

File

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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
IN AND FOR THE COUNTY OF MERCED

EUGENE FORTE,

Plaintiff,

vs.

TOMMY JONES, an individual, et al.

Defendants.

Case No. 150880

**EX PARTE APPLICATION FOR ORDER
VACATING HEARING OF JUNE 5, 2008
AND FOR SANCTIONS; DECLARATION
OF EUGENE FORTE; POINTS AND
AUTHORITIES; AND PROPOSED ORDER
IN SUPPORT THEREOF**

**Date: June 3, 2008
Time: 1:15pm
Courtroom: 4**

PLAINTIFF FORTE hereby applies ex parte for an order vacating the ex parte hearing set by Defendant on June 5, 2008 and for sanctions against defendant and his counsel for knowingly scheduling such hearing during the time period that he had been noticed that Plaintiff Forte would be unavailable. [Purposefully scheduling a conflicting proceeding without good cause is sanctionable conduct. Tenderloin Housing Clinic v. Sparks (1992) 8 Cal.App.4th 299.]

This application is made on the grounds that Plaintiff is unavailable for the hearing on June 5, 2008, was notified that Defendant's counsel set an ex parte hearing for June 5, 2008 seeking to continue the depositions of Tommy Jones and Joseph Sousa, that Defendant has not acted with good faith and therefore, Plaintiff requires an order confirming that no hearing will

1 take place on June 5, 2008 when he is unavailable, and is entitled to sanctions in the amount of
2 \$83.00 for costs due to Defendant's game playing and inappropriate tactics which resulted in
3 Plaintiff having to make this ex parte application for his protection.

4 This application is required on short time due to the short notice given for the ex parte
5 application set on June 5, 2008 by Defendant.

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7 Date: June 2, 2008


Eugene Forte, In Propria Persona

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DECLARATION OF EUGENE FORTE

In support of this application, I can state the following based upon my own personal knowledge:

1. Attached as Exhibit 1 is a true and correct copy of the Notice of Deposition for Defendant Tommy Jones filed on April 30, 2008, and the Amended Notice of Deposition filed on May 1, 2008.
2. On May 6th, 2008, I filed with the court and served on opposing counsel, Mr. Benjamin Ratliff, a Notice of Unavailability of Counsel, of which a true and correct copy is attached as Exhibit 2, which informed him that I would be unavailable from June 5th, 2008 to June 17, 2008 inclusive.
3. On or about May 7th, 2008, I received a phone call from a person that identified herself as a secretary to opposing counsel Mr. Ratliff informing me that they had received notice of the taking of the deposition of Defendant Jones set for June 18th, 2008.
4. The secretary told me that Mr. Ratliff may or may not be in trial on such date and that I had to re-schedule the deposition of Jones.
5. I informed the secretary that until I received a written list of firm alternative available deposition dates from Mr. Ratliff for Defendant Jones, I would not agree to re-scheduling the deposition date of Jones.
6. On or about May 8th, 2008, I received a letter in the mail dated May 6, 2008, from Mr. Ratliff, of which a true and correct copy is attached as Exhibit 3, requesting in writing a continuance of the deposition, but it did not give me any alternative dates.
7. On May 21st, 2008 or thereabouts, I received a letter from Los Banos City Attorney William Vaughn dated May 21, 2008 (of which a true and correct copy is attached as Exhibit 4) requesting proofs of service and attention to purported deficiencies in deposition subpoenas of Mr. Tom Faria and Mr. Joe Sousa.
8. On May 24th, 2008, I responded to Mr. Vaughn's letter informing him that there appeared to be nothing to respond to in that the proof of services were already filed with the court. In the letter, I requested that Mr. Vaughn identify for the record if he was representing

1 Faria and Sousa. I also informed Mr. Vaughn that whoever was the counsel for Mr. Faria
2 and Mr. Sousa, they should be mindful of the properly noticed and served deposition
3 subpoenas or face possible contempt charges for non-appearance. A true and correct
4 copy of this letter of May 24th, 2008, is attached as Exhibit 5.

5 9. On May 28th, 2008, I received Defendants' Case Management Statement signed by Mr.
6 Ratliff on May 27th, 2008 that states at #17 (C): "Plaintiff intends to depose members of
7 the Los Banos City Council; Defendant contends some or all of the information sought by
8 plaintiff is privileged or completely irrelevant." Mr. Ratliff also states at #20 (a):
9 "Plaintiff has scheduled depositions on a date defense counsel is in trial and he has
10 refused to reschedule the depositions; defense counsel therefore believes any other efforts
11 to meet and confer will be futile." For the convenience of the court, a true and correct
12 copy of the Defendants' CMC is attached as Exhibit 6, reference on page 4.

13 10. On May 30th, 2008, I received a faxed letter from Mr. Ratliff at 11:45AM or thereabouts
14 informing me that he had been advised that the deposition of Mr. Sousa had been
15 scheduled for June 20th, 2008. Mr. Ratliff also stated in his letter that because I had
16 refused to continue the deposition of Mr. Jones, he expected that I would also refuse his
17 request to continue Mr. Sousa's. Mr. Ratliff also stated that he was advising that he had
18 scheduled an ex parte hearing for June 5th, 2008 at 1:15PM in Courtroom 4 for an order
19 continuing the depositions, but if I agreed to reschedule the depositions of Mr. Jones and
20 Mr. Sousa, he would take the hearing off calendar. A true and correct copy of this letter
21 is attached as Exhibit 7.

22 11. On May 30th, 2008 at approximately 11:50AM, I placed a phone call to Mr. William
23 Vaughn who was out of the office and left a message for him to return my call. The
24 purpose of the call was to inquire as to why he had not yet responded to my letter of May
25 24th, 2008 concerning the purpose of his communication to me about Mr. Jones and Mr.
26 Sousa, if he was in fact representing Mr. Jones and Mr. Sousa, and if he had colluded
27 with Mr. Ratliff to disrupt my discovery.

28 12. On May 30th, 2008 at 2:54PM, I faxed a true and correct copy of the letter with

