trust** which is not otherwise covered by by other terms antecedent thereto?
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> "MR. ROMULO. I think, if I may speak for the Committee and subject to further comments of Commissioner de los Reyes, the concept is that **this is a catchall phrase. Really, it refers to his oath of office, in the end that the idea of public trust is connected with the oath of office of the officer, and if he violates that oath of office, then he has betrayed the trust.**
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> "MR. REGALADO. Thank you.
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> "MR. MONSOD. Madam President, may I ask Commissioner de los Reyes to perhaps add to those remarks.
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> "THE PRESIDENT. Commissioner de los Reyes is recognized.
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> "MR. DE LOS REYES. The reason I proposed this amendment is that during the Regular Batasang Pambansa where there was a move to impeach then President Marcos, there were arguments to the effect that there is no ground for impeachment because there is no proof that President Marcos committed criminal acts which are punishable, or considered penal offenses. And so **the term "betrayal of public trust," as explained by Commissioner Romulo, is a catchall phrase to include all acts which are not punishable by statutes as penal offenses but, nonetheless, render the officer unfit to continue in office. It includes betrayal of public interest, inexcusable negligence**

> **of duty, tyrannical abuse of power, breach of official duty by malfeasance or misfeasance, cronyism, favoritism, etc. to the prejudice of public interest and which tend to bring the office into disrepute.** That is the purpose, Madam President."[38] (Emphasis supplied)

37. Since the House of Representatives has the exclusive power to initiate an impeachment and the Senate has the exclusive power to try and decide the guilt or innocence of the impeached officer, they are the ones who get to define, in the case before them, what constitute betrayal of public trust and moral fitness for impeachable officers.

38. In the case at hand, Corona's betrayal of public trust and lack of moral fitness to be a Chief Justice consist in, among others, his "partiality and subservience in cases involving the Arroyo administration from the time of his appointment as Supreme Court Justice and until his dubious appointment as a midnight Chief Justice to the present." The preservation of judicial independence is one of the primary responsibilities of the Chief Justice of the Supreme Court. As head of the Highest Court of the land, the last bastion of justice, he has the duty to maintain the highest degree of independence and impartiality and to conduct himself in such manner as to ensure this perception. The public trusted Corona to do justice without fear or favor, with neutrality and impartiality, but he betrayed this trust with his dogged devotion to GMA.

39. Corona manifested his partiality in accepting the midnight appointment as Chief Justice from GMA, despite the constitutional prohibition on midnight appointments and his close association with GMA (as the former Chief of Staff and Spokesman of then Vice President GMA, and then as Presidential Chief of Staff, Presidential Spokesman, and Acting Executive Secretary of then President GMA). He justifies the <u>legality</u> of his midnight appointment by citing[39]

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[38] 2 Record of the Constitutional Proceedings and Debates, 272.

[39] See Answer, pages 22 and 23.

the Supreme Court's ruling in *De Castro v. Judicial and Bar Council.*[40] In the said case, the Court (by strained reasoning, according to many legal experts) ruled that the constitutional prohibition on midnight appointment is not applicable to the appointment of the Chief Justice. However, while the *De Castro* decision may have rendered his appointment "legal" (in the narrow sense of the word), the people saw it as immoral, felt betrayed, and were outraged. Corona could have placed the interests of the country and the Judiciary above his personal interests or the interests of his patroness, GMA. Instead, Corona chose to do an act which he knew was legally questionable, impinged on the appointing power of the incoming administration, and created the impression of giving GMA a strong ally in the Supreme Court.

40. Corona's partiality and bias in favor of GMA are further confirmed in his track record of promoting and protecting her interests. Even as an Associate Justice, in his concurrences and dissents, Corona predictably voted in a manner consistent with GMA's interests. He dissented in the following decisions which ruled against GMA:

- dismissing petitions to disqualify GMA's rival, the late Fernando Poe, Jr., as presidential candidate,[41]
- dismissing the petition of Atty. Raul Lambino, GMA's lawyer, for COMELEC to allow a people's initiative to amend the Constitution and ratify GMA's proposal (to convert the form of government from presidential to parliamentary),[42]
- denying the contention that wiretapped conversations between GMA and COMELEC Commissioner Virgilio Garcillano during the 2004 elections cannot be aired,[43] and

[40] G.R. Nos. 191002, 191032, and 191057, A.M. No. 10-2-5-SC, G.R. Nos. 191149, 191342, and 191420; 17 March 2010.
[41] *Tecson v. COMELEC*, 424 SCRA 277, 3 March 2004.
[42] *Lambino v. COMELEC*, G.R. No. 174153, 25 October 2006.
[43] *Chavez v. Gonzalez*, G.R. No. 168338, 15 February 2008.

