

10/2

Forte

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

6 In Propria Persona /Plaintiff

7 SUPERIOR COURT OF CALIFORNIA
 8 COUNTY OF MERCED

9 EUGENE FORTE

Case No. CU150880

10 Plaintiff,

11 vs.

12 TOMMY JONES, et al.

**REPLY BRIEF IN SUPPORT OF
 MOTION FOR PROTECTIVE
 ORDER RESTRICTING
 DISCOVERY RE JORDAN
 FORTE; MEMORANDUM OF
 POINTS & AUTHORITIES;
 DECLARATION OF EUGENE
 FORTE IN SUPPORT THEREOF**

13 Defendants.

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

14 PREFACE

15 At the time of filing the Motion for Protective Order, in pro per plaintiff had not yet been
 16 submitted to the egregious conduct of Defendant Jones' counsel Ratliff in deposition. Plaintiff
 17 Forte ("Forte") submits that he has witnessed many attorneys' bad conduct, but Ratliff takes the
 18 cheese as being the worst. Ratliff attempted to ask questions such as, "Are you and your brother
 19 close?", "Do you love your brother?" Forte submits that he has no doubt that Ratliff thinks, or at

1 least is trying to convince himself, that he is dealing with someone that is hated by the court and
2 public officials at large, and Ratliff has ascribed to the attitude of Defendant Jones ("Jones") as
3 stated in his deposition that Forte is of no value as a person.

4 No doubt, Ratliff thinks he is going to ask questions such as, "Have you and your father
5 ever talked about Jones at the dinner table?", "Do you love your father?", "Would you lie for your
6 father?", etc.. Forte is going to protect his family's right to home privacy.

7 Jones' unbridled hatred of Forte oozes out like putrid puss on nearly every page of his
8 deposition, and Forte shudders to think what kind of trash mouth talk Jones has spread about him.
9 The video of the Jones' deposition is appalling. It shows what utter disregard Jones has for the
10 inalienable rights of Forte, and how Jones thinks he can simply lie at every juncture under penalty
11 of perjury with no consequence.

12 Perhaps something just as revolting is that Ratliff, an officer of the court, is sitting right next
13 to Jones, condoning bad deposition conduct and propagating it.

14 Forte will do what it takes to stop such conduct, and prevent the abuse of his son by Ratliff.

16 MEMORANDUM OF POINTS AND AUTHORITIES

17 I. Argument

18 In reply to Jones' opposition to this motion, Forte submits that Jones' counsel, Ratliff,
19 misrepresents the facts.

20 Ratliff states, "On August 25, 2008, Plaintiff sent a letter to counsel for defendant stating
21 that he had no objection to the deposition of Jordan Forte being taken." P. 2:2, Dft's Opp. Forte
22 actually stated, "I have no problem in producing Mr. Jordan Forte for deposition *provided there are*
23 *reasonable questions asked*. The second you in any way attempt to badger Master Forte, I will call
24 an end to the deposition and seek an order from the court...." [emphasis added].

1 Forte has no doubt, based upon Mr. Ratliff's attitude (perceived by Forte to be of a
2 particularly vicious and unprofessional nature) in both his deposition of Forte himself and in Jones'
3 deposition, that Mr. Ratliff will not feel bound by the rules of professional conduct. Ratliff
4 continually banter that Forte is not an attorney, and from Ratliff's actions, it appears that since
5 Forte is not an attorney, Forte is not to be afforded professional courtesy. (See Forte's Declaration).
6 Forte reiterates his request for an order limiting the deposition to the topic of Mr. Jordan Forte's
7 declaration.

8 In addition, even though Mr. Ratliff offered through the meet and confer of September 22,
9 2008, to depose Jordan Forte on a Saturday, he did not agree to any limitation of the questions he
10 would ask Jordan, allowing him to ask questions of a personal nature which would invade Forte and
11 his son's right to family privacy. Forte's declaration, #26, states, "It is my belief that Ratliff intends
12 to disrupt the harmonious relationship between myself and my son." In other words, Forte is saying
13 he did not want the private family relationship with his son, and Forte and his son's right to home
14 privacy violated.