- 1 attachments which is attached as Exhibit 8 to Mr. Ratliff informing him that I would be
2 scheduling an ex parte hearing for June 3rd, 2008 at 1:15PM in Courtroom 4 requesting
3 that his hearing set for June 5th, 2008 be taken off calendar and seeking sanctions for his
4 setting an ex parte hearing in contradiction to my unavailability. In the same fax
5 transmission, I provided the Notice of the Deposition Taking of Mr. Faria and Mr. Sousa
6 and also served said notices by placing them in the mail on May 30th, 2008. A true and
7 correct copy of such notices are attached as an attachment to Exhibit 8, page 4 and 14.
- 8 13. On May 30th, 2008, at approximately 3:33PM, after not receiving a return phone call from
9 Mr. Vaughn, I sent him an email confirming in writing that he had not responded to my
10 letter of May 24th, 2008, my concerns that he was inappropriately billing the City of Los
11 Banos in doing legal work for Mr. Jones, Mr. Faria, and Mr. Sousa, and that I was
12 disappointed that he involved himself with game playing with Mr. Ratliff to thwart my
13 discovery and my vacation. A true and correct copy of the email dated May 30, 2008 to
14 Mr. Vaughn is attached as Exhibit 9.
- 15 14. On May 30th, 2008 at 4:00PM, I received a faxed letter from Mr. Ratliff (of which a true
16 and correct copy is attached as Exhibit 10) thanking me for my fax dated May 30th, 2008
17 and informing me that he had rescheduled his previous ex parte application set for June
18 5th to June 3rd, 2008 at 1:15PM in Courtroom 4. Mr. Ratliff also informed me that he
19 would be mailing out the documents on the afternoon of May 30th, 2008 and that the relief
20 sought was an order continuing the depositions.
- 21 15. On May 30th, 2008 at approximately 4:20PM, I placed a phone call to Mr. Ratliff asking
22 him if we were going to continue going back and forth with faxes instead of discussing
23 the matter more efficiently and expeditiously on the phone. I also informed Mr. Ratliff
24 that I had never refused to reschedule the deposition of Jones but had asked that before I
25 agree to do so, he provide to me a list of dates that he would provide Jones for deposition.
- 26 16. Mr. Ratliff informed me that such was not his understanding from his secretary and that
27 he would rather not discuss it and get to the heart of the matter which was continuing the
28 deposition of Mr. Jones and Mr. Sousa.

- 1 17. I then asked Mr. Ratliff to provide me alternative dates he would make himself and Jones
2 available for deposition. Mr. Ratliff told me that he would be unable to do so until he
3 checked with Mr. Jones, but in the interim he wanted me to agree to continuing the
4 deposition. I told him that I would not agree to such given the fact that he had not been
5 responsive to providing me a list of dates that he and Mr. Jones would be available since
6 May 7th, 2008, or thereabouts.
- 7 18. Mr. Ratliff, also in the conversation, told me that he would need to check what dates Mr.
8 Sousa was available before he could provide me with deposition dates for Mr. Sousa's
9 deposition.
- 10 19. I asked Mr. Ratliff if he was representing Mr. Sousa and Mr. Faria, and he avoided
11 answering my question by saying that he simply wanted to know what dates I would be
12 willing to continue the depositions of Mr. Jones and Mr. Sousa to.
- 13 20. I again requested for Mr. Ratliff to inform me if he was also representing Mr. Sousa, and
14 he replied that Mr. Sousa was a city councilman but that he did not know anything about
15 Mr. Sousa's schedule, if he worked or was retired, but that he did need to check with Mr.
16 Sousa.
- 17 21. I told Mr. Ratliff that I had served the subpoena upon Mr. Sousa, and Mr. Sousa could
18 communicate to me, or through his attorney, if he had a problem with the date that his
19 deposition was set for.
- 20 22. I told Mr. Ratliff that I was going to give Mr. Vaughn, who I considered an old friend and
21 whose father, Charles Vaughn, an even older friend, had regularly represented myself and
22 my father, a piece of my mind for what I considered his game playing with him (Ratliff)
23 to thwart the deposition taking of Mr. Jones and Mr. Sousa.
- 24 23. Mr. Ratliff said that all he wanted was to get a continuance of the deposition, and that
25 there was no need to air our dirty laundry to the court.
- 26 24. I told Mr. Ratliff that I had no dirty laundry but it was he and his game playing with Mr.
27 Vaughn where the dirty laundry lay.
- 28 25. I asked Mr. Ratliff why, since he had Notice of the Taking of the Deposition of Jones

1 since May 1st, 2008 or thereabouts, did he wait until the 11th hour and schedule an ex
2 parte hearing during a time period of my Noticed Unavailability of Counsel.

3 26. Mr. Ratliff refused to answer the question and said that it would serve no purpose to
4 discuss such, and it did nothing in ultimately resolving the issue of re-scheduling the
5 depositions of Mr. Jones and Mr. Sousa.

6 27. I told Mr. Ratliff that it was important for me to understand if there was some justifiable
7 reason for such a delay. Mr. Ratliff again did not respond but went back to asking if I
8 would agree to continuing the depositions of Mr. Jones and Mr. Sousa to some
9 unconfirmed date in the future that he would then check with both Mr. Sousa and Mr.
10 Jones to find if it was acceptable to them and then get back to me. I told Mr. Ratliff that I
11 would not.

12 28. I told Mr. Ratliff that his uncooperative manner, the way in which he was conducting
13 himself in the litigation, his gamesmanship with Mr. Vaughn, and his willful intended
14 disruption of my vacation did nothing to engender a belief from me that he would change
15 his ways unless this was brought to the court's attention.

16 29. I asked Mr. Ratliff if he had the papers to the ex parte motion he had originally set for
17 June 5th, 2008 available to fax to me. Mr. Ratliff, and I quote, stated, "Your yapping at
18 me has delayed me in finishing, but I will try and have them out in today's mail."

19 30. Upon Mr. Ratliff telling me such, I told him that I sincerely felt it would be best for me to
20 continue with the ex parte hearing I set for June 3rd, 2008 and the call terminated.

21 31. On May 30th, 2008 at approximately 4:54PM, I faxed to Mr. Ratliff a letter informing him
22 that since he was unable to provide me any firm alternative deposition dates, I thought it
23 best to take the matter up of his and Mr. Vaughn's waiting until the 11th hour to thwart
24 discovery and disrupt my vacation. I also requested that he timely and properly provide
25 me his motion papers so that I could prepare my opposition to his ex parte hearing for
26 continuing the depositions. A true and correct copy of the fax dated May 30, 2008 is
27 attached as Exhibit 11.

28 32. I have seen the website for Mr. Ratliff's law firm of Weakley Ratliff Arendt & McGuire

1 at www.wrlaw.com wherein it shows a staff of seven attorneys. Attached as Exhibit 12 is
2 a true and correct copy of the staff page of www.wrlaw.com.

3 33. Attached as Exhibit 13 is a true and correct copy of the Notice of Intention to Recall
4 Tommy Jones filed on April 28, 2008.

5 34. Delaying the set depositions would prejudice my case as well as prejudice the Recall of
6 Tommy Jones in that there may be testimony which would bear on the recall.

7 35. I believe that Mr. Ratliff is attempting to delay the discovery due to the recall and not for
8 any valid reason.

9 36. Mr. Ratliff did not provide me with any alternative dates for deposition as I requested of
10 him.

11 37. Due to Mr. Ratliff's prior vagueness, game playing, and seemingly bad faith conduct, I
12 am filing this ex parte application to protect my interests, and ensure that Mr. Ratliff
13 proceeds according to the Notice of Unavailability filed on May 6, 2008.

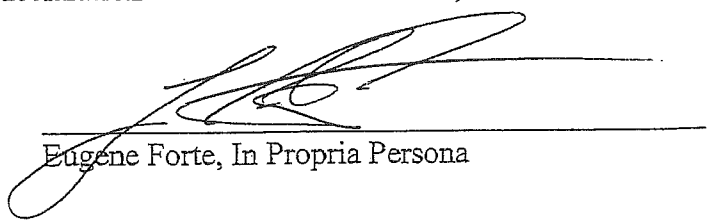
14 38. As of 8:00am on June 2, 2008, there have been no notices of motions or hearing served
15 upon me, other than the notice regarding the subject ex parte hearing for June 5, 2008, in
16 this case by Defendants.