- holding GMA's Presidential Proclamation No. 1017, which declared the country under a state of emergency during a coup attempt, as partly unconstitutional (Corona voted to dismiss all the petitions, arguing that it was constitutionally permissible for GMA to exercise takeover powers even without Congressional approval in exception instances).[44]

Corona voted in favor of the following decisions which protected and promoted GMA and her interests:

- upholding the validity of GMA's Executive Order No. 464, which allowed executive department heads to invoke "executive privilege" in legislative investigations,[45]
- declaring Socio-economic Planning Secretary Neri not liable for contempt when he invoked EO 464 in a Senate inquiry on the aborted $329 million NBN-ZTE deal, particularly the instructions of GMA to Neri regarding the deal,[46]
- declaring that Japan-Philippines Economic Partnership Agreement (JPEPA) communications are covered by executive privilege.[47]

41. When Corona was already being considered by GMA for the position of Chief Justice after the controversial ruling in *De Castro*, Corona joined in the deliberations on a case[48] where GMA's son, Dato Arroyo, stood to benefit. Corona voted to uphold RA No. 9716, which created the first and second districts of Camarines Sur, despite non-fulfillment of the population requirement and the principle of proportional representation under the Constitution.[49] By virtue of that

[44] *David v. Arroyo*, G.R. No. 171396, 3 May 2006.
[45] *Senate of the Philippines v. Ermita*, G.R. No. 169777, 20 April 2006.
[46] *Neri v. Senate*, G.R. No. 180643, 25 March 2008.
[47] *Akbayan v. Thomas Aquino*, G,R. No. 170516, 16 July 2008.
[48] *Senator Benigno Simeon C. Aquino III and Mayor Jesse Robredo v. COMELEC,* G.R. No. 189793, 7 April 2010.
[49] Section 5, Article VI of the 1987 Constitution states:

> "(1) The House of Representatives shall be composed of not more than two hundred and fifty members, unless otherwise fixed by law, who shall be elected from legislative districts apportioned among the provinces, cities, and the Metropolitan Manila area in accordance with the number of their respective inhabitants, and on the basis of a uniform and progressive ratio

decision, GMA's son, Dato Arroyo, was able to secure (and maintains) a congressional seat in the first district of Camarines Sur in the May 2010 elections.

42. Then, as Chief Justice, Corona voted to:

- declare Executive Order No. 1 creating the Philippine Truth Commission as unconstitutional,[50]
- stop the Aquino administration from revoking the appointment of GMA's midnight appointees and issue a *status quo ante* order on the implementation of Executive Order No. 2 on Bai Omera Dianalan-Lucman, who was appointed by GMA in March 2010,[51]
- issue a Status Quo Ante Order on the impeachment proceedings against former Ombudsman Gutierrez, and
- issue a TRO against the watch list order issued by DOJ Secretary Leila de Lima against GMA and Mike Arroyo on the basis of DOJ Circular No. 40, which circular was promulgated during GMA's own administration.[52]

Complainants reserve the right to cite and discuss, at the trial, other cases which demonstrate Corona's bias and partiality in favor of GMA.

43. Given his long and close relations with GMA and this consistent voting track record, common sense and even the rules of evidence[53] would lead to the inevitable conclusion that Corona has acted with partiality and bias in favor of

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(3) Each legislative district shall comprise, as far as practicable, contiguous, compact, and adjacent territory. Each city with a population of at least two hundred fifty thousand, or each province, shall have at least one representative.

(4) Within three years following the return of every census, the Congress shall make a reapportionment of legislative districts based on the standards provided in this section."

[50] *Biraogo v. The Philippine Truth Commission of 2010 / Rep. Edcel C. Lagman, et al. v. Executive Secretary Paquito N. Ochoa, Jr. et al.,* G.R. Nos. 192935 and 193036, 7 December 2010.

[51] *Bai Omera Dianalan-Lucman v. Executive Secretary Paquito N. Ochoa, Jr.,* G.R. No. 193519, 13 October 2010.

[52] *Gloria Macapagal-Arroyo v. Hon. Leila de Lima, et al.,* G.R. No. 199046, 15 November 2011.

