

1 Gene Forte
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4 In Propria Persona

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6
7 SUPERIOR COURT OF CALIFORNIA

8 COUNTY OF MERCED

9 EUGENE FORTE

Case No. CU150880

10
11 Plaintiff,

12 vs.

**VERIFIED CHALLENGE FOR CAUSE
AGAINST JUDGE WILLIAM A.
MAYHEW (CCP § 170.3);
MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT
THEREOF**

13 TOMMY JONES, et al.

14
15 Defendants.

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17
18 TO THE HONORABLE WILLIAM MAYHEW AND INTERESTED PARTIES: CHIEF
19 JUSTICE RONALD GEORGE, U.S. FEDERAL JUDGE MARILYN MORGAN, CALIFORNIA
20 ATTORNEY GENERAL JERRY BROWN, CALIFORNIA HIGHWAY PATROL DIGNITARY
21 PROTECTION SERVICE AGENTS SCOTT MILLSPAUGH AND MARK MANIORD, MR.
22 BRAD CAMPEBELL, MR. PAUL HAMMERNESS, MS. ERICA CRAVEN FOR MEDIA
23 DEFENDANTS MCCLATCHY NEWSPAPERS, ET AL, MERCED SUPERIOR COURT JUDGE
24 JOHN KIRIHARA, MERCED COUNTY DISTRICT ATTORNEY LARRY MORSE, MERCED

1 COUNTY COUNSEL JAMES FINCHER, AND TO THE CLERK OF THE MERCED COUNTY
2 SUPERIOR COURT:

3 Plaintiff EUGENE FORTE hereby respectfully submits this Verified Statement requesting
4 that the Honorable William Mayhew recuse himself from any hearing which involves a contested
5 issue of law or fact or, alternatively, that another judge considers Forte's request and order the
6 disqualification of Judge Mayhew.

7 INTRODUCTION

8 The "*Foreword Done Backwards*" of the most recent edition of The Badger Flats Gazette
9 entitled "*Legend of the Lunging Badger*" opened with the ponderous question of *Where does*
10 *Plaintiff Begin* to explain his arrest by Merced County Sheriff's Department ostensibly for
11 disrupting the Case Management Conference in the case of *Tetra Tech vs. Santos* and cross
complaint *Forte vs. Merced County District Attorney's Office?*

12 Plaintiff will "lunge" forward and assert there could be no case management conference in
13 the case held by a pro tem judge of the disqualified Merced County Bench that the Honorable Judge
14 Mayhew is presiding over now in Stanislaus County.

15 The double felony arrest in the case before Judge Mayhew topped plaintiff's previous arrest
16 and jailing by the Honorable Judge Robert O'Farrell for contempt in his courtroom on December
17 19th, 2003. The momentous event (important to the public), with no pun intended, was heralded by
18 Knight Ridder/McClatchy Newspapers' The Monterey County Herald on December 20th, 2003 in
19 the article, "Recall Candidate jailed for contempt"¹. The Herald did not think it important to get
20 Forte's side of the story. In August 2004 Forte won a Sixth Appellate appeal reversing the decision
21 of Judge O'Farrell dismissing Forte's lawsuit against attorney Mr. Larry Lichtenegger. The appeal
22 went into detail with supporting documentation as to how Judge Robert O'Farrell, Judge Terrance
Duncan, Judge Richard Silver, Larry Lichtenegger, Ms Stefani Crabb, Alain Pinel Realtors and

23 ¹ The report was authored behind the scenes by Mr. Royal Calkins infamous journalist in the landmark case of
24 McClatchy Newspapers where the court found that even if a reporter helps to suborn perjury in a deposition he
cannot be held liable for reprinting the lie he had concocted with the deponent.

1 opposing counsels James Cook and Dennis McCarthy obstructed justice in the case of Forte vs.
2 Powell. Judge O'Farrell had received Forte's Appellate Opening Brief about a week prior to
3 O'Farrell taking the case of Forte vs. Albov on the morning of December 19th, 2003 from Judge
4 Michael Fields whom O'Farrell said had disqualified himself. Court records show that Fields had
5 not disqualified himself.