17 39. It cost me \$3.00 for the printing and copying of this ex parte application, at least \$25.00
18 to drive to and from the Merced Courthouse from my home in Los Banos, and \$15.00 to
19 overnight this document for delivery before 10:30am next day delivery.

20 40. This ex parte application cost me \$40.00 to file.

21 41. I request sanctions against Counsel Ratliff in the amount of \$83.00 to cover my costs
22 which he caused due to his notice that he set a hearing on a date he knew or should have
23 known I was unavailable for an order which should not be heard ex parte.

24 I declare under penalty of perjury under the laws of the State of California that the
25 foregoing is true and correct and that this declaration was executed on June 2, 2008 at Los Banos,
26 California.


Eugene Forte, In Propria Persona

1 POINTS AND AUTHORITIES

2 STATEMENT OF FACTS

3 Plaintiff filed the complaint on December 18, 2007, which Defendant answered on
4 January 25, 2008. On April 30, 2008, Plaintiff served a Notice of Deposition on Defendant's
5 counsel which he amended on May 1, 2008, due to a typographical error, setting the deposition
6 for June 18, 2008. See Exhibit 1. On May 6, Plaintiff filed a Notice of Unavailability of
7 Counsel for the dates of June 5, 2008 to June 17, 2008 inclusive. See Exhibit 2. On or about
8 May 7, 2008, Plaintiff was contacted by a secretary for Defendant's counsel, Mr. Benjamin
9 Ratliff, saying that Mr. Ratliff might be in court on that day. Plaintiff requested he provide dates
10 he would be available for Jones' deposition. (See Decl. Of Forte above, #3-6). On or about May
11 8, 2008, Plaintiff received a letter from Mr. Ratliff, but it did not provide available dates. See
12 Exhibit 3.

13 On May 16, 2008, Mr. Manuel Faria was served a deposition subpoena by process server,
14 (Exhibit 8, pg. 21) and on May 17, 2008, Mr. Joe Sousa was served (Exhibit 8, pg.11) setting
15 both depositions for June 20th, 2008 . On May 21, 2008, Plaintiff received a letter from Los
16 Banos City Attorney, William Vaughn (Exhibit 4), regarding the subpoenas, and Plaintiff
17 responded on May 24, 2008. (Exhibit 5).

18 In Defendant's CMC filed on May 27, 2008, it is clear that Defendant's counsel
19 understood that Plaintiff was going to depose the city council members. (Exhibit 6, pg. 4).

20 On May 30, 2008, Plaintiff received a letter from Mr. Ratliff noticing him of an ex parte
21 hearing set for June 5, 2008 regarding the continuance of Mr. Jones' and Mr. Sousa's
22 depositions. (Exhibit 7, last ¶). Plaintiff immediately responded with a letter notifying him of
23 this subject ex parte application for sanctions against him for setting a hearing when Plaintiff was
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1 unavailable. (Exhibit 8, last ¶). Plaintiff also sent Mr. Vaughn an email regarding his non-
2 response and gamesmanship with Mr. Ratliff regarding the depositions and representation of
3 witnesses. (Exhibit 9). Mr. Ratliff noticed Plaintiff that he would be rescheduling his June 5,
4 2008 hearing for June 3, 2008 (Exhibit 10), and Plaintiff reiterated Mr. Ratliff's failure to
5 provide firm alternative deposition dates. (Exhibit 11).
6

7 Mr. Ratliff has a law firm of seven attorneys. (Exhibit 12). He is aware of the Notice of
8 Intention to Recall Tommy Jones (Exhibit 13).
9

10 ARGUMENT

11 Plaintiff submits to the court that Mr. Ratliff's actions and non-actions indicate that he
12 has not attempted to meet and confer in good faith in his attempt to continue the noticed
13 depositions, particularly when he refuses to provide firm alternative dates. Coupling this with his
14 setting of an ex parte hearing on a date Plaintiff had noticed him that Plaintiff would be
15 unavailable, a sanctionable act, with the fact that his ex parte application is a request for an order
16 that properly should be the subject of a noticed motion, and the fact that he had ample time and
17 opportunity to avoid the "11th hour" setting of an ex parte hearing, it becomes apparent that Mr.
18 Ratliff is attempting to "play games" with Plaintiff in his efforts to derail Plaintiff's properly
19 served Notice of Deposition and deposition subpoenas. Plaintiff is entitled to fair treatment and
20 good faith dealings despite the fact that he is in propria persona, and requests that this court grant
21 him sanctions for his costs of this ex parte application.
22

23 I. Counsel Ratliff's Conduct Sanctionable.

24 As stated before, Counsel Ratliff noticed Plaintiff that he set an ex parte hearing on June
25 5, 2008, a time when Plaintiff had noticed him that Plaintiff was unavailable. This conduct is
26 sanctionable, and Plaintiff is entitled to his expenses in filing this ex parte application which he
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1 felt was necessary due to the game playing by Ratliff to ensure that a hearing was not held on
2 June 5, 2008. Purposefully scheduling a conflicting proceeding [to the Notice of Unavailability]
3 without good cause is sanctionable conduct. Tenderloin Housing Clinic v. Sparks (1992) 8
4 Cal.App.4th 299.

6 **II. An Ex Parte Hearing is the Improper Forum for a Motion to Continue, Stay, or**
7 **Quash a Deposition.**

8 In addition to Ratliff's inappropriate scheduling of the ex parte hearing on June 5, 2008,
9 Ratliff also misuses the ex parte process, wasting Plaintiff's and the court's time by filing an
10 application to continue the deposition date which should properly be in the form of a noticed
11 motion. A request for an order to continue, stay, or quash a properly noticed deposition or
12 deposition subpoena cannot be made ex parte. Courts may *not* grant ex parte relief that would
13 affect the opposing party's rights which, in this case, is the Plaintiff's right to depose the
14 Defendant party when properly noticing his deposition. "The general rule is that *notice* of
15 motion must be given whenever the order sought *may affect the rights of an adverse party.*"
16 [McDonald v. Severy (1936) 6 C2d 629, 631, 59 P2d 98, 99 (emphasis added)]
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18 Statutes provide that there is no need to serve a deposition subpoena on an opposing party
19 in order to take that party's deposition. Proper service of *notice* of deposition *compels* the
20 opposing party to appear, to testify, *and* to produce documents if requested. [CCP § 2025.280(a)]
21 Therefore, Defendant Jones is compelled to appear for his deposition as set forth in the amended
22 notice served on May 1, 2008.

23 California Rules of Court 3.724 require a meet and confer of good faith prior to an
24 application or motion. Ratliff did not meet and confer in good faith when he refused to provide
25 dates that he is requesting a continuance of the depositions to. Such unreasonable conduct, when
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1 he had ample time to provide these dates, show his game playing and bad faith dealing in his
2 misuse of the ex parte application and attempt to thwart Plaintiff's right to timely discovery.

