

1 Benjamin L. Ratliff, Esq. Bar No. 113708

2 THE LAW FIRM OF
3 WEAKLEY, RATLIFF,
4 ARENDT & McGUIRE, LLP
1630 East Shaw Avenue, Suite 176
Fresno, California 93710

5 Telephone: (559) 221-5256
6 Facsimile: (559) 221-5262

7 Attorneys for Defendant, TOMMY JONES

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 IN AND FOR THE COUNTY OF MERCED

11 EUGENE E. FORTE,
12 Plaintiff

13 v.

14 TOMMY JONES, an individual, and does 1-
100, et al,

15 Defendants.

) CASE NO. 150880

) **DECLARATION OF BENJAMIN L.
RATLIFF IN SUPPORT OF RESPONSE
TO PLAINTIFF'S MOTION TO QUASH
SUBPOENA**

) **DATE: October 10, 2008
TIME: 8:15 a.m.
DEPT.: 4**

) Complaint Filed: December 18, 2007

19 _____
20 I, Benjamin L. Ratliff, declare as follows:

21 1. I am a partner with the Law Firm of Weakley, Ratliff, Arendt & McGuire,
22 counsel for defendant TOMMY JONES (hereinafter "JONES") in the above-captioned action. I
23 am licensed to practice before the courts of the State of California. I have personal knowledge
24 of the matters set forth herein, except those matters stated on information and belief, and would
25 so testify.

26 2. On December 18, 2007, Plaintiff filed a complaint with the Superior Court of
27 California, County of Merced for defamation. The original complaint alleged a single cause of
28 action for Defamation. A First Amended Complaint was filed on or about September 16, 2008

1 alleging additional causes of action.

2 3. Attached hereto as Exhibit "A" is a true and correct copy of Plaintiff's responses
3 to form interrogatories. In response to form interrogatory 6.2 through 6.7 plaintiff represented that
4 another incident occurred after the filing of the original complaint between he and defendant during
5 a Los Banos City Council meeting which occurred on May 7, 2008. Plaintiff claimed that he
6 became ill due to the incident and had to be treated at Los Banos Community Hospital between May
7 7, 2008 and May 8, 2008 at a cost of \$5,500.00. The responses further represented that the
8 emergency attending physician advised plaintiff that he should follow up with a cardiologist.
9 Plaintiff's response to form interrogatory 8.8 asserted that plaintiff would lose income in the future
10 due to the mental anguish and stress.

11 4. Thereafter, on or about August 20, 2008 defendant caused a subpoena to be issued
12 to Los Banos Memorial Hospital requesting plaintiff's medical records. On August 25, 2008
13 counsel for defendant received a letter from plaintiff requesting that defendant limit the scope of
14 the subpoena. See Exhibits 1 and 2 attached to the Declaration of Eugene Forte (*Forte Decl.*) filed
15 in support of the Motion to Quash.

16 5. On August 27, 2008 counsel for defendant responded to plaintiff's request offering
17 to stipulate that any medical records prior to plaintiff's 21st birthday were irrelevant and would not
18 be used or offered at any proceeding. Plaintiff responded the same day by facsimile stating that he
19 would not stipulate to limit the subpoena as requested by defense counsel. Instead, plaintiff offered
20 to stipulate that defendant could obtain all his records from birth if defendant produces all his
21 medical records evidencing any treatments for drug and alcohol abuse or attendance at AA
22 meetings. No further efforts were made by plaintiff to resolve this matter prior to filing the subject
23 Motion To Quash on or about September 5, 2008. See Forte Decl. Exhibit 4.

24 6. Plaintiff was aware that counsel for defendant was in trial in Kings County . See
25 Exhibit "B" attached hereto. After completing the trial counsel for defendant reviewed plaintiff's
26 motion and called plaintiff on September 23, 2008. Counsel for defendant offered to limit the
27 subpoena to the records related to plaintiff's treatment on May 7, 2008 and May 8, 2008. On
28 September 24, 2008 plaintiff responded and refused any further efforts to resolve this issue. A true

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and correct copy of the letter from plaintiff is attached hereto as Exhibit "C".

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed on September 26, 2008 at Fresno, California.