6 The day after Forte won the appeal he suffered a heart attack in the courtroom of Judge
7 Adrienne Grover in the case of Forte v. Albov while he was trying to have the ruling of Judge
8 O'Farrell for contempt re-heard. The Herald did not think it was important for the public to know
9 that Forte's winning appellate Reply Brief filed in February 2004 was able then to include evidence
10 of O'Farrell acting as judge, juror and executioner on December 19th, 2003.

11 If the court doesn't smell the stench of the Monterey Bay bench something rotten stinking in
12 Monterey Bay, it means that no matter if plaintiff was to take 30,000 words to tell more, it wouldn't
13 get the court to stop holding its nose.

14 But, to make sure the court has a big whiff of the stench, plaintiff will continue a bit more.
15 In December 2004, while still on doctor ordered medical rest from a double by-pass heart operation
16 plaintiff filed the lawsuit of M72599, Forte vs. O'Farrell. During the litigation, O'Farrell was
17 represented by then Attorney General William Lockyer and a unscrupulous pudgy, purple
18 Telletubbie of his, Mr. Paul Hammerness. After O'Farrell, believe it or not², refused to disqualify
19 himself from being the judge assigned the case, Lockyer filed a Motion to Declare Plaintiff a
20 Vexatious Litigant in his individual capacity on behalf of himself, Arnold Schwarzenegger and
21 ostensibly Chief Justice Ronald George. The motion was not filed on the behalf defendant
22 O'Farrell, HOWEVER, the motion requested that if plaintiff was declared a vexatious litigant and
23 was not able to come up with a \$15,000.00 security deposit, the case of Forte vs. O'Farrell would
24 be dismissed.

² See CCP 170.3 Challenge for Cause against Judge Robert O'Farrell in file and letter suggesting recusal.
Forte v. Jones, Case No. CU150880

1 Forte defeated the motion on June 30th, 2005, and the Honorable Judge John Golden said
2 that the motion was not made by parties with legal standing to do so. Again, the Monterey Herald
3 was notified and sent copies of the orders and was prodded by Forte to let the public know to give
4 balance to his battle with O'Farrell as required of a newspapers to do once they report upon a
5 matter. Not a word was printed about the vexatious litigant motion until December 4th, 2005.

6 The Herald reported in the article "County judiciary under fire" that Forte had been declared
7 a vexatious litigant, was jailed by O'Farrell, said that plaintiff was mentally unstable by O'Farrell,
8 and a list of other unsavory things. What the Herald didn't let the public know was that the
9 supposed vexatious litigant also had reversed a decision of O'Farrell with an appeal that said
10 O'Farrell had fixed court cases. The Herald posted a correction and said their mistake was due to
11 an error in court records. Don't even get plaintiff started on revealing what horse crap that story is
12 concocted between the partners in crime, the Herald, the boys at the Monterey Superior Court, and
District Attorney Dean Flipppo's Office.

13 The strategy of CIA Director, Leon Panetta Monterey/California homies is to fulfill the
14 veiled threats eloquently delivered by Panetta himself to plaintiff on October 10, 2003. The
15 questions put forward by Panetta to plaintiff were, "Do you really want to sacrifice your time with
16 your family, your money, and life is short. They're going to make you out to be crazy and a sore
17 loser. Sure I know they did something wrong that they shouldn't had done...but...move on."

18 Now, plaintiff has been assaulted attending a CMC in a case that plaintiff requested that the
19 Merced Superior Court call for an investigation of the Monterey Superior Court and the offices of
20 Chief Justice Ronald George. It is the case that has in it filed an Opposition to the Request for
21 Judicial Notice of the Motion to Declare Plaintiff a Vexatious Litigant. It was the incredible stupid
22 and arrogant blunder Mr. Brain Davis of the Hayes Bonino Law Firm representing Tetra Tech, Inc.
23 that opened up the can of worms on Chief Justice George. Before any cases that has plaintiff's
24 name involved goes forward, the can of worms is going to be addressed fully.

1 Plaintiff asserts that he feels so strongly about this that he will openly call for a peaceful
2 revolt against the judicial system of California and its top public officials reaching all the way to
3 grab the ears of Panetta sitting alongside President Obama.

4 It should also be said that if President Obama thinks he is going to be kissing the butt of
5 white middle America with Joe the Plumber, while ignoring plaintiff, a jailed, publisher of the
6 Badger Flats Gazette battling public official corruption that includes Obama's CIA Director, he is
7 stupider than he is starting to look.