[53] Rules of Court, Rule 130, Section 34.

GMA and has consistently served her interests. Notably, Corona's actions to protect GMA and shield her from accountability are tantamount to ***obstruction of justice*** which undeniably constitutes betrayal of public trust.

44. In his defense, Corona claims that the pro-GMA decisions of the Supreme Court are collegial actions.[54] True, but his individual vote in those decisions is undeniably his personal action and his own responsibility. And the consistent pattern of Corona's voting, together with his long and very close personal and professional relations with GMA, indicate a strong bias in favor of GMA. Indeed, it is remarkable that even in those cases where the majority of the Supreme Court decided against GMA's interests (see par. 40 above), Corona chose to go against the majority and voted in favor of GMA's interests. Corona's unfailing and unwarranted fealty to GMA shows that he is not independent-minded — he votes or resolves cases not on the merits, but on what would best serve GMA.

45. Corona's outcry that this impeachment seeks a legislative review of the orders and decisions of the Supreme Court[55] is misleading and baseless. This impeachment does not call for a legal analysis or "review" of the orders and decisions <u>of the Supreme Court</u>. It does not seek to reverse or change the decisions and orders already rendered by the Supreme Court, no matter how objectionable they may be. They already form part of our jurisprudence and remain effective and in place (unless the Supreme Court reverses itself again). These decisions and orders are being executed and complied with. For example, GMA's midnight appointees remain in office; the Truth Commission remains dead; Dato Arroyo remains a congressman of the First District of Camarines Sur; GMA's order on executive privilege remains extant; the TRO against the DOJ remains in effect; DOJ Secretary De Lima remains charged with contempt for "defying" the TRO. The prosecution is not asking the Impeachment Court to

[54] Answer, pages 19-21.
[55] Answer, page 21.

change any of those decisions. The prosecution merely presents Corona's personal voting record in these decisions and orders as irrefutable evidence of his bias in favor of GMA.

Article II

Non-disclosure of SALN

46. In his Answer, Corona alleges that he has no legal duty to publicly disclose his Statement of Assets, Liabilities and Net Worth (SALN).[56] He says that the Constitution only requires him to accomplish and submit his SALN, and alleges that he has been faithfully observing said requirement.[57]

47. First of all, Corona's allegation that he has been faithfully filing his SALN with the Clerk of Court of the Supreme Court is just that, a mere allegation. Aside from his bare allegation, there is nothing in his Answer to indicate that he has actually been filing his SALN. Corona could have easily attached to his Answer, copies of his alleged SALNs or other supporting documents, so that they can be examined; but he did not do so. This failure on Corona's part not only raises suspicions, but evinces a lack of regard for the rationale behind the rule on SALN, that is, the policy of transparency and public accountability and the constitutional right to information.

48. Section 17 Article XI of the 1987 Constitution categorically requires that a public officer's SALN "shall be disclosed to the public in the manner provided by law." RA No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, provides for the manner of public disclosure of a public officer's SALN. Section 8(C) of said law provides:

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[56] Answer, page 31.
[57] Answer, page 32.

> "(C) *Accessibility of documents.* -- (1) Any and all statements filed under this Act, shall be made **available for inspection at reasonable hours**.
>
> "(2) Such statements shall be made **available for copying or reproduction** after ten (10) working days from the time they are filed as required by law.
>
> xxx xxx xxx
>
> (4) Any statement filed under this Act shall be **available to the public** for a period of ten (10) years after receipt of the statement."

There is thus no basis to Corona's misleading claim that the law merely requires the completion and submission of SALN to the Clerk of Court of the Supreme Court.[58] He should have made sure that his SALNs were accessible to the public for inspection, copying and reproduction, particularly since, as Chief Justice, he has the responsibility of establishing compliance procedures for the SALN requirement.[59] Corona does not even claim that he has discharged his duty to disclose his SALNs and make them accessible to the public. Indeed, Mr. Harvey S. Keh, lead convenor of Kaya Natin! Movement for Good Governance and Ethical Leadership, earlier made a request for copies of Corona's latest SALN, but this request was ignored or refused without any reason.[60]

49. Corona cannot take refuge in internal Supreme Court guidelines[61] or issuances[62] where the Supreme Court supposedly imposed additional limitations on the public disclosure of the SALNs of its Members. The Supreme Court cannot amend or alter the law, as such power is vested only in the Congress.[63] Section 8 (D) of RA No. 6713 does provide that "it shall be unlawful for any person to obtain

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[58] Answer, page 32.