3 **III. Summary**

4 Plaintiff is entitled to an order confirming that no ex parte hearing by Defendant to
5 continue the depositions which were properly subpoenaed and/or noticed is to be heard during
6 the time period of June 5, 2008 to June 17, 2008 as indicated on the filed Notice of
7 Unavailability. Plaintiff is also entitled to sanctions which Plaintiff is requesting in the amount
8 of \$83.00 for his costs in preparing and attending this hearing.
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12 Date: June 2, 2008


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14 Eugene Forte
15 In Propria Persona
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Exhibit "1"

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,

NOTICE OF TAKING DEPOSITION

12 vs.

13 TOMMY JONES, an individual, and DOES

14

Defendants.

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16 TO: ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

17 PLEASE TAKE NOTICE that Plaintiff EUGENE FORTE will take the deposition, on
18 oral examination, of the following individual, at *Al Cala and Associates, 1601 I Street, Suite*
19 *410, Modesto, California, 95354, Telephone: (209) 521-9898*, as follows:

20 Deponent: *Tommy Jones*
1348 El Camino Way
21 *Los Banos, CA 93635*
22 Date: *May 18, 2008*
Time: *9:00 a.m.*

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24 NOTICE IS FURTHER GIVEN that plaintiff intends to record the testimony at the
25 above-described depositions by video tape, in addition to recording this testimony by the
26 stenographic method.

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28 NOTICE IS FURTHER GIVEN that plaintiff reserves the right to use at trial the video
tape deposition, pursuant to Section 2025.62(d) of the Code of Civil Procedure.

XHIBIT 1
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The deposition will be taken before a deposition officer who is authorized to administer an oath. If the deposition is not completed on the date set out above, the taking of the deposition will be continued from day to day thereafter, except for Sundays and holidays, at the same place, until completed.

DATED: April 30, 2008



Eugene Forte, In Propria Persona

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
6 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, California, 93635.

7 On April 30, 2008, I served the foregoing *NOTICE OF TAKING DEPOSITION* on the
8 parties in this action by:

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

10 _____ facsimile machine pursuant to Rule 2008. Said document was sent to the below
11 listed party(ies). The fax number I used was: (831) 484-7553. The facsimile
12 machine I used complied with Rule 2004, and no error was reported by the
13 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.

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

15 _____ placing a true copy thereof enclosed in a postage prepaid and sealed envelope for
16 deposit, collection and mailing on the date and at the place shown above
17 following this firm's ordinary business practices. I am readily familiar with this
18 firm's business practice for collecting and processing correspondence for mailing.
19 On the same day that the correspondence is placed for collection and mailing, it is
deposited in the ordinary course of business with the United States Postal Service
at Monterey, California, and it was addressed as follows:

20 *Mr. Benjamin L. Ratliff, Esq.*
21 *The Law Firm of Weakley, Ratliff, Arendt, & McGuire, LLP*
22 *1630 East Shaw Avenue, Suite 176*
Fresno, CA 93710

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 April 30, 2008 at Los Banos, California.

25
26 
27 _____
Eileen Forte

28 EXHIBIT 1
PG 3 OF 6

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

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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

8

IN AND FOR THE COUNTY OF MERCED

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10 EUGENE FORTE,

Case No. 150880

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Plaintiff,

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AMENDED NOTICE OF TAKING
DEPOSITION

13

vs.

14

TOMMY JONES, an individual, and DOES

15

Defendants

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TO: ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

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18

PLEASE TAKE NOTICE that Plaintiff EUGENE FORTE will take the deposition, on
oral examination, of the following individual, at *Al Cala and Associates, 1601 I Street, Suite
19 410, Modesto, California, 95354, Telephone: (209) 521-9898*, as follows:

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21

*Deponent: Tommy Jones
1348 El Camino Way
Los Banos, CA 93635*

22

Date: June 18, 2008

23

Time: 9:00 a.m.

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NOTICE IS FURTHER GIVEN that plaintiff intends to record the testimony at the
above-described depositions by video tape, in addition to recording this testimony by the
26 stenographic method.

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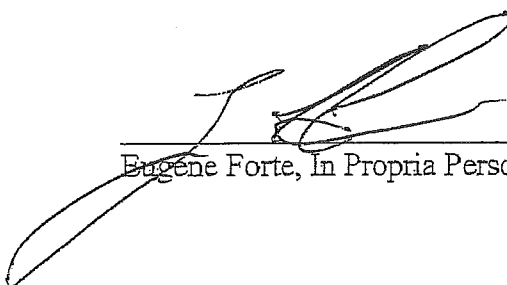
NOTICE IS FURTHER GIVEN that plaintiff reserves the right to use at trial the video
tape deposition, pursuant to Section 2025.62(d) of the Code of Civil Procedure.

EXHIBIT 1
PG 4 OF 6

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The deposition will be taken before a deposition officer who is authorized to administer an oath. If the deposition is not completed on the date set out above, the taking of the deposition will be continued from day to day thereafter, except for Sundays and holidays, at the same place, until completed.

DATED: May 1, 2008



Eugene Forte, In Propria Persona

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
6 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, California, 93635.

7 On May 1, 2008, I served the foregoing *AMENDED NOTICE OF TAKING*
8 *DEPOSITION* on the parties in this action by:

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

10 _____ facsimile machine pursuant to Rule 2008. Said document was sent to the below
11 listed party(ies). The fax number I used was: (831) 484-7553. The facsimile
12 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
13 record of the transmission, a copy of which is attached to this declaration.

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

15 _____ placing a true copy thereof enclosed in a postage prepaid and sealed envelope for
16 deposit, collection and mailing on the date and at the place shown above
17 following this firm's ordinary business practices. I am readily familiar with this
18 firm's business practice for collecting and processing correspondence for mailing.
On the same day that the correspondence is placed for collection and mailing, it is
19 deposited in the ordinary course of business with the United States Postal Service
at Monterey, California, and it was addressed as follows:

20 *Mr. Benjamin L. Ratliff, Esq.*
21 *The Law Firm of Weakley, Ratliff, Arendt, & McGuire, LLP*
22 *1630 East Shaw Avenue, Suite 176*
Fresno, CA 93710

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 May 1, 2008 at Los Banos, California.

25
26 
27 _____
Eileen Forte

28 EXHIBIT 1
PG 6 OF 6

Exhibit "2"

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

03 MAY -5 AM 9:50

MARICELA HERNANDEZ

4 IN PROPRIA PERSONA

5
6
7 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **IN AND FOR THE COUNTY OF MERCED**

9
10 EUGENE FORTE,
11 Plaintiff,
12 vs.
13 TOMMY JONES, an individual, and DOES
14
15 Defendants.