8 Plaintiff has always hoped that there will come along an honest and brave judge who will
9 finally say, enough is enough, and give Forte the justice that he deserves instead of their throwing
10 in with covering the assault on a good citizen. Due to the recent felony arrest, plaintiff has no time
11 to mince words. Plaintiff now considers every California judge under the direction of Chief Justice
12 Ronald George to be his adversary until they prove otherwise.

13 Plaintiff does not mean that the judge has to be on his side but insure that the egregious
14 issues Forte has been bringing to light that have been unaddressed be addressed first.

15 To look at the public record meaning as to "what has been told the public" by the press,
16 plaintiff wonders as to why he has not been locked up and the key thrown away.

17 The heralding of a jailed recall candidate with no details as to the ongoing battle between
18 O'Farrell and plaintiff, being declared a vexatious litigant (with a small correction that it was not
19 so), and now being arrested for lunging at a judge when there was no judge, no lunging, and now
20 surveillance tapes capturing the matter are missing...all serve the intended purpose to assault the
21 character of the plaintiff who has evidence that will put several public officials in jail.

22 Los Banos Mayor Tommy Jones told Mr. Clinton E. Galloway that he knew for fact that
23 plaintiff was a dangerous member of the Ku Klux Klan. Monterey County Counsel, Charles
24 McKee was granted an ex-parte TRO against plaintiff because he thought Forte was going to
kidnap him and bring him to the Salinas Police Department who would hold him hostage for Forte.

1 How bad can this Forte be? Will the Stanislaus Court have ready a squad of deputies as they had an
2 extra couple of guards present at the Fifth Appellate Court³ oral argument given by Forte? Does it
3 evidence an advance prejudice against Forte? Of course it does if he is not deserving of being
4 arrested and if what Forte is saying about the assault upon him by cornered public officials.

5 Therefore the arrest and everything pertaining to it must be examined by an evidentiary
6 hearing at minimum.

7 Investigators Scott Millspaugh and Mark Maniord of the California Highway Patrol
8 Dignitary Protection Services staked out plaintiff's home, investigating if plaintiff was a credible
9 threat of violence against judicial officers and public officials under their guard. The agents said it
10 was due to sentences in the Appellate Reply Brief of *Forte vs. Albov*, M54914 filed over a year
11 before on February 5th, 2007.

12 The effective toxicity of the campaign of corrupt public officials with the newspapers can be
13 seen in the letter issued by attorney Matthew Williamson. Williamson, even though a clumsy
14 writer, couldn't help to let his veiled slandering of Forte with the intent to disrupt a business
15 relationship come through in his letter to Mr. David Nilsen who had paid him over \$100,000.00.
16 Williamson had known that plaintiff was loaned \$50,000.00 by Nilsen and was continually telling
17 Nilsen that Nilsen should demand return of the funds prior to their due date and disassociate himself
18 from Forte.

19 Williamson in his letter closes with, "Good luck with whatever you decide and again I urge
20 you both to get good legal advice from a California Licensed attorney that has no arrests or
21 complaints on their record"⁴. Forte laughably asserts that you might be able to get a attorney out
22 of the Monterey College of Law, but you can't get the Monterey College of Law out of the attorney.

23 Unless, Williamson wants to seriously assert that most attorneys that are licensed in
24 California have also been arrested and have complaint against them he should admit that what he

³ Sixth Appellate Court Appeal of Forte was *Hail Mary'd!* by George to the Fifth Appellate Court with no notice or explanation which resulted in a dissenting opinion by the Honorable Justice Dawson

⁴ Williamson Letter.

1 was doing was accusing the arrested alleged lunging badger (Forte) of practicing law without a
2 license. Ergo, McClatchy newspapers coupled with the conduct of wayward deputies resulted in a
3 new foundation for a shyster opportunist like Williamson to build upon to disrupt even loans being
4 given to Forte.

