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1 Gene Forte
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4 In Propria Persona /Cross Defendant & Cross Complainant

7 SUPERIOR COURT OF CALIFORNIA

8 EUGENE FORTE

Case No. CU150880
(Stanislaus Case No. 637857)

10 Plaintiff,

**OBJECTION TO JUDGE MAYHEW
SIGNING ORDERS PENDING WRIT OF
MANDATE REGARDING RULING ON
CCP §170.6 IN TETRA TECH V. SANTOS,
MERCED CASE NO. CU150938;
DECLARATION OF GENE FORTE IN
SUPPORT THEREOF**

11 vs.

13 TOMMY JONES, et al.

14 Defendants.

16
17 PLAINTIFF GENE FORTE (hereinafter "Forte") HEREBY NOTICES THE COURT AND
18 ALL PARTIES that he objects to Judge Mayhew signing any orders pending the filing and notice of
19 entry of written order denying Forte's preemptory challenge CCP §170.6 filed on April 17, 2009 in
20 the case of *Tetra Tech v. Santos, et al.*, Case No. CU150938, and that the statutory 10 days (plus 5
21 days for service by mail of notice of entry of written order) for Forte to file a Petition for Writ of
Mandate should be allowed for Forte to seek reversal.

22 If Judge Mayhew is found to be disqualified according to the preemptory challenge, CCP
23 §170.6, filed in that case, Forte submits that he should be disqualified in this case also. Forte will
24

1 file a challenge for cause if Judge Mayhew is disqualified from the Tetra Tech case and does not
2 recuse himself from this subject case.

3 It is clear according to case law that any orders signed would be void if it is determined that
4 Judge Mayhew is disqualified in the Tetra Case, the CCP §170.6 was not untimely, and therefore,
5 he should be disqualified in this subject case also. In order to prevent any waste of judicial
6 resources, it would be prudent for all parties if the orders are not signed and therefore not acted
7 upon until it is determined by the appellate court that Judge Mayhew is not disqualified.

8 ***"If a judge is disqualified all of his actions in the proceeding after such disqualification***
9 ***appears would be void. Turkington v. Municipal Court of City and County of San Francisco (App.***
10 ***1 Dis. 1948) 85 Cal.App.2d 631, 193 P.2d 795. Judges 56"***

11 Dated: August 7, 2009


Eugene Forte
In Propria Persona

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14 **DECLARATION OF GENE FORTE**

15 I, Gene Forte, declare:

16 1. That I am the Cross-Defendant and Complainant in this case representing myself in propria
17 persona, and have personal knowledge of the facts stated in this declaration, except to those matters
18 stated on information and belief, as to those matters, I believe them to be true. If called to testify, I
19 could and would competently testify thereto.

20 2. That I have full intent to file a Petition for Writ of Mandate to seek reversal of Judge
21 Mayhew's ruling that the CCP §170.6 preemptory challenge was untimely in the case of Tetra Tech
22 v. Santos, et al, No. CU150938, Stanislaus Case No. 637858.

23 3. That I am waiting for the Notice of Entry of the Written Ruling denying the CCP §170.6 in
24 the case of Tetra Tech v. Santos, et al.

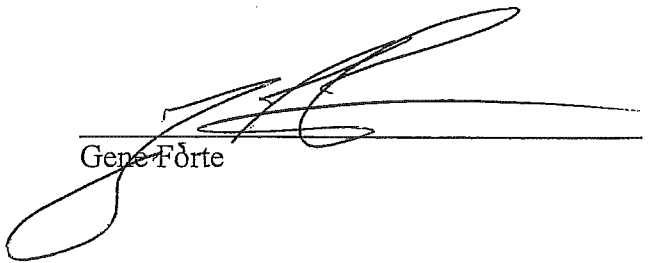
1 4. That as of yesterday, August 6, 2009, the docket at the Merced Superior Court civil clerk's
2 office did not have any ruling denying the 170.6 listed on it.

3 5. That as of today, August 7, 2009, the Stanislaus civil clerk did not have the file back from
4 the judge's chambers, and could not tell me if any ruling was filed.

5 6. That at the last hearing on July 31, 2009, I requested Judge Mayhew to file a written ruling
6 regarding his denial of the 170.6, peremptory challenge, that I had filed on April 17, 2009 in the
7 Tetra Tech case, and he had agreed.

8 7. That if Judge Mayhew is found to be disqualified in the case of *Tetra Tech v. Santos, et al*, I
9 will be filing a Challenge for Cause based upon the fact that if he is disqualified for prejudice
10 against me in another case of mine, he should be disqualified in this subject case too since his
11 prejudice would therefore be established.

12 I declare under penalty of perjury under the laws of the State of California that the foregoing
13 is true and correct and that this declaration was executed on August 7, 2009 at Los Banos,
14 California.

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Gene 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 August 7, 2009, I served the following document:

9 **OBJECTION TO JUDGE MAYHEW SIGNING ORDERS**
10 **PENDING WRIT OF MANDATE REGARDING RULING ON CCP §170.6**
11 **IN TETRA TECH V. SANTOS, MERCED CASE NO. CU150938;**
12 **DECLARATION OF GENE FORTE IN SUPPORT THEREOF**

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

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

16 By Mail:
17 *Stanislaus County Superior Court, Department 21*
18 *c/o Tom Holsinger*
19 *801 10th Street, 6th Fl*
20 *Modesto, CA, 95354*


By personal service:
Mr. Phillip McMurray
654 K Street
Los Banos, CA 93635

21 By mail:
22 *Mr. Benjamin L. Ratliff, Esq.*
23 *The Law Firm of Weakley, Ratliff,*
24 *Arendt, & McGuire, LLP*
1100 W Shaw Ave Ste 124.
Fresno, CA 93711
Phone Number, (559) 227-2166.
Fax Number, (559) 227-0846

By Mail:
Merced County Superior Court
Tisa Hayer/Melanie Migliazzo
2260 N St.
Merced, CA 95340

By Personal service:
Bill Vaughn
525 J. St., Ste. A
Los Banos, Ca 93635

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 August 7, 2009 at Los Banos, California.



Eileen Forte