[59] Section 1 of Rule VIII, Implementing Rules and Regulations of RA No. 6713.

[60] See www.harveykeh.com.

[61] *Re: Request for Certified True Copies of the Sworn Statements of Assets, Liabilities, and Net Worth,* A.M. No. 92-9-851-RTC, 22 September 1992; *Re: Request of Jose Alejandrino,* Supreme Court *En Banc* Resolution dated 2 May 1989. See also "Media Backgrounder: Requests for Copies of Statements of Assets and Liabilities of Justices, Judges, and Court Personnel," http://sc.judiciary.gov.ph/news/courtnews%20flash/2006/04/04270601.php, 27 April 2006 (last accessed on 27 December 2011).

[62] *En Banc Resolution Re: Request of Jose Alejandrino*, 02 May 2009.

[63] See Section 1, Article VI of the 1987 Constitution.

or use any statement filed under this Act for: (a) any purpose contrary to morals or public policy; or (b) any commercial purpose other than by news and communications media or dissemination to the general public." But this limitation applies to the use by third persons of the SALN, and cannot be invoked as an excuse to withhold disclosure. In other words, Corona has no discretion whether to unilaterally refuse disclosure as the law itself is unequivocal that the same shall be made available to the public.

50. According to Corona, the Supreme Court guidelines limit access to the SALNs of Justices because of fear that they may be used as subject of a "fishing expedition," which allegedly may destroy their independence and objectivity.[64] This fear is illogical, because a "fishing expedition" can only refer to examination of *hidden* matters which a person wants to keep *hidden*. In the case of SALNs, the Constitution and the law precisely require them to be disclosed to the public and open to scrutiny. Such public scrutiny helps ensure accountability, transparency, and clean governance. Besides, it is puzzling why only Supreme Court Justices can invoke protection from a "fishing expedition," when the SALN disclosure requirement applies to other government officials as well.

51. Corona admits in his Answer that he, together with his wife, purchased a 300-square meter property in the Fort, Taguig City.[65] He, however, alleges that he "acquired his assets from legitimate sources of income, mostly from his professional toils,"[66] and that he had declared the said Taguig City property in his SALN.[67]

52. Again, Corona's allegation that he had declared the said property in his SALN is self-serving and unsupported by proof. There is nothing in the Answer, by way of attachment or otherwise, to establish that Corona indeed declared the said property in his SALN when he and his wife acquired it. This Impeachment

[64] Answer, pages 32 to 35.
[65] Answer, page 36.
[66] Answer, pages 35-36.
[67] Answer, page 36.

Court may also take notice that real property in the Fort, Taguig City is one of the most expensive in the country and that a 300-square meter piece would cost a huge fortune.

53. Unless Corona is able to show in his SALNs that he and his wife have legitimate means to purchase such a high-end real property, the presumption arises that what they purchased is ill-gotten. As Section 2 of RA No. 1379, the Forfeiture Law, provides:

> "Whenever any public officer or employee has acquired during his incumbency an amount of property which is manifestly out of proportion to his salary as such public officer or employee and to his other lawful income and the income from legitimately acquired property, said property shall be presumed *prima facie* to have been unlawfully acquired."

53.1 The complainants reserve the right to present evidence during trial on other expensive properties acquired by Corona and his family.

Article III

Lack of Competence, Integrity, Probity and Independence

54. In his Answer, Corona acknowledges that "lawyers and litigants often write the Supreme Court or the Chief Justice regarding their cases."[68] He asserts that no special treatment was accorded the letters written by Atty. Estelito Mendoza regarding the case of *FASAP vs. PAL*, and that the Supreme Court "uniformly treats all such letters as official communications that it must act on when warranted."[69]

55. That Corona sees nothing wrong with such practice speaks volumes about his unfitness to be a judge, more so to be a Chief Justice. The principle of impartiality in judicial conduct dictates that *ex parte* communications with any of

[68] Answer, page 37.
[69] Answer, page 37.

the litigant parties must be avoided.[70] It "prohibits private communications between the judge and any of the parties or their legal representatives, witnesses or jurors. If the court receives such a private communication, it is important that it ensure that the other parties concerned are fully and promptly informed and the court record noted accordingly."[71]

56. In the *FASAP* case, Corona and his fellow Justices who joined him, failed to adhere to the foregoing principle of impartiality as he acted upon the *ex parte* communications from Atty. Mendoza without even notifying FASAP of the same. In fact, records would show that FASAP was apprised of the existence of such letters only ***after*** the Supreme Court *En Banc* had already acted favorably on the concerns raised by Atty. Mendoza and issued its 4 October 2011 Resolution recalling its earlier decision on the case.