5 Nilsen determined, after he became aware that Williamson was behaving like a treacherous
6 rat by breaching his trust in communications with opposing counsel Lichtenegger that he should
7 keep a closer eye upon what Williamson was doing, but also upon what he had already done.
8 Plaintiff, even though not an attorney and not in any way giving Nilsen legal advice, asserts that
9 Williamson appeared to do absolutely nothing except follow what Lichtenegger told him to do, to
10 bilk Nilsen of money. It is a standard technique of the pack of Monterey Bay wolves. Get
11 Lichtenegger, the hatchet, in close to get the clients to trust him, build up their hopes, and then
12 throw the motion or trial. That's what Lichtenegger did to Forte with Monterey judges' help.

13 Williamson goes before a court of Judge Dauphine who has participated in the obstruction
14 of justice in the investigation of Commissioner Richard Rutledge by District Attorney Dean Flippo.
15 It is the position of Forte, whose declaration was also submitted in the Challenge for Cause against
16 Judge Dauphine for Nilsen, that the assault upon plaintiff in Merced is connected directly to the
17 evidence Forte has concerning the obstruction of justice by Judge Dauphine, Judge O'Farrell and
18 other Monterey Superior Court Judges.

19 The result of the investigation was that whoever they were sent by had the tables turned on
20 them when Forte had Millspaugh and Maniord listen to a legal audio recordings of Gail Tunnel,
21 Assistant to King George, blowing the whistle on George for changing guidelines to keep Forte
22 from getting evidence of George's knowledge of the corruption on the Monterey Court bench
23 including that of Judge Dauphine and Judge Wendy Duffy. Maniord and Millspaugh have not
24 responded to one letter sent by Forte and are employing the standard tactic used by all public
25 officials and agencies.

26 It is the same tactic that has been used by Mr. Brad Campbell of the Assigned Judges
27 Program that has put Judge Mayhew before Forte. Plaintiff knows, but has not yet been able to find

1 the documentation that will show that Judge Mayhew at one time ruled upon a Challenge for Cause
2 on one of Forte's cases out of Monterey. Campbell, when contacted and requested to look into his
3 files, said that he was unable to find anything but that does not mean that Mayhew did not rule upon
4 a CFC. Campbell said that the Monterey Superior Court would have such information.

5 Forte asserts that this is not his first dealings with Campbell and Campbell is well aware of
6 all of the prejudicial procedural irregularities meted out to Forte over the past nine years by
7 Campbell's boss Chief Justice Ronald George. Notwithstanding that fact, Campbell then put Forte
8 in the ping-pong mode which results in no documentation or answer. Therefore, Forte asserts he
9 has the right and fairness dictates that Forte be informed and be given documentation.

10 It should be added that the disqualification of a judge by a judge, rarely if at all, ever
11 happens. If the general public really knew how stupid the denials on some of the Challenge for
12 Causes were (that are supposed to be based upon what a reasonable person would think)..... Even a
13 reasonable person would wonder why there weren't more court house killing of judges.

14 Before Panetta, Maniord, Millspaugh, or Governor James Doyle, for that matter, calls the
15 Anti-terrorist task force and Forte is water boarding somewhere:

16 **PLAINTIFF IS NOT MAKING A THREAT. PLAINTIFF IS ISSUING THE SAME**
17 **WARNING HE HAS FOR THE PAST SIX YEARS. THERE IS A THREAT TO THE**
18 **NATIONAL TRANQUILITY DUE TO GOVERNMENT MALFEASANCE AND**
19 **CORRUPTION. CITIZENS ARE ABOUT TO LOSE IT.**

20 **ONE SIZE FITS ALL CHALLENGE**

21 Forte informs the court that due to time constraints for filing of this Challenge and last
22 minute developments that must be incorporated Forte will be filing a supplemental with additional
23 supporting documentation for this Challenge for Cause.

24 This Challenge or some form of it is being filed in the Challenge for Cause against Judge
Susan Dauphine by Mr. David Nilsen, the Reply to the Opposition to the disqualification of Judge
Marilyn Morgan.