Case No. 150880

**NOTICE OF UNAVAILABILITY
OF COUNSEL**

16
17 PLEASE TAKE NOTICE that Plaintiff, EUGENE FORTE, will be out of town
18 and therefore, will be unavailable for any purpose whatsoever, including and not limited to,
19 receiving notices of any kind, appearing in Court except as described above, responding to ex
20 parte applications, responding to pleadings or discovery, or attending depositions, on the
21 following dates:

22 **June 5, 2008 to June 17, 2008, inclusive.**

23 Purposefully scheduling a conflicting proceeding without good cause is sanctionable
24 conduct. Tenderloin Housing Clinic v. Sparks (1992) 8 Cal.App.4th 299.

25
26 Date: May 5, 2008

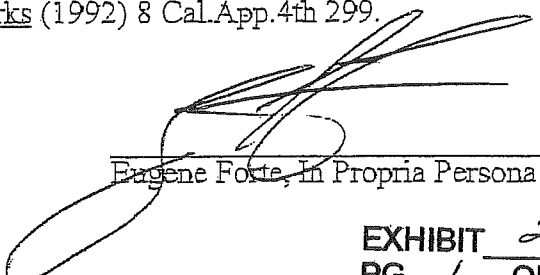

Eugene Forte, In Propria Persona

EXHIBIT 2
PG 1 OF 2

Exhibit "3"

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
ERICA M. CAMARENA

1630 East Shaw Avenue, Suite 176
Fresno, California 93710
Telephone (559) 221-5256
Facsimile (559) 221-5262
E-mail: ben@wrlaw.com

May 6, 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:


With regard to the deposition of Tommy Jones which you noticed for June 18, 2008, I have been asked by my client to personally handle any depositions, and as my paralegal informed you by telephone on May 5, 2008, I will be in a three-week trial during that time. Additionally, you did not clear the date for Mr. Jones' deposition in advance, as is the normal courtesy during litigation.

In light of the above, I would ask that you reconsider your position regarding rescheduling Mr. Jones' deposition pursuant to *Tenderlion Housing Clinic v. Sparks* (1992) 8 Cal.App.4th 299.

Please advise me of your position before this Friday, May 9, 2008, so I can file the appropriate motion.

Yours very truly,

WEAKLEY, RATLIFF, ARENDT & MCGUIRE, LLP


Benjamin L. Ratliff

BLR:lp

EXHIBIT 3
PG 1 OF 1

Exhibit "4"

Law Offices of
WILLIAM A. VAUGHN

COPY

Telephone
209-826-3531

525 J Street, Suite A
Los Banos, CA 93635

Facsimile
209-826-2431

May 21, 2008

Eugene Forte
688 Birch Court
Los Banos, CA 93635

RE: **Forte v. Jones**
Merced County Superior Court, Case No. 150880
Deposition Subpoenas – Joseph Sousa and Tom Faria

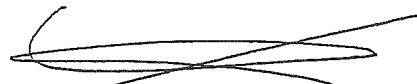
Dear Mr. Forte:

I write to you regarding the Deposition Subpoenas delivered to Mr. Joe Sousa and Mr. Tom Faria respectively in connection with the above referenced action. Please provide me with a copy of the completed proof of service for both deposition subpoenas at your earliest convenience.

I note that in the captions of both deposition subpoenas Joseph Sousa and Manuel (Tom) Faria are incorrectly identified as parties to the action. It is my understanding that Mr. Jones is the only named defendant in this action and that neither Mr. Sousa nor Mr. Faria are parties to this action. I also note that Mr. Sousa's correct name is Joe Sousa and not Joseph Sousa. Finally, I note that the deposition subpoena delivered to Mr. Faria did not contain Attachment 3.

I look forward to the receipt of the requested proofs of service and attention to the deficiencies noted above.

Sincerely,



~~WILLIAM A. VAUGHN~~

WAV/dma

EXHIBIT 4
PG 1 OF 1

Exhibit "5"

Forte

Saturday, May 24th, 2008

Mr. William Vaughn
525 J Street, Suite A
Los Banos, California 93635

EMAIL ONLY

Re: Forte v. Jones, #150880

Dear Mr. Vaughn:

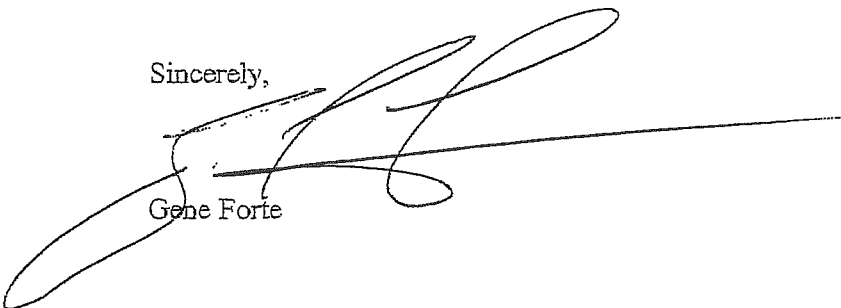
I am in receipt of a letter from you dated May 21st, 2008 concerning the depositions of Mr. Tom Faria and Mr. Joseph (Joe) Sousa. Even though there appears to be nothing that needs to be responded to (i.e., proof of services are on file with the court), for the record please identify if you are representing Mr. Faria and Mr. Sousa and in what capacity?

In other words, are Mr. Faria and Mr. Sousa attempting to get a free ride of personal legal representation by you as City Attorney for Los Banos during the taking of their depositions in a private lawsuit against Mr. Tommy Jones as a private individual?

With that said, I only suggest that Mr. Sousa, Mr. Faria and whoever their counsel is to be respectful of the properly noticed and served deposition subpoenas or face potential Contempt charges and sanctions for non-appearance .

Thank you.

Sincerely,



Gene Forte

Exhibit "6"

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Benjamin L. Ratliff, No. 113708 WEAKLEY, RATLIFF, ARENDT & MCGUIRE 1630 East Shaw Ave., Suite 176 Fresno, California 93710 TELEPHONE NO.: (559) 221-5256 FAX NO. (Optional): (559) 221-5262 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Defendant Tommy Jones	FOR COURT USE ONLY CASE NUMBER: 150880
SUPERIOR COURT OF CALIFORNIA, COUNTY OF MERCED STREET ADDRESS: 627 W. 21st Street MAILING ADDRESS: Merced, California 95434 CITY AND ZIP CODE: BRANCH NAME:	
PLAINTIFF/PETITIONER: EUGENE FORTE DEFENDANT/RESPONDENT: TOMMY JONES, et al.	
CASE MANAGEMENT STATEMENT (Check one): <input checked="" type="checkbox"/> UNLIMITED CASE (Amount demanded exceeds \$25,000) <input type="checkbox"/> LIMITED CASE (Amount demanded is \$25,000 or less)	

A CASE MANAGEMENT CONFERENCE is scheduled as follows:

Date: June 10, 2008 Time: 9:45 a.m. Dept.: Div.: Room:

Address of court (if different from the address above):

INSTRUCTIONS: All applicable boxes must be checked, and the specified information must be provided.