57. This blatant display of partiality and undue favoritism in favor of Atty. Mendoza is made more alarming when contrasted with the Supreme Court's earlier action on a letter that the FASAP members wrote to the Supreme Court to inquire about the status of their case. The High Court required FASAP to first furnish the opposing party with a copy of their letters before it would act on the inquiries.

58. In his Answer, Corona likewise alleges that he took no part in the FASAP case, having inhibited himself since 2008.[72] This allegation is belied by the evidence on record. The *En Banc* Resolution dated 4 October 2011 in A.M. No. 11-10-1-SC where the FASAP ruling was recalled, indicates the names of the Justices who took no part in said resolution and they are: *Carpio, Velasco, Jr., Leonardo-De Castro, Del Castillo and Brion*. The resolution did not contain any dissent.

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[70] See the Commentary on the Bangalore Principles of Judicial Conduct (United Nations Office on Drugs and Crime), drafted and approved during the Round-Table Meeting of Chief Justices from civil law countries (including the Philippines as represented by then Supreme Court Chief Justice Hilario Davide and assisted by Justice Reynato Puno) in The Hague, Netherlands (seat of the International Court of Justice) on 25 and 26 November 2002. [E/CN.4/2003/65]

[71] Id., Section 64.

[72] Answer, page 37.

Hence, the only conclusion that can be derived is that contrary to his assertions, Corona took an active part in the deliberations of the FASAP case and even voted in favor of recalling what should otherwise have been a final and executory decision of the Supreme Court.

59. Corona's involvement in the 4 October 2011 *En Banc* Resolution is further underscored by the fact that under Rule 11, Section 4 of the Internal Rules of the Supreme Court, extended resolutions are only released to the parties after the Chief Justice or the Division Chairperson gives his written approval. In this case, since the 4 October 2011 Resolution was issued by the Supreme Court *En Banc*, it was only Corona, sitting as Chief Justice, who could approve and order its release.

60. Corona likewise denies the charge of flip-flopping by the Supreme Court in the notorious case of *League of Cities vs. Comelec*.[73] He claims that this cannot be imputed to him, as he himself was consistent in his vote. But did he do anything, as the constitutional and moral leader of the Supreme Court, to prevent or even discourage the never-ending change in the purportedly final decisions of the Supreme Court?

61. Corona also submits that the changing decisions of the Supreme Court "can hardly be considered as flip-flopping of votes," citing a lengthy explanation of Justice Abad.[74] But, again, it is a fact that this "flip-flopping" has been widely criticized by many legal experts. Stripped to its core, the reality remains that the Supreme Court reversed/amended its supposedly final judgment several times. No amount of gobbledygook can change that.

62. Corona argues that there is no impropriety in the appointment of his wife to the John Hay Management Corporation (JHMC), a wholly-owned

[73] Answer, page 38.
[74] Answer, pages 38-39.

subsidiary of government-owned Bases Conversion Development Authority (BCDA).[75] The denial is general in nature and does not squarely address the specific allegations of impropriety in the Impeachment Complaint, which details the questionable circumstances under which Mrs. Corona occupied the post. These matters remain unrebutted and will be addressed during trial.

63. Corona admits having met with Dante Jimenez and Lauro Vizconde while the case involving the *Vizconde Massacre* was pending with the Supreme Court.[76] He sees nothing wrong with it and claims that his meeting was really with Mr. Jimenez, and Mr. Vizconde just tagged along.[77] Even assuming this to be true, the impropriety is still extremely disturbing. The meeting was unquestionably an *ex parte* communication with persons who were interested in a pending case, calling into question the impartiality and neutrality of Corona. It was public knowledge that Mr. Jimenez, as head of the Volunteers Against Crime and Corruption (VACC), was a vocal supporter of the prosecution in the Vizconde Massacre case, so it was highly improper for Corona to entertain him in a private meeting as the said case was then pending with the Supreme Court. The impropriety was compounded when Mr. Vizconde himself joined the meeting. "Etiquette and manners" cannot justify Corona's transgression of his more important duty to remain impartial and avoid all appearance of partiality. Corona could have politely declined a meeting with Mr. Jimenez and Mr. Vizconde, but he instead chose to meet with them and discuss the much-publicized and controversial case in which they were involved.