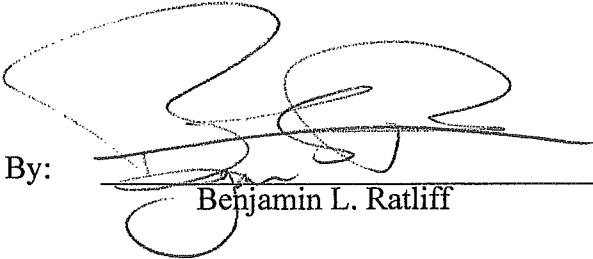
By: 
Benjamin L. Ratliff

EXHIBIT "A"

File

1 Eugene Forte
688 Birch Court
2 Los Banos, California 93635
Telephone: (209) 829-1116
3 Facsimile: (209) 829-1952

4 IN PROPRIA PERSONA

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

8

IN AND FOR THE COUNTY OF MERCED

9

10 EUGENE FORTE,

Case No. 150880

11 Plaintiff,

**ANSWER TO FORM
INTERROGATORIES GENERAL;
VERIFICATION**

12

vs.

13

14 TOMMY JONES, an individual, and DOES

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Defendants.

**Date: June 10, 2008
Time: 9:45am
Courtroom: 1202**

17

18 **PROPOUNDING PARTY: Defendant, Tommy Jones, an individual**

19 **RESPONDING PARTY: Plaintiff, Eugene Forte, an individual**

20 **REQUEST NUMBER: One**

21 **DATE DUE: June 9, 2008**

22 The following are answers to the form interrogatories served on May 5, 2008:

23 1. Eugene Forte, 688 Birch Court, Los Banos, CA, 93635, (209) 829-1116.

24 2.1 Eugene Forte

25 2.2 February 26, 1952, Los Banos, CA.

26 2.3 Yes. CA. S0876433. Issued. 2/26/06.

27 2.5a 688 Birch Court, Los Banos, CA, 93635 - 9/1/06 - present

28 1631 Fir Ave, Los Banos, Ca 93635 - 4/1/05 - 8/31/06

- 1 27438 Vista del Toro, Salinas, CA, 93908 - 6/03 - 3/31/05
- 2 2.6 Self-employed from home office for the last five years.
- 3 2.7 Los Banos High School, 1717 S 11th, Los Banos, CA 93635
- 4 High School Diploma. 1966 - 1970
- 5 Northern Arizona University. 1970 - 1972. No degree.
- 6 2.8 No.
- 7 2.9 Yes.
- 8 2.10 Yes.
- 9 2.11 No.
- 10 2.12 No.
- 11 2.13 No.
- 12 3.0 No.
- 13 3.2 No.
- 14 3.3 No.
- 15 3.4 No.
- 16 3.5 No.
- 17 3.6 No.
- 18 3.7 No.
- 19 4.1 No.
- 20 4.2 No.
- 21 6.1 Yes.
- 22 6.2 Mental anguish, hurt feelings, stress resulting in high blood pressure.
- 23 6.3 Yes. Stress and high blood pressure related to and caused by Jones' continuance of his
- 24 defamatory actions, i.e., when Jones cut my right to speak short and has the Chief of
- 25 Police roughly and physically push me out of the public hearing room and threaten to
- 26 arrest me after he is already out of the room, when Jones publicly states that I am
- 27 "lynching" him with words because he's black, when I am verbally attacked and
- 28 threatened anonymously on public forums by Jones' supporters, anytime I must explain