1. Party or parties (answer one):
 - a. This statement is submitted by party (name): Defendant Tommy Jones
 - b. This statement is submitted jointly by parties (names):

2. Complaint and cross-complaint (to be answered by plaintiffs and cross-complainants only)
 - a. The complaint was filed on (date):
 - b. The cross-complaint, if any, was filed on (date):

3. Service (to be answered by plaintiffs and cross-complainants only)
 - a. All parties named in the complaint and cross-complaint have been served, or have appeared, or have been dismissed.
 - b. The following parties named in the complaint or cross-complaint
 - (1) have not been served (specify names and explain why not):
 - (2) have been served but have not appeared and have not been dismissed (specify names):
 - (3) have had a default entered against them (specify names):
 - c. The following additional parties may be added (specify names, nature of involvement in case, and the date by which they may be served):

4. Description of case
 - a. Type of case in complaint cross-complaint (describe, including causes of action):
 Defamation

EXHIBIT 6
 PG 1 OF 5 Page 1 of 4

PLAINTIFF/PETITIONER: EUGENE FORTE	CASE NUMBER:
DEFENDANT/RESPONDENT: TOMMY JONES, et al.	150880

4. b. Provide a brief statement of the case, including any damages. *(If personal injury damages are sought, specify the injury and damages claimed, including medical expenses to date [indicate source and amount], estimated future medical expenses, lost earnings to date, and estimated future lost earnings. If equitable relief is sought, describe the nature of the relief.)*
 Plaintiff claims he was slandered by defendant on May 6, 2007 and seeks damages for same.

(if more space is needed, check this box and attach a page designated as Attachment 4b.)

5. **Jury or nonjury trial**

The party or parties request a jury trial a nonjury trial *(if more than one party, provide the name of each party requesting a jury trial):*

6. **Trial date**

a. The trial has been set for *(date):*

b. No trial date has been set. This case will be ready for trial within 12 months of the date of the filing of the complaint *(if not, explain):*

c. Dates on which parties or attorneys will not be available for trial *(specify dates and explain reasons for unavailability):*
 April 20-30, 2009; June 22-30, 2009

7. **Estimated length of trial**

The party or parties estimate that the trial will take *(check one):*

a. days *(specify number):* 3

b. hours *(short causes) (specify):*

8. **Trial representation *(to be answered for each party)***

The party or parties will be represented at trial by the attorney or party listed in the caption by the following:

a. Attorney:

b. Firm:

c. Address:

d. Telephone number:

e. Fax number:

f. E-mail address:

g. Party represented:

Additional representation is described in Attachment 8.

9. **Preference**

This case is entitled to preference *(specify code section):*

10. **Alternative Dispute Resolution (ADR)**

a. Counsel has has not provided the ADR information package identified in rule 3.221 to the client and has reviewed ADR options with the client.

b. All parties have agreed to a form of ADR. ADR will be completed by *(date):*

c. The case has gone to an ADR process *(indicate status):*

EXHIBIT 6
 PG 2 OF 5

PLAINTIFF/PETITIONER: EUGENE FORTE	CASE NUMBER:
DEFENDANT/RESPONDENT: TOMMY JONES, et al.	150880

10. d. The party or parties are willing to participate in (check all that apply):
- (1) Mediation
 - (2) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to close 15 days before arbitration under Cal. Rules of Court, rule 3.822)
 - (3) Nonbinding judicial arbitration under Code of Civil Procedure section 1141.12 (discovery to remain open until 30 days before trial; order required under Cal. Rules of Court, rule 3.822)
 - (4) Binding judicial arbitration
 - (5) Binding private arbitration
 - (6) Neutral case evaluation
 - (7) Other (specify): None at the present time
- e. This matter is subject to mandatory judicial arbitration because the amount in controversy does not exceed the statutory limit
- f. Plaintiff elects to refer this case to judicial arbitration and agrees to limit recovery to the amount specified in Code of Civil Procedure section 1141.11.
- g. This case is exempt from judicial arbitration under rule 3.811 of the California Rules of Court (specify exemption):

11. Settlement conference

The party or parties are willing to participate in an early settlement conference (specify when):

12. Insurance

- a. Insurance carrier, if any, for party filing this statement (name): N/A; defendant is self-insured
- b. Reservation of rights: Yes No
- c. Coverage issues will significantly affect resolution of this case (explain): N/A

13. Jurisdiction

Indicate any matters that may affect the court's jurisdiction or processing of this case, and describe the status.

Bankruptcy Other (specify):

Status:

14. Related cases, consolidation, and coordination

- a. There are companion, underlying, or related cases.
 - (1) Name of case:
 - (2) Name of court:
 - (3) Case number:
 - (4) Status:
- Additional cases are described in Attachment 14a.
- b. A motion to consolidate coordinate will be filed by (name party):

15. Bifurcation

The party or parties intend to file a motion for an order bifurcating, severing, or coordinating the following issues or causes of action (specify moving party, type of motion, and reasons):

16. Other motions

The party or parties expect to file the following motions before trial (specify moving party, type of motion, and issues):
Motion for Summary Judgment and Motion for Protective Order

EXHIBIT 6
PG 3 OF 5

PLAINTIFF/PETITIONER: EUGENE FORTE	CASE NUMBER:
DEFENDANT/RESPONDENT: TOMMY JONES, et al.	150880

17. Discovery

- a. The party or parties have completed all discovery.
- b. The following discovery will be completed by the date specified (*describe all anticipated discovery*):

<u>Party</u>	<u>Description</u>	<u>Date</u>
Defendant Tommy Jones	Depositions, Requests for Admissions, Interrogs and RFP	11/08

- c. The following discovery issues are anticipated (*specify*): Plaintiff intends to depose members of the Los Banos City Council; defendant contends some or all of the information sought by plaintiff is privileged or completely irrelevant.

18. Economic Litigation

- a. This is a limited civil case (i.e., the amount demanded is \$25,000 or less) and the economic litigation procedures in Code of Civil Procedure sections 90 through 98 will apply to this case.
- b. This is a limited civil case and a motion to withdraw the case from the economic litigation procedures or for additional discovery will be filed (*if checked, explain specifically why economic litigation procedures relating to discovery or trial should not apply to this case*):

19. Other issues

- The party or parties request that the following additional matters be considered or determined at the case management conference (*specify*): Defendant requests that the court establish a discovery schedule.

20. Meet and confer

- a. The party or parties have met and conferred with all parties on all subjects required by rule 3.724 of the California Rules of Court (*if not, explain*): Plaintiff has scheduled depositions on a date defense counsel is in trial and he has refused to reschedule the depositions; defense counsel therefore believes any other efforts to meet and confer will be futile.
- b. After meeting and conferring as required by rule 3.724 of the California Rules of Court, the parties agree on the following (*specify*):

21. Case management orders

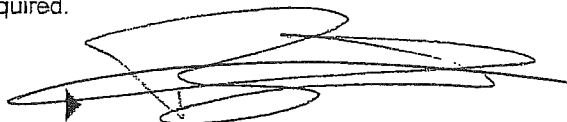
Previous case management orders in this case are (*check one*): none attached as Attachment 21.

