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In Propria Persona

6 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
 7
 8 IN AND FOR THE COUNTY OF MERCED

9 EUGENE E. FORTE,)
 10)
 11 Plaintiff,)
 12 vs.)
 13 TOMMY JONES, an individual,)
 14 and does 1-100, et al.,)
 15 Defendants.)

Case No. **150880**

COMPLAINT FOR DEFAMATION

16 VERIFIED COMPLAINT AND JURY DEMAND

17 Plaintiff alleges:

- 18 1. Defendant Tommy Jones is an individual that resides in Merced County, California.
- 19 2. Defendant is also an African American and the Mayor of the City of Los Banos.
- 20 3. Plaintiff Eugene Forte is an individual that resides in Merced County, California.
- 21 4. Plaintiff Eugene Forte is of Italian and Portuguese descent.
- 22 5. Plaintiff is a freelance writer for the Badger Flats Gazette.
- 23 6. In September of 2006, Defendant Jones was a candidate in the Los Banos, California
- 24 mayoral election and repeatedly promised plaintiff that Defendant Jones would grant
- 25 plaintiff an interview regarding Defendant Jones' upcoming Mayoral campaign.
- 26 7. Defendant Jones never interviewed with plaintiff and Defendant Jones was elected Mayor
- 27 of Los Banos, California.
- 28

- 1 8. In November of 2006, plaintiff wrote an article which was published in The Badger Flats
2 Gazette issue entitled, "Five Card Badger" wherein plaintiff commented upon Defendant
3 Jones' avoidance of the interview, and Defendant Jones' lawsuit against the City of Los
4 Banos and the Los Banos Police Department arising from Defendant Jones' arrest when
5 he was a City Councilman for the possession of crack cocaine.
- 6 9. Plaintiff gave a copy of this issue of the Badger Flats Gazette to the City Attorney, Mr.
7 William Vaughn for delivery to mayor-elect Defendant Jones.
- 8 10. The "Five Card Badger" article informed Defendant Jones and the public at large on page
9 2 that: "It is as good a time as any to mention that Clinton is an African American (See
10 Fig. "B", page 27). His family took me into their family, and I always considered his
11 father as my second father, and his five sons as my brothers. I was honored to be part of
12 the inner family at his funeral this last year. I want to make the distinction concerning
13 race because in this issue's commentary about the recent mayoral election, our new
14 Mayor Tommy Jones may take it as being overly harsh. I certainly do not want to be
15 accused of being a racist as he once accused individuals unknown of planting drugs in his
16 car. Clinton and his brothers are my best friends and my brothers. They have always
17 teased me saying that I was a black man in another life, and if I was in this one, I would
18 be dead by now. They very well may be right." The Fig. "B" on page 27 referred to was
19 a photograph of plaintiff's wedding party showing that plaintiff's best man was African
20 American, plaintiffs's wife was Chinese American, her maid of honor was Chinese
21 American, her bridesmaid was Japanese American, and plaintiff's wedding party
22 attendant was Portuguese American.
- 23 11. On approximately March 10, 2007, Defendant Jones met and talked with Plaintiff Forte,
24 his Chinese wife, Eileen Forte, and his son, Juston, at the Colorado Baseball Park in Los
25 Banos on the opening day of Little League baseball, and plaintiff's wife took a picture of
26 her son, Juston, Defendant Jones, and Plaintiff.
- 27 12. Defendant Jones knew that plaintiff was not a member of the Ku Klux Klan by virtue of
28 plaintiff being married to a Chinese American and from reading the Badger Flats Gazette

- 1 article entitled "Five Card Badger," but unbeknownst to plaintiff at the time, Defendant
 2 Jones was angry and concealing a deep seeded hatred of plaintiff.
- 3 13. Defendant Jones has defamed plaintiff by making one or more of the following
 4 statements to one or more persons:
- 5 A. That Defendant Jones knew for a fact that plaintiff was a member of the Ku
 6 Klux Klan.
- 7 B. That Defendant Jones knew for a fact that plaintiff was a member of the Ku
 8 Klux Klan and was dangerous because he had spoken to plaintiff's nephews and
 9 found out from them.
- 10 C. That Plaintiff Forte never spoke to Defendant Jones at the May Day Parade on
 11 May 5th, 2007 and that Plaintiff Forte falsely and with malice made the allegations
 12 up that Defendant Jones had said that plaintiff was a member of the Ku Klux Klan
 13 because Plaintiff Forte was angry at Defendant Jones for not interviewing with
 14 him.
- 15 14. Defendant Jones knew that all such statements made by him about plaintiff were false but
 16 Defendant Jones repeated such statements to the public at large and knowingly made false
 17 statements to The Los Banos Enterprise that he knew would be published in the
 18 newspaper.
- 19 15. On May 5th, 2007 at the Los Banos May Day Parade Defendant Jones told plaintiff that
 20 Defendant Jones knew for a fact that plaintiff was a member of the Ku Klux Klan in
 21 broad day light, loudly and publicly within earshot of passer-bys, city officials, and the
 22 public at large attending the Los Banos May Day Parade.
- 23 16. On May 5th, 2007 Defendant Jones told Clinton Galloway that defendant knew for fact
 24 that plaintiff was a member of the Ku Klux Klan and dangerous.
- 25 17. On May 7th, 2007 a claim was filed against the City of Los Banos and Mayor Tommy
 26 Jones which was reported upon in a front page article in The Los Banos Enterprise on
 27 May 18th, 2007, entitled, "\$1 million claim filed against mayor, city" with the by-line
 28 "Document alleges comments by mayor defamed character of local resident." The claim

- 1 was rejected on June 20th, 2007.
- 2 18. Defendant Jones deliberately harmed plaintiff by making such knowingly malicious,
3 oppressive, and fraudulent statements.
- 4 19. All persons known and unknown at this time that Defendant Jones has made this
5 defamatory, malicious, and false statement to reasonably understand that the statement is
6 about Plaintiff Forte.
- 7 20. All persons known and unknown at this time that Defendant Jones has made knowingly
8 this defamatory malicious, oppressive, and fraudulent statement to reasonably understand
9 that the statement means that Plaintiff Eugene Forte is or was a member of the Ku Klux
10 Klan, a group of people known for their racist hatred towards non-whites and non-
11 Protestants and that the Ku Klux Klan has a renown history of committing crimes of
12 violence towards those they do not consider "one of their own" and that Plaintiff Forte
13 has thereby committed hate crimes of violence and was a danger to Defendant Jones
14 because plaintiff would commit racially motivated crimes of violence.
- 15 21. The statement that Plaintiff Forte was a member of the Ku Klux Klan is absolutely false.
- 16 22. Plaintiff has never been a member of the Ku Klux Klan or any other racist organization.
- 17 23. Defendant Jones made such despicable defamatory statement fraudulently and with
18 malice knowing of its falsity to the public at large to alienate the public at large against
19 plaintiff and his family by having the public at large believe, or entertain the thought, that
20 Plaintiff Forte was a dangerous, prejudicial person in order to submit plaintiff to suffer
21 obloquy, humiliation, and scorn from the public at large in his home town of Los Banos..
- 22 24. Defendant Jones acted with malicious forethought and with the specific intent to cause
23 injury to plaintiff and his family and subjected plaintiff to cruel and unjust hardship in
24 knowing disregard of plaintiff's rights.
- 25 25. Defendant Jones' conduct was despicable and was done with a wilful and knowing
26 disregard of the rights or safety of plaintiff and his family. Defendant Jones is aware that
27 there exists people who are anti-Ku Klux Klan, particularly African Americans, and other
28 minorities, and that Defendant Jones' statements would likely and probably cause

- 1 hostilities, resentment, hatred, and potentially dangerous consequences to plaintiff and his
2 family by such people but Defendant Jones deliberately failed to avoid those
3 consequences.
- 4 26. Defendant's conduct, in knowingly spreading such defamatory statements was so mean,
5 vile, base, or contemptible that it would be looked down on and despised by reasonable
6 people.
- 7 27. Defendant Jones intentionally and maliciously knowingly made a false and defamatory
8 statement concerning the reputation and conduct of plaintiff as a writer and person about
9 a material fact in an interview with The Los Banos Enterprise, owned by the McClatchy
10 Newspapers Corporation, that defendant Jones knew would be published to the public at
11 large.
- 12 28. Defendant Jones denied in the interview with The Los Banos Enterprise that Defendant
13 Jones had spoken with plaintiff at the Los Banos Parade May Day on May 5th, 2007 in
14 order to fraudulently mislead the public as to the true events of May 5th^d, 2007 and to do
15 further defame the reputation of plaintiff so that plaintiff would be painted in a bad light
16 and plaintiffs' allegations against Defendant Jones would not be taken seriously and
17 plaintiff would be discredited to the public at large and be submitted to scorn and
18 humiliation.
- 19 29. Defendant Jones falsely stated to The Los Banos Enterprise, knowing that his statements
20 would be published to the public at large, that plaintiff had falsely stated that defendant
21 Jones had said that plaintiff was a member of the Ku Klux Klan because plaintiff was
22 angry at defendant Jones for not interviewing with plaintiff. In doing so, defendant Jones
23 publicly accused plaintiff of defaming defendant Jones per se in order to deny plaintiff his
24 legal right and/or otherwise cause plaintiff damage to his reputation by being submitted to
25 shame, mortification and hurt feelings from being accused of being a prevaricator of the
26 truth to the public at large by a public official holding the title of mayor.
- 27 30. The Los Banos Enterprise notwithstanding their knowledge of the probable falsity of the
28 statement made to them by defendant Jones in stating that he did not speak with plaintiff

1 on May 5th, 2007 at the Los Banos May Day Parade intentionally failed to investigate the
 2 truthfulness of Defendant Jones' statement due to the hostility and anger the Los Banos
 3 Enterprise had toward plaintiff for his lawsuit of Forte v. McClatchy Newspapers, et al.
 4 C06-03948-JW. The Los Banos Enterprise relied upon a source, Defendant Jones, who
 5 they knew to be biased against plaintiff in a reckless disregard of the truth and with
 6 knowledge of the probable falsity of the statement made by Defendant Jones published
 7 such defamatory statement made by Defendant Jones in order to defame plaintiff for the
 8 benefit of Defendant Jones.

9 31. Defendant Jones knew that his knowingly fraudulent and false statement would be
 10 announced to the public at large and be repeated by those reading The Los Banos
 11 Enterprise Defendant Jones knew that anyone reading such statement of Defendant
 12 Jones saying that he did not speak to plaintiff at the May Day Parade would reasonably
 13 understand it to mean that plaintiff Forte had lied about the incident in order to defame
 14 and cause damage to Defendant Jones. Such despicable conduct by Defendant Jones is so
 15 mean, vile, base or contemptible that it would be looked down on and despised by
 16 reasonable people.

17
 18 As a proximate result of such defamation, plaintiff's reputation was harmed, and he was
 19 subjected to shame and mortification.

20 WHEREFORE, plaintiff respectfully requests that this Court:

- 21 1. Preliminarily and permanently enjoin defendant from making further defamatory
- 22 statements,
- 23 2. Enter judgment against defendant for defamation,
- 24 3. Award plaintiff nominal and actual damages in amounts to be determined at trial,
- 25 4. Award plaintiff punitive damages in an amount to be determined at trial plus his
- 26 reasonable attorney fees and the costs of this action; and
- 27 5. Grant such other relief as the Court deems just and proper.

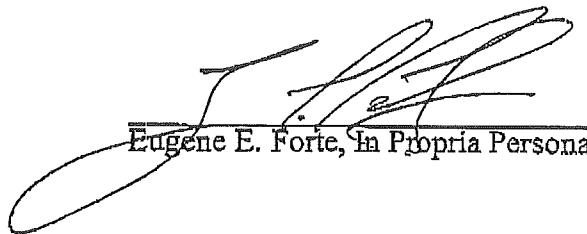
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JURY DEMAND

Plaintiff demands a jury trial on all triable issues.

DATED: December 18th, 2007

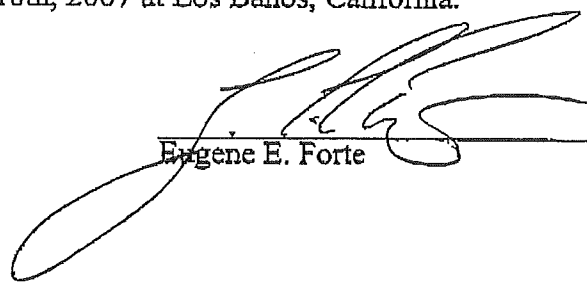


Eugene E. Forte, *In Propria Persona*

VERIFICATION
[CCP §§ 446, 2015.5]

I, Eugene Forte, am the plaintiff in this action. I have read the foregoing complaint 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 December 18th, 2007 at Los Banos, California.



Eugene E. Forte

NOTICE OF INCLUSION IN COURT'S DELAY REDUCTION PROGRAM
SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED

FILED
SUPERIOR COURT

Eugene E. Forte

VS.

Tommy Jones, et.al.

File No. 150880 07 DEC 18 PM 4:08
NOTICE OF INCLUSION IN
DELAY REDUCTION PROGRAM
NOTICE OF
CASE MANAGEMENT CONFERENCE
("CMC")

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

Please take notice that the above-entitled action has been included in this Court's Delay Reduction Program. Local Rule 4 will hereafter apply to this action. Our Local Rules may be reviewed on line at www.mercedcourt.org. You are required to comply with the guidelines for program cases as set forth in the above-referenced Local Rule and the applicable California Rules of Court ("CRC"), including Rules 3.720-3.730.

You are further advised that a CASE MANAGEMENT CONFERENCE ("CMC") in the above action has been scheduled, per Rule 4(b)(1)(a), for:

June 10, 2008 at 9:45 a.m.

Plaintiff must serve this Notice on all parties to this action at the same time the Complaint is served. Failure to do so may cause unnecessary delay to this action.

Parties desiring to appear telephonically at the Case Management Conference ("CMC") shall comply with Cal. Rules of Court, Rule 3.670 and Local Rule 4, and are responsible for making timely arrangements with CourtCall, LLC. CourtCall, LLC may be reached at: (888) 882-6878. Notices of Telephonic Appearance may be placed on the CMC Statement itself, or may be filed independently with the Court NOT LESS THAN FIVE (5) COURT DAYS prior to the Case Management Conference. A Notice of Telephonic Appearance is deemed valid on any subsequent, continued CMCs.

PURSUANT TO CAL. RULES OF COURT, RULE 3.724 THE PARTIES MUST MEET AND CONFER NO LATER THAN 30 DAYS PRIOR TO THE CASE MANAGEMENT CONFERENCE.

A CASE MANAGEMENT CONFERENCE STATEMENT shall be filed with the Court no later than 15 days prior to the date set for the Case Management Conference. Parties shall use Judicial Council form CM-110 (CRC 3.725). This form is available at the Court Clerk's Office or on the internet at www.courtinfo.ca.gov.

If you have any further questions regarding this Notice you may call (209)725-4100.

DATED: DEC 18 2007

KATHLEEN GOETSCH
SUPERIOR COURT EXECUTIVE OFFICER

Maricela Anguiano
By Deputy of the Superior Court

**NOTICE OF INCLUSION IN COURT'S DELAY REDUCTION PROGRAM
SUPERIOR COURT OF CALIFORNIA
COUNTY OF MERCED**

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