Article IV

[75] Answer, pages 40-41.
[76] Answer, page 42.
[77] Answer, page 42.

Disregard of Separation of Powers
In Ombudsman Gutierrez's Case

64. Corona cites the provisions of the *Internal Rules of the Supreme Court* in justifying the speedy issuance of the Status Quo Ante Order (SQAO) on the impeachment proceedings against former Ombudsman Merceditas Gutierrez.[78] But there is no escaping the fact that the SQAO was issued with inordinate, indecent haste. It was issued on 14 September 2011, a mere 24 hours from the filing of Gutierrez's Petition on 13 September 2011, over the objections of three justices (Carpio, Carpio-Morales and Sereno) and even before the Justices had received their own copies of the Petition.

65. Such overzealous attitude, in a case involving the former Ombudsman who was being impeached for also being a GMA coddler, indicates that Corona was yet again protecting GMA's interests, even if it meant disregarding and disrespecting a co-equal branch, the Legislature. Considering that a restraining order was being sought against a co-equal branch of the government, the very least that Corona should have done was to ensure transparency in its deliberation and avoid encroaching on the powers of the Legislature. Instead of being circumspect in wielding the powers of the Supreme Court against the Legislature, Corona acted like a judicial bully and posthaste muzzled the powers of a co-equal branch. In the process, Corona trampled upon the principle of separation of powers.

66. Corona argues that the principle of separation of powers is not absolute but is subject to judicial review. But this power of judicial review must be exercised responsibly and is itself not absolute. It cannot be exercised abusively and arrogantly, or used to frustrate the exercise by Legislature of its own constitutionally provided power, particularly in the political process of impeachment.

[78] Answer, pages 45-48.

Article V
Wanton Arbitrariness and Disregard of the Principle of *Res Judicata*

67. Corona engages in sophistry in denying any violation of the principle of *res judicata* or flip-flopping in the notorious cases of *League of Cities vs. Comelec, Navarro vs. Ermita* and *FASAP vs. PAL*.[79] Decisions in these cases had long attained finality and should not have been disturbed under the principle of immutability of final judgments. But the Supreme Court, under Corona's leadership, cleverly found ways to disturb them again and again. The cases were re-opened on the basis of mere letters from the parties. Entries of judgment were recalled. Votes of the Justices were taken anew.

68. These repeated reversals and alterations of supposedly immutable final judgments have undermined the stability of jurisprudence and destroyed the public's faith in judicial decisions. No longer can the public look to the Supreme Court for a final resolution of disputes and controversies, for any judgment, even if final, can still be revisited and reversed, at the whim and caprice of the Supreme Court. Being the head of the Supreme Court, Corona permitted or tolerated this anarchic state of affairs in the Supreme Court, instead of exerting efforts to prevent or at least discourage the same.

Article VI
Arrogation of the Authority to Investigate Supreme Court Members

69. In his Answer, Corona argues that he did not create the Supreme Court Ethics Committee and that such Committee did not arrogate unto itself the authority of the House of Representatives to impeach Supreme Court members.[80]

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[79] Answer, pages 50-56.
[80] Answer, page 57.

According to Corona, the findings of the Ethics Committee are merely recommendatory such that if the offense is impeachable, the Supreme Court will refer the same to the House of Representatives.[81]

70. In the case of *In re: Raul M. Gonzalez,*[82] the Supreme Court itself held that a Supreme Court Justice, while holding office, cannot be the subject of criminal or administrative investigation for offenses that would result in his removal from office. Because he is an impeachable officer, allowing such criminal or administrative proceedings against him would be a circumvention of the Constitutional provision that he can only be removed by impeachment. The Supreme Court held that "a fiscal or other prosecuting officer should forthwith and *motu proprio* dismiss any charges brought against a Member of this Court. *The remedy of a person with a legitimate grievance is to file impeachment proceedings.*"

71. By parity of reasoning, the Ethics Committee of the Supreme Court (chaired by Corona) cannot investigate one of its members because a Supreme Court Justice may only be removed through an impeachment proceeding. All complaints for misconduct (such as plagiarism) should be investigated in the House of Representatives as the institution that is constitutionally vested with the exclusive power to initiate all cases of impeachment. To allow the Supreme Court, through its Ethics Committee, to investigate complaints for the misconduct of its members will be a derogation of the exclusive authority vested in the House of Representatives.