- 1 myself to his friends, family, and the general public to try and dispell any belief that I am
2 prejudiced.
- 3 6.4 I went to the emergency room on May 7th, 2008 City Council meeting when Mayor Jones
4 deprived me of my right to speak and had me physically pushed out the door as the full
5 room crowd jeered. I felt sick so I went to the emergency room at Los Banos Community
6 Hospital where I had high blood pressure of approximately 170 over 110 at 2:30am on
7 May 8, 2008 and was kept there until approximately 9:00am. I was charged
8 approximately \$5,600 for the treatment.
- 9 6.5 Atavan to calm me down and various other medications to lower my blood pressure was
10 prescribed by the attending physician. I stopped taking Atavan after ten days.
- 11 6.6 No.
- 12 6.7 The emergency attending physician advised that I should follow up with a cardiologist.
- 13 7.1 No.
- 14 7.2 No.
- 15 7.3 No.
- 16 8.1 Yes.
- 17 8.2 Writer. Executive recruiter.
- 18 8.3-8.7 Not applicable, I am self employed.
- 19 8.8 I believe I will lose income in the future due to the mental anguish and stress as a result of
20 the incident, that I have not been able to do my normal business and have and will lose
21 income in the future in an amount to be determined at trial.
- 22 9.1 Unknown at this time.
- 23 9.2 Unknown at this time.
- 24 10.1 On September 1st of 2004, I had open heart double bypass surgery. Dr Dox at the
25 Cardiology Department of Salinas Valley Medical Hospital, 450 E. Romie Lane, Salinas,
26 CA 93901.
- 27 10.2 None
- 28 10.3 No.

1 11.1 Forte v. O'Farrell, Monterey Superior Court Case No. M72599, filed in pro per, action
2 dismissed based on judicial immunity, lawsuit alleged emotional distress caused by false
3 arrest, battery, and imprisonment by Judge Robert O'Farrell of the Monterey Superior
4 Court, 1200 Aguajito road, Monterey, CA, 93940, on December 19, 2003. Forte v.
5 Knight Ridder et al, 9th District Federal Court Case No. C06-03948, filed in pro per
6 alleging violation of civil rights via a conspiracy to defame in Monterey County in
7 December of 2005, see attached Exhibit 1 for list of defendants and addresses. Action
8 dismissed based on judicial immunity for judicial defendants, quasi-judicial immunity for
9 public defendants, and lack of jurisdiction for media defendants. Currently in appeal at
10 the 9th Circuit court of appeals.

11 11.2 No.

12 12.1 Clinton Galloway, 4139 Via Marina, #801, Marina del Rey, CA 93902 (310) 823-2329
13 Jordan Forte (minor son), 688 Birch Court, Los Banos, Ca 93635 (209) 829-1116
14 City Council members Mr. Faria, Mr. Sousa, Ms. Brooks, Mr. Villalta, Merced County
15 Supervisor Jerry O'Banion and his wife Dolly O'Banion.

16 12.2 No.

17 12.3 Yes. I obtained a declaration from Clinton Galloway, information given above in 12.1 on
18 or about May 7, 2007, which was faxed to me.

19 12.4 No.

20 12.5 No.

21 12.6 No.

22 12.7 No.

23 13.1 No.


24 13.2 No.

25 14.1 I don't know.

26 14.2 No.

27 Date: June 4, 2008

28


Eugene Forte, In Propria Persona

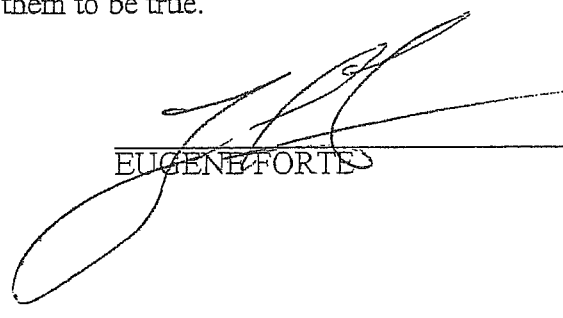
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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF MONTEREY

I, **EUGENE FORTE**, am a plaintiff in this action. I have read the foregoing ANSWER TO FORM INTERROGATORIES and know the contents therein. The matters stated in the foregoing document are true of my own knowledge except as to those matters which are stated on information and belief, and as to those matters I believe them to be true.

Date: June 4, 2008



EUGENE FORTE

COPY

THE LAW FIRM OF
WEAKLEY, RATLIFF, ARENDT & MCGUIRE, LLP

JAMES D. WEAKLEY
BENJAMIN L. RATLIFF
JAMES J. ARENDT
ROSEMARY T. MCGUIRE
LESLIE M. DILLAHUNTY
MICHAEL R. LINDEN
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1630 East Shaw Avenue, Suite 176
Fresno, California 93710
Telephone (559) 221-5256
Facsimile (559) 221-5262
E-mail: ben@wrlaw.com

September 5, 2008

Via Facsimile and Mail
(209) 829-1952

Mr. Eugene Forte
688 Birch Court
Los Banos, California 93635

Re: Eugene Forte v. Tommy Jones, et al.
Merced Superior Court Case No: 150880

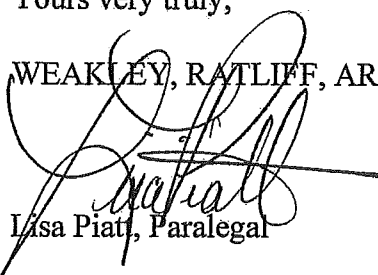
Dear Mr. Forte:

In response to your facsimile dated September 4, 2008, Mr. Ratliff is currently in trial, and has been since September 2, 2008, in the matter of *Valdivia v. Del Monte, et al.*, Case No. 06 C 0134, venued in Kings County Superior Court located in Hanford, California. The trial is being heard before Judge DeSantos in Department No. 1.

With regard to available dates for depositions in October of 2008, Mr. Ratliff is available the weeks of October 13 and 20, 2008.

Yours very truly,

WEAKLEY, RATLIFF, ARENDT & MCGUIRE, LLP



Lisa Piat, Paralegal

:lp

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8

EXHIBIT "C"

Badger Flats Gazette

688 Birch Court, Los Banos, California, 93635

Phone: (209) 829-1116 Fax: (209) 829-1952

To: Mr. Benjamin Ratliff **From:** Mr. Gene Forte

Fax: 559-221-5262 **Fax:** 209-829-1952

Phone: 559-221-5256 **Phone:** 209-829-1116

Date: 9/24/2008 **Pages:** 1 (Including Cover Sheet)

Subject: Forte v. Jones

Notes: Your recent phone message informed me that after your reading my Motion for Protective Order to quash your subpoena of my medical records you would now agree to limit your subpoena as I had originally proposed in a failed meet and confer of August 25th, 2008.

You intentionally caused me aggravation, undue work and expense by refusing to stipulate to my reasonable request until well after my time and expenses were incurred.. It is too late the harm has already been done.

It is time now to take this matter before the court so that it may assess your actions which certainly seem to be a concerted effort to devour my time and give the false impression that I am being uncooperative or wasting judicial resources by having to proceed with such protective order.

I request that you inform me if you, or anyone from your law offices, have been in contact with any attorneys from the Levy, Ram and Olson Law Firm, the Law Firm of Hayes Davis Bonino Ellingson McLay & Scott or with Deputy AG Paul T. Hammerness.

If I have not received a response from you by 1:00PM September 25th, 2008, I will be making a special motion to the court to have addressed what I believe is a concerted efforts by you and other opposing counsel to gain an unfair advantage over me in my litigations and asking for substantial sanctions if such is so.

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PROOF OF SERVICE

I, the undersigned, hereby certify that I am employed in the County of Fresno, State of California, over the age of eighteen years and not a party to the within action; my business address is 1630 East Shaw Avenue, Suite 176, Fresno, California 93710.

On the date set forth below, I placed in a sealed envelope and served a true copy of the within

**DECLARATION OF BENJAMIN L. RATLIFF IN SUPPORT OF
RESPONSE TO PLAINTIFF'S MOTION TO QUASH SUBPOENA**

addressed as follows:

Mr. Eugene Forte
688 Birch Court
Los Banos, California 93635
(209) 829-1116
Plaintiff In Pro Per

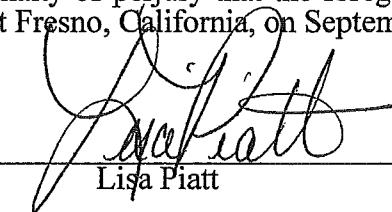
BY MAIL I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited in the ordinary course of business.

I caused each envelope, with postage fully prepaid, to be placed in the United States mail, at Fresno, California.

BY HAND I hand delivered each envelope to the office listed above.

BY FACSIMILE I served the above-mentioned document from Facsimile Machine No.: (559) 221-5262 to the interested parties at the facsimile numbers listed above.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made. I declare under penalty of perjury that the foregoing is true and correct, and that this proof of service was executed at Fresno, California, on September 26, 2008.



Lisa Piatt