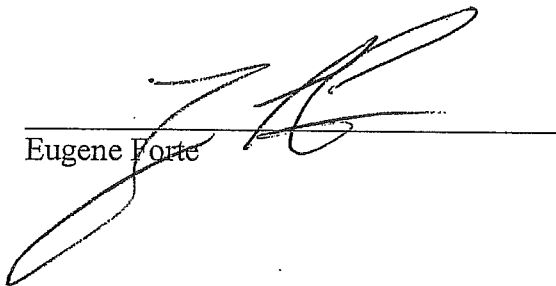
1 It is the position of Forte that he is battling on several fronts the influence of the Monterey
2 county Good ol Boys and the battle spilled over into Merced County and now Stanislaus County.
3 Forte's pursuit of justice brought Nilsen and a Mr. Marion Santos into contact with Forte and his
4 involvement in their cases has caused judicial officers to turn the procedural tables upside down to
5 deny Nilsen and Santos due process.

6 Santos continues to be pressured by the California Waterboard (Exhibit 4) who is actively
7 covering up the malfeasance of Merced County public officials who are defendants in the case
8 before this court. Santos retorts not another drop of blood money. See Exhibit 5.

9 The felony arrest of Forte after attending an ex parte get together hosted by disqualified pro
10 tem judge, ergo, attorney James Padron, was the final straw, until the April 1st, 2009 letter received
11 from District Attorney Larry Morse (Exhibit 2). Morse informs Forte that the Attorney General's
12 Office will not take the referral of the case due to budget restraints. Therefore, it is the intention of
13 the Merced County DA's office to hold this over Forte head and preventing Forte from filing a
14 lawsuit for wrongful arrest at minimum.

15 Forte's response to Morse in his letter of April 15th, 2009 was quite clear, summarized is
16 that DA Morse is going to be held publicly to perform his duties and hold some other public
17 officials accountable. (Exhibit 3).

18
19 Dated: April 16, 2009

20 Eugene Forte 

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 The Test For Recusal Or Disqualification Is Objective

3 Code of Civil Procedure Section 170.1 (a)(6) requires the recusal or disqualification of a
4 judge if, “[f]or any reason,” *”a person aware of the facts might reasonably entertain a doubt that*
5 *the judge would be able to be impartial”* in the litigation. (Emphasis added.) As one court put it:
6 “We must continuously bear in mind that ‘to perform its high function in the best way ‘justice must
7 satisfy the *appearance* of justice’” *Liljeberg v. Health Services Acquisition Corp.*, 486 U.S. 847,
8 864 (1988) (citing *In re Murchison*, 349 U.S. 133, 136 (1955)) (emphasis added).¹

9 This standard “is fundamentally an objective one.” *United Farm Workers of America, AFL-*
10 *CIO v. Superior Court*, 170 Cal.App.3d 97, 104 (1985). “It represents a legislative judgment that
11 due to the sensitivity of the question and inherent difficulties of proof as well as the importance of
12 public confidence in the judicial system, the issue is not limited to the existence of an actual bias.
13 Rather, if a reasonable man would entertain doubts concerning the judge’s impartiality,
14 disqualification is mandated.” *Id.* “To ensure that the proceedings appear to the public to be
15 impartial and hence worthy of their confidence, the situation must be viewed through the eyes of
16 the objective person.” *Id.* (quoting *In re United States*, 666 F.2d 690, 694 (1st Cir. 1981).) “[A]
17 judge faced with a potential ground for disqualification ought to consider how his participation in a
18 given case looks to the average person on the street.” *United Farm Workers*, 170 Cal.App.3d at
19 104 (quoting *Potashnick v. Port City Const. Co.*, 609 F.2d 1101, 1111 (5th Cir. 1980)).²

20 As the California Supreme Court stated: “It is often stated that it is not only the fact but the
21 appearance of prejudice that should disqualify a judge. This is the rule that appeals to the reason of
22 the Constitution [I]t is not the fact of prejudice that would impair the legitimacy of the
23 judiciary’s role but rather the probable fact of prejudice, i.e., the appearance of prejudice

24 Since *the legitimacy of the Court’s role is essentially a perception of the people, in whose secure*
confidence the courts must remain if their powers are to be maintained, it follows that merely
probable or even alleged facts or a good faith belief in such facts may be sufficient to disqualify a

1 judge.” *Soldberg v. Superior Court*, 19 Cal.3d 182, 193, n.10 (1977) (italics in original text, bold
2 italics added).