72. In addition, it must be stressed that under the Constitution, the Supreme Court's power to discipline is specifically limited to "judges of lower courts" (Section 11, Article VIII). The Constitution has not expressly authorized the Supreme Court to discipline its own members. Corona claims that the power

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[81] Answer, page 59.
[82] A.M. No. 88-4-5433, April 15, 1988.

of the Supreme Court to discipline its members is not new, citing the cases of Justices Purisima, Vitug and Reyes. But the cases of Purisima and Vitug involved administrative bar matters, not properly pertaining to their functions as magistrates of the High Court. The case of Reyes, on the other hand, was decided after he had already left the Court and thus the administrative penalty of removal from office as in a case of impeachment was no longer possible.

73. In arrogating unto himself and the Ethics Committee the power to investigate a complaint against a Supreme Court Justice for potentially impeachable offense, Corona has shown a determination to preempt Congress and protect a co-Justice from impeachment by Congress. In so doing, Corona has betrayed the public trust and has again shown his disregard of the principle of accountability.

Article VII

TRO Allowing GMA and FG to Escape Prosecution

74. Corona's long history of partiality, dogged devotion, and subservience to GMA culminated in the hurried issuance of the TRO against the DOJ on 15 November 2011, which aided and abetted the attempt by GMA and FG to flee and escape prosecution and responsibility for the numerous charges against them. Using Corona's own metaphors, he and the Supreme Court, in a "*blitzkrieg* fashion," gave a free pass to the former First Couple so that they could escape "like a thief in the night." By any reckoning, this shameless act, which provoked tremendous public outrage, constitutes betrayal of the public trust of the highest order.

75. As earlier explained, aside from voting in favor of issuing the TRO for GMA and FG, Corona also wielded his considerable administrative powers as Chief Justice to facilitate and expedite the issuance and implementation of the said TRO.

76. Even when it was discovered that GMA and FG did not comply with the conditions for the TRO (particularly the second condition for the appointment of a legal representative to receive legal processes), Corona insisted that the TRO is effective and in force. In his Answer, Corona repeats his strange theory that "*the conditions were resolutory, and not suspensive … In other words, the TRO will remain executory (i.e., in force), but if the conditions were not fulfilled within five days, the TRO would be lifted*."[83] In simple terms, according to Corona, GMA and FG could immediately flee by virtue of the TRO, even though the conditions for the TRO were not met. If the conditions were still not met after five days, the TRO would be lifted, but by that time, GMA and FG would have already fled the country, beyond the reach of the Philippine justice system. The nation would be left holding an empty bag. By Corona's own arguments, he reveals his premeditated scheme to allow GMA and FG to immediately flee, never mind the conditions.

77. Justice Sereno's Dissenting Opinion promulgated on 13 December 2011, *which Corona tried to suppress*, has recently uncovered more anomalies in the issuance of the TRO. It appears that in its **18 November 2011** session, the Supreme Court *En Banc* voted to keep silent on the legal effect on the TRO of the non-compliance with the second condition. Despite Justice Carpio's proposal to recall the TRO due to non-compliance, the majority (7-6) voted to just keep silent because it was "common sense" and understood that the TRO was suspended pending compliance with the condition. Even before the Resolution was written, however, Corona caused his spokesman, Atty. Jose Midas Marquez, to tell the public that the TRO is in full force and effect and, as far as the Supreme Court is concerned, GMA and FG can leave the country immediately.

78. On **22 November 2011** (soon after the 18 November 2011 Resolution was released), Justice Carpio proposed, and the Court agreed, to clarify the same.

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[83] Answer, page 67.

While Justice Velasco (assigned to draft the clarification) and Justice Carpio were still discussing the tenor of the clarification, the Clerk of Court received instruction from Corona to immediately promulgate Corona's own version of the clarification. Surprisingly, Corona's version is to the effect that GMA and FG have complied with the conditions and that the TRO is in full force and effect. Justice Carpio, in a letter dated **24 November 2011**, requested that the promulgation of Corona's version be held in abeyance as it compounds the error of the 18 November 2011 Resolution.

79. On **29 November 2011**, the Supreme Court voted again on the non-compliance with the second condition. The 7-6 majority who previously voted to just keep silent on the matter, now revised its vote to categorically state that the TRO is not suspended despite non-compliance with the second condition. While the Resolution had not yet even been written, Atty. Marquez told the public that the Supreme Court had always considered the TRO to have not been suspended, and that this ruling was clarified by a 9-4 vote. The Resolution which later came out reflected the fact that the voting was 7-6, and **not** 9-4 as announced by Atty. Marquez. Needless to say, Atty. Marquez would not have acted on his own on these critical and highly sensitive matters. It can be safely presumed that he did so upon the instructions and authority of Corona, to whom he reports.

80. On **2 December 2011**, Justice Sereno submitted her Dissenting Opinion, but it was not promulgated or uploaded on the Supreme Court's website. The Clerk of Court later admitted that the real reason for the non-promulgation was the instruction of Justice Velasco, which instruction was affirmed by Corona himself. The Clerk of Court circulated a memorandum to the Justices to the effect that upon the instruction of Justice Velasco, the Dissenting Opinion of Justice Sereno would be taken up in the 6 December 2011 session.

81. On **6 December 2011**, Justice Sereno wrote to Corona asking for the legal basis of his instruction not to promulgate her Dissenting Opinion, and saying

that she viewed this move as prevention of her constitutional right/duty to explain the reason for her dissent. It appears that no reply has been received by Justice Sereno from Corona. Justice Sereno's Dissenting Opinion was eventually promulgated, but only on **13 December 2011**.

82. From the foregoing facts on record, it is evident that the issuance of the TRO, aside from being objectionable in itself, was also attended by serious irregularities. Corona instructed the Clerk of Court to promulgate a resolution that was not reflective of the voting, caused his spokesman to disseminate misinformation and inaccurate statements, and even went so far as to suppress the Dissenting Opinion of a fellow Justice. All of these were done in order to give the impression that the TRO was effective and in force even if not all the conditions therefor were not met. These developments are truly a fitting climax to Corona's incessant pattern of bending over backwards to accommodate, promote and protect GMA's interests and allow her to escape from accountability.

Article VIII

Refusal to Account for JDF and SAJ

83. Corona anchors his defense to the above charges on the Supreme Court's fiscal autonomy.[84] But while it may be correct that the Judiciary enjoys fiscal autonomy under the Constitution, such autonomy should not be used as a convenient shield or excuse for the lack of transparency, accountability and good governance.

84. The annual audit report of the Supreme Court speaks for itself. It contains the observation that unremitted funds to the Bureau of Treasury amounted to P5.38 Billion, and that funds amounting to P559.5 Million were

[84] Answer, page 70.

misstated, resulting from delayed and/or non-preparation of bank reconciliation statements and non-recording/uncorrected reconciling items.

85. Corona's answer to these charges consists merely in sweeping denials, without any shred of documentary proof to show religious compliance with his duty **to account** for every single centavo of the public funds entrusted to him.

86. Curiously, the date of submission of alleged reports on the status of the JDF ad SAJ collections, as stated in Corona's Answer,[85] is **12 December 2011,** the same day that the Impeachment Complaint was transmitted to the Senate. The timing cannot be a mere coincidence, but rather a clear indication of belated filing by the Office of the Chief Justice in a desperate bid to fend off the public's cry for accountability.

Conclusion

87. Power without accountability is anathema to the Constitution. Accountability is so crucial to democracy such that the Constitution has devoted an entire article to "*Accountability of Public Officers*" (Article XI), and has devised the impeachment mechanism as a way to hold high officers accountable to the sovereign people.

88. Corona is not immune from accountability. For all his self-serving, grandiose and arrogant claims, his impeachment is not an attack on the independence of the Judiciary, or the rule of law, or the system of checks and balances. Corona's impeachment is purely a response to the people's clamor to hold him accountable for his sins and offenses, and purge the Highest Court of a morally unfit officer who has betrayed their trust.

[85] Answer, page 7.

PRAYER

WHEREFORE, premises considered, it is respectfully prayed that the Honorable Impeachment Court:

(a) DENY Corona's prayer for the dismissal of the complaint;

(b) PROCEED TO TRIAL forthwith; and thereafter,

(c) RENDER A JUDGMENT OF CONVICTION against Respondent Chief Justice Renato C. Corona.

Other reliefs, just and equitable, are likewise prayed for.

Quezon City, Metro Manila, December 30, 2011.

THE HOUSE OF REPRESENTATIVES
Republic of the Philippines

By:

HOUSE OF REPRESENTATIVES PROSECUTORS

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etc.

Copy Furnished (By Personal Service):

Atty. _____ et al.
Counsel for Respondent Chief Justice Renato Corona
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