22. Total number of pages attached (*if any*): _____

I am completely familiar with this case and will be fully prepared to discuss the status of discovery and ADR, as well as other issues raised by this statement, and will possess the authority to enter into stipulations on these issues at the time of the case management conference, including the written authority of the party where required.

Date: May 27, 2008

Benjamin L. Ratliff
(TYPE OR PRINT NAME)


(SIGNATURE OF PARTY OR ATTORNEY)

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY)

Additional signatures are attached

EXHIBIT 6
Page 4 of 4

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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

CASE MANAGEMENT STATEMENT

addressed as follows:

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

Plaintiff In Pro Per

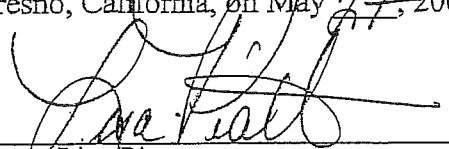
BY MAIL I am readily familiar with the business practice at my place of business for collection and processing of correspondence for mailing with the United States Postal Service. Correspondence so collected and processed is deposited in the ordinary course of business.

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 May 27, 2008.



Lisa Piatt

Exhibit "7"

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
ERICA M. CAMARENA

1630 East Shaw Avenue, Suite 176
Fresno, California 93710
Telephone (559) 221-5256
Facsimile (559) 221-5262
E-mail: ben@wrlaw.com

May 30, 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:

I have been advised that you have scheduled the deposition of Joseph Sousa for June 20, 2008. As I previously advised you, I expect to be in trial during that time and am not available for the deposition. Because you refused my request to continue Tommy Jones' deposition, I expect you will also refuse this request. Nevertheless, pursuant to CRC 3.724, I have a duty to make an attempt.

This letter will also serve to advise you that I have scheduled an ex parte hearing regarding the above-mentioned matter for June 5, 2008 at 1:15 p.m., in Courtroom 4. If you agree to reschedule the depositions, I will take the hearing off calendar.

Yours very truly,

WEAKLEY, RATLIFF, ARENDT & MCGUIRE, LLP



Benjamin L. Ratliff

BLR:lp

EXHIBIT 7
PG 1 OF 1

Exhibit "8"

Badger Flats Gazette

Friday, May 30, 2008

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

FAXED ONLY

Re: Forte v Jones, #150880/Request for Sanctions

Dear Mr. Ratliff:

I write this letter in response to your letter dated May 30th, 2008 to inform you that I am not available for the ex parte hearing that you have scheduled for June 5th, 2008 and that I intend to seek sanctions against you and your client for scheduling a conflicting proceeding without good cause according to Tenderloin Housing Clinic v. Sparks (1992) 8 Cal.App.4th 299. It appears that you and Mr. William Vaughn, City Attorney for Los Banos are intent upon playing discovery games in the above referenced litigation and "lets frustrate the in pro per". You had once informed me that even though you represent the City of Los Banos, you were not representing the City of Los Banos in the matter of Forte v. Jones because they are not a defendant.

You state in your letter that you had received Notice of the Depositions of Mr. Sousa and Mr. Faria. I reasonably conclude that you received such notice from Mr. Vaughn. You will find attached the letter from Mr. Vaughn dated May 21st, 2008 which he has not responded to.

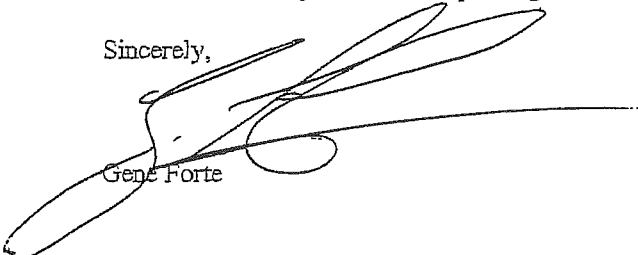
I was waiting to hear from Mr. Vaughn as to if he was representing Mr. Faria and Mr. Sousa. If Mr. Vaughn would have responded, I then would have known if he needed to have the depositions re-scheduled for another date due to his schedule.

I then intended that upon receiving such anticipated information from Mr. Vaughn to inform you so that you could check your schedule. Once that was done, I would have provided you the Notice of the Taking of Depositions. I was following the proper procedure. You and Mr. Vaughn are playing games to thwart my discovery and my vacation.

For the record, you fail to mention in your letter that you have never once provided me, as I requested, a letter informing me of what dates you are available or unavailable for deposition. Instead you file an ex parte application on the 11th hour scheduling a hearing during a time period that you knew I was not available for. In a nutshell, you are actually trying to quash deposition subpoenas by whining about your schedule while not cooperating to conduct discovery by providing any alternative dates. With that said and without any response from Mr. Vaughn due to his and your tactical game playing, you will find the attached Notice of Taking Depositions of Mr. Sousa and Mr. Faria.

You are also advised that I am scheduling an ex parte hearing for June 3rd, 2008 at 1:15P.M., in Courtroom 4 regarding your scheduling an ex parte hearing during a time period that you knew I was unavailable. I will be requesting that the court put an end to the inappropriate gamesmanship of two attorneys, who should know better than to thwart discovery. I will be requesting sanctions and I also request that you take your ex parte hearing off calendar.

Sincerely,


Gene Forte

Cc: Vaughn, W.

Attached: Notice of Deposition, Vaughn Letter and Response

EXHIBIT 8
PG 1 OF 26

Law Offices of
WILLIAM A. VAUGHN

COPY

Telephone
209-826-3531

525 J Street, Suite A
Los Banos, CA 93635

Facsimile
209-826-2431

May 21, 2008

Eugene Forte
688 Birch Court
Los Banos, CA 93635

RE: **Forte v. Jones**
Merced County Superior Court, Case No. 150880
Deposition Subpoenas – Joseph Sousa and Tom Faria


Dear Mr. Forte:

I write to you regarding the Deposition Subpoenas delivered to Mr. Joe Sousa and Mr. Tom Faria respectively in connection with the above referenced action. Please provide me with a copy of the completed proof of service for both deposition subpoenas at your earliest convenience.

I note that in the captions of both deposition subpoenas Joseph Sousa and Manuel (Tom) Faria are incorrectly identified as parties to the action. It is my understanding that Mr. Jones is the only named defendant in this action and that neither Mr. Sousa nor Mr. Faria are parties to this action. I also note that Mr. Sousa's correct name is Joe Sousa and not Joseph Sousa. Finally, I note that the deposition subpoena delivered to Mr. Faria did not contain Attachment 3.

I look forward to the receipt of the requested proofs of service and attention to the deficiencies noted above.

Sincerely,


WILLIAM A. VAUGHN

WAV/dma

EXHIBIT 8
PG 2 OF 26

Forte

COPY

Saturday, May 24th, 2008

Mr. William Vaughn
525 J Street, Suite A
Los Banos, California 93635

EMAIL ONLY

Re: Forte v. Jones, #150880

Dear Mr. Vaughn:

I am in receipt of a letter from you dated May 21st, 2008 concerning the depositions of Mr. Tom Faria and Mr. Joseph (Joe) Sousa. Even though there appears to be nothing that needs to be responded to (i.e., proof of services are on file with the court), for the record please identify if you are representing Mr. Faria and Mr. Sousa and in what capacity?