3 Code of Civ. Proc. §170.1(a)(6). As one commentator has suggested:

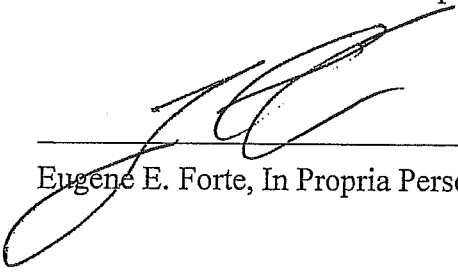
4 [J]udicial authority rests on public acceptance of courts and judges,
5 and such public acceptance rests in turn on a belief in the
6 impartiality and competence of those making the decisions. When
7 that belief is shaken by revelations of conflicts of interest, the entire
8 judicial system suffers.

9 *Taking Stock: The Need to Amend 28 U.S.C. §455 To Achieve Clarity and Sentivity in*
10 *Disqualification Rules For Judges’ Financial Holdings*, 71 Fordham L. Rev. 1669, 1675 (2003).

11 Additionally, “[t]he more highly publicized a case becomes, the more important it becomes to
12 maintain the appearance of justice.” *Id.* At n. 37 (citations omitted). There is a great potential that
13 due to the number of high ranking State public officials involved in this case in their individual and
14 private capacities, this case may become highly publicized. Recusal or disqualification here is
15 required and respectfully urged.

16 Plaintiff understands that judges rely on absolute judicial immunity regarding their acts.
17 However, we are not talking about a civil lawsuit or any liability at this point. We are talking about
18 the assignment of a judge by an impartial Chief Justice Ronald George that create the doubt in a
19 reasonable person’s mind that the court is impartial. And that doubt is all that is required for
20 disqualification to take place.

21 DATED: April 16, 2009

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23 Eugene E. Forte, In Propria Persona
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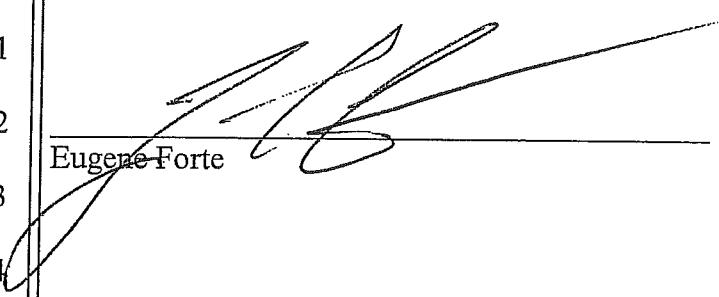
VERIFICATION

[CCP §§ 446, 2015.5]

I, Eugene Forte, am the cross-defendant/complainant in this action. I have read the foregoing VERIFIED CHALLENGE FOR CAUSE AGAINST JUDGE MAYHEW (CCP § 170.3) and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed on April 16, 2009, at Los Banos, California.

Eugene Forte



1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3) ss.
4 COUNTY OF MERCED)

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

8 On April 16, 2009, I served the following document:

9 **VERIFIED CHALLENGE FOR CAUSE AGAINST JUDGE WILLIAM A. MAYHEW**
10 **(CCP § 170.3); MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT**
11 **THEREOF**

12 by personal service on the below-named party(ies) at the address(es) given.

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

15 By mail:

16 *Mr. Benjamin L. Ratliff, Esq.*
17 *The Law Firm of Weakley, Ratliff,*
18 *Arendt, & McGuire, LLP*
19 *1630 East Shaw Avenue, Suite 176*
20 *Fresno, CA 93710*
21 *(559) 221-5256 phone*
22 *(559) 221-5262 fax*

By personal service:

23 *Mr. Phillip McMurray*
24 *Linneman, Burgess, Telles, Van Atta, Vierra,*
Rathmann, Whitehurst, & Keene
654 K Street
Los Banos, CA 93635
Phone: (209) 826-4911
Fax: (209) 826-4766

By Personal Service:

25 *Judge William A. Mayhew/Thomas Holsinger*
26 *c/o Merced Superior Court Filing Clerk*
27 *801 10th Street*
28 *Merced, CA 95340*

29 *Mr. William Vaughn*
30 *525 J Street, Ste. A*
31 *Los Banos, CA 93635*

32 I declare under penalty of perjury under the laws of the State of California that the foregoing is true
33 and correct and that this declaration was executed on April 16, 2009 at Los Banos, California.

34 
Eileen Forte