15 In response to Mr. Ratliff's opposition stating that "Stress at the thought of being deposed
16 does not establish good cause," (p.4:6) it is not the "normal" stress of a deponent. Plaintiff submits
17 that Jordan's stress by the possibility of having to answer private, personal questions regarding his
18 father and family which would invade his privacy is beyond the "normal" stress of a deponent to
19 the point of oppression.

20 Defendants' ridiculous claim that Forte has no standing to bring this motion is unfounded.
21 Forte is a party to this lawsuit and in pro per. Forte has every right to bring the motion not only on
22 his own behalf to enforce his rights to privacy as to what his son Jordan says or does not say which
23 could possibly invade the privacy of Forte's home. It also appears that Ratliff thinks that if an
24 American is not a card carrying member of the bar, they have no right to protect the interests of

1 their children. Perhaps Ratliff would like to turn this into a Federal case. This matter does not deal
2 with an abortion issue, child abuse, or battle over custody of Jordan.

3 It really hinges upon the obligation of a father who is the legal representative of his minor in
4 all aspects of his life outside of a deposition, who also happens to be in pro per plaintiff in a lawsuit
5 that his son has been subpoenaed to give testimony in. There are a myriad of reasons as to why
6 Forte should make every effort both as a father and an in pro per plaintiff to protect not only his
7 interests but the interests of his son.

8 By requiring Jordan to potentially reveal his innermost thoughts, conversations and facts
9 relating to the personal and intimate lives of his family invades the privacy of mind of his parents,
10 including Forte as his father and his mother, a non-party, and Jordan himself.

11 The California Constitution Article I states:

12 Section 1. All people are by nature free and independent and have inalienable rights.
13 Among these are enjoying and defending life and liberty, acquiring, possessing, and
14 protecting property, and pursuing and obtaining safety, happiness, and *privacy*.
[emphasis added].

15 16B C.J.S. Constitutional Law § 1017 states:

16 The home and the family are generally two protected zones of privacy. Thus,
17 there is a private realm of family life which the government cannot enter, and, in
18 some jurisdictions, privacy in the home is deemed a basic or fundamental right.

19 The Constitution of the United States and its Amendments I, IX, and XIII protect Forte's
20 right to family privacy: Protection of family unit constitutionally guaranteed, Custody of Minor,
21 377 Mass. 876, 389 N.E.2d 68 (1979), Protection of integrity of family, Adams v. Tessener, 354
22 N.C. 57, 550 S.E.2d 499 (2001), Freedom of children and parents to relate to one another in context
23 of family protected, In re Interest of Clifford M., 261 Neb. 862, 626 N.W.2d 549 (2001), Statutes
24

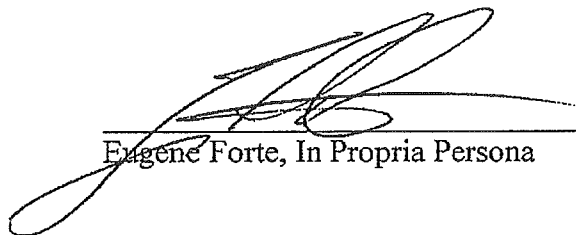
1 affecting right to family autonomy and privacy strictly scrutinized, Glidden v. Conley, 175 Vt. 111,
2 820 A.2d 197 (2003).

3 It was determined in the case, Citizens for Parental Rights v. San Mateo County Bd. of
4 Education, 51 Cal.App.3d 1, 124, that:

5 “ Privacy was added as an inalienable right by a specific amendment by the voters of this
6 state in November 1972 and construed for the first time by our Supreme Court in White v. Davis
7 (1975) 13 Cal.3d 757, 120 Cal.Rptr. 94, 533 P.2d 222. Article I, section 4: ‘The free exercise and
8 enjoyment of religious profession and worship, without discrimination of preference, shall forever
9 be guaranteed in this State; and no person shall be rendered incompetent to be a witness or juror on
10 account of his opinions on matters of religious belief; but the liberty of conscience hereby secured
11 shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with
12 the peace or safety of this State.’” Similarly, Forte submits that allowing Ratliff to inquire into
13 areas that would violate Jordan and Forte’s family right to privacy would be “inconsistent with the
14 peace or safety of this State” and violative of the Constitution.

15 Plaintiff Forte requests that this court limit the deposition to the topic of Jordan’s
16 declaration, that the deposition be held on a Saturday for no more than an hour and a half, and that
17 defendants be ordered to pay sanctions to plaintiff in the amount of \$126.00.

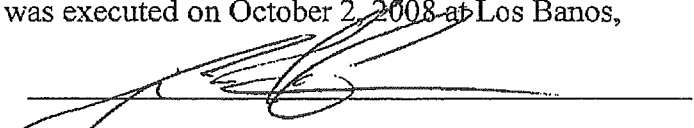
18
19 Dated: October 2, 2008


Eugene Forte, In Propria Persona

20
21
22
23
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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 October 2, 2008 at Los Banos, California.



Eugene Forte, In Propria Persona

Exhibit "1"

Badger Flats Gazette

Monday, September 22nd, 2008

Mr. Benjamin Ratliff
Weakley Ratliff Arendt & McGuire LLP
1630 East Shaw Avenue, Suite #176
Fresno, CA 93710

FAXED ONLY

Re: #150880//Jordan Forte Deposition

Dear Mr. Ratliff:

I write this letter as a response to your letter of September 22nd, 2008 concerning your taking the deposition of my son, Master Jordan Forte.

It should take you no longer than 15 minutes to assess the credibility of my son especially when you have been exposed to the polar opposite of honesty by having sat through a deposition of your client Tommy Jones for two days. It is quite evident that you intend to go far afield from asking questions pertaining to what Master Jordan witnessed on May 5th, 2007 which were commemorated in his declaration.

With that said, I would agree to take my protective order off calendar under the following conditions:

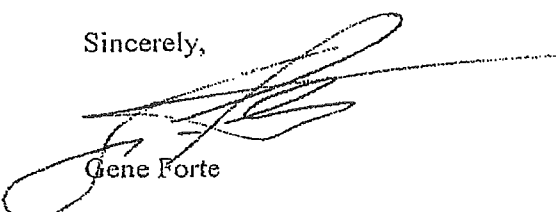
1. The deposition would be taken only on a Saturday with Tommy Jones' insurance company burdening the full expense. I will not pay for any added expense of a weekend deposition. Your proffering that your client is burdening any expense out of his own pocket is utter clap-trap.
2. The questions would be strictly limited to the events Master Jordan witnessed on May 5th, 2007 and the content of his declaration.
3. The deposition would be limited to a maximum of 1 ½ hours¹.
4. I would waive service of a deposition subpoena provided that we agree in advance what Saturday Master Jordan would be made available for his deposition.

If you agree to the above conditions, please let me know. If not, the Motion for Protective Order will not be removed from calendar.

On another matter, your office was to provide to the court clerk a letter confirming that the next case management conference was to be scheduled in either January or February 2009 as requested by Judge Hanson. I have not received any correspondence in regards to such. Please inform me of the status.

Thank you.

Sincerely,



Gene Forte

¹ If it varied by 10-15 minutes Master Jordan would not walk out of the deposition.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF MERCED)

I, the undersigned, declare that I am employed in the County of Merced, State of California; I am over the age of 18 years and not a party to the within action; my business address is 688 Birch Court, Los Banos, CA, 93635.

On October 2, 2008, I served the following document:

REPLY BRIEF IN SUPPORT OF MOTION FOR PROTECTIVE ORDER RESTRICTING DISCOVERY RE JORDAN FORTE; MEMORANDUM OF POINTS & AUTHORITIES; DECLARATION OF EUGENE FORTE IN SUPPORT THEREOF

 x facsimile machine pursuant to Rule 2008. Said document was sent to the below listed party(ies). The fax number I used was: (209) 829-1952. The facsimile machine I used complied with Rule 2004, and no error was reported by the machine. Pursuant to Rule 2006(d), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

 x depositing the sealed envelope(s) with the United States Postal Service with postage fully prepaid, addressed as follows:

*Mr. Benjamin L. Ratliff, Esq.
The Law Firm of Weakley, Ratliff, Arendt, &
McGuire, LLP
1630 East Shaw Avenue, Suite 176
Fresno, CA 93710
(559) 221-5256 phone
(559) 221-5262 fax*

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 October 2, 2008 at Los Banos, California.

Eileen Forte
Eileen Forte