In other words, are Mr. Faria and Mr. Sousa attempting to get a free ride of personal legal representation by you as City Attorney for Los Banos during the taking of their depositions in a private lawsuit against Mr. Tommy Jones as a private individual?

With that said, I only suggest that Mr. Sousa, Mr. Faria and whoever their counsel is to be respectful of the properly noticed and served deposition subpoenas or face potential Contempt charges and sanctions for non-appearance.

Thank you.

Sincerely,

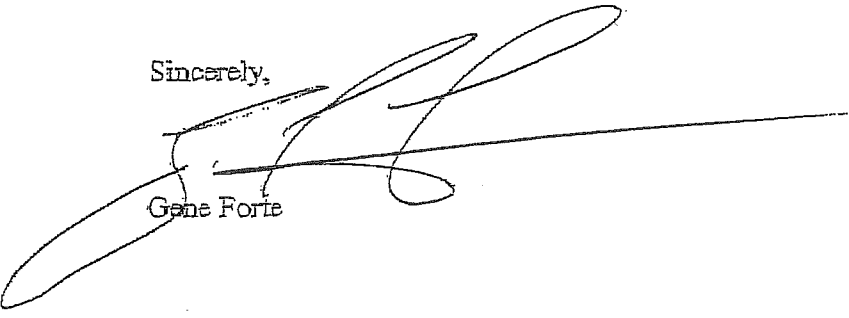

Gene Forte

EXHIBIT 8
PG 3 OF 26

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

4 IN PROPRIA PERSONA

5
6
7 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 IN AND FOR THE COUNTY OF MERCED
9

10 EUGENE FORTE,

11 Plaintiff,

Case No. 150880

12 NOTICE OF TAKING DEPOSITION
BY DEPOSITION SUBPOENA FOR
13 PERSONAL APPEARANCE AND
PRODUCTION OF DOCUMENTS AND
14 THINGS OF JOSEPH SOUSA;
DECLARATION OF GENE FORTE IN
SUPPORT THEREOF

15 vs.

16 TOMMY JONES, an individual, et al.

17 Defendants.
18

19 TO: ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

20 PLEASE TAKE NOTICE that Plaintiff EUGENE FORTE will take the deposition, on
21 oral examination, of the following individual, at *Al Cala and Associates, 1601 I Street, Suite*
22 *410, Modesto, California, 95354, Telephone: (209) 521-9898*, as follows:

23 Deponent: *Joseph Sousa*
Los Banos, CA 93635
24 Date: *June 20, 2008*
25 Time: *9:00 a.m.*

26 NOTICE IS FURTHER GIVEN that plaintiff intends to record the testimony at the
27 above-described depositions by video tape, in addition to recording this testimony by the
28 stenographic method.

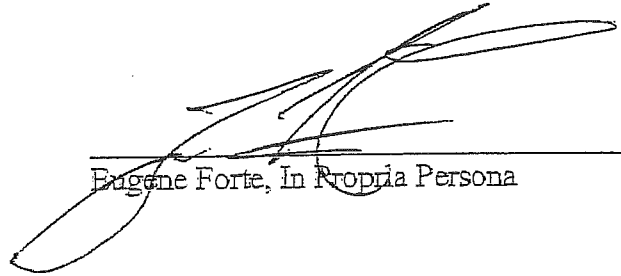
EXHIBIT 8
PG 4 OF 26

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NOTICE IS FURTHER GIVEN that plaintiff reserves the right to use at trial the video tape deposition, pursuant to Section 2025.62(d) of the Code of Civil Procedure.

The deposition will be taken before a deposition officer who is authorized to administer an oath. If the deposition is not completed on the date set out above, the taking of the deposition will be continued from day to day thereafter, except for Sundays and holidays, at the same place, until completed.

DATED: May 30, 2008



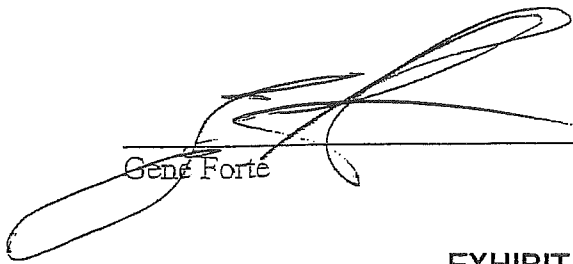
Eugene Forte, In Propria Persona

DECLARATION OF GENE FORTE

I, Eugene Forte, declare the following:

1. I am the plaintiff in the subject case representing myself in propria persona.
2. Attached as Exhibit 1 is a true and correct copy of the Deposition Subpoena for Personal Appearance and Production of Documents and Things served upon Joseph Sousa on May 17, 2008.

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 May 30, 2008 at Los Banos, California.



Gene Forte

Exhibit "1"

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Eugene Forte 688 Birch Court Los Banos, CA 93635 TELEPHONE NO.: (209) 829-1116 FAX NO. (Optional): (209) 829-1952 E-MAIL ADDRESS (Optional): geneforte@badgerflats.com ATTORNEY FOR (Name): In Propria Persona	FOR COURT USE ONLY MAY 20 PM 12:43 DEPUTY SINDY LANDRUM DEPUTY CASE NUMBER: 150880
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Merced STREET ADDRESS: 627 West 21st Street MAILING ADDRESS: CITY AND ZIP CODE: Merced, 95340 BRANCH NAME: Merced	
PETITIONER: Eugene Forte RESPONDENT: Joseph Sousa	
DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS	

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):
 Joseph Sousa, 2040 Princeton Court, Los Banos, CA 93635 (209) 826-6115

1. YOU ARE ORDERED TO APPEAR IN PERSON TO TESTIFY AS A WITNESS in this action at the following date, time, and place:

Date: June 20, 2008 Time: 9:00am Address: 1601 I Street, Ste 410, Modesto, CA 95354

- a. As a deponent who is not a natural person, you are ordered to designate one or more persons to testify on your behalf as to the matters described in item 4. (Code Civ. Proc., § 2025.220(a)(6)).
 - b. You are ordered to produce the documents and things described in item 3.
 - c. This deposition will be recorded stenographically through the instant visual display of testimony, and by audiotape videotape
 - d. This videotape deposition is intended for possible use at trial under Code of Civil Procedure section 2025.620(d).
2. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
3. The documents and things to be produced and any testing or sampling being sought are described as follows:
 See Attachment 3.
- Continued on Attachment 3.
4. If the witness is a representative of a business or other entity, the matters upon which the witness is to be examined are described as follows:

Continued on Attachment 4.

5. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE RECORDS AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.
6. At the deposition, you will be asked questions under oath. Questions and answers are recorded stenographically at the deposition; later they are transcribed for possible use at trial. You may read the written record and change any incorrect answers before you sign the deposition. You are entitled to receive witness fees and mileage actually traveled both ways. The money must be paid, at the option of the party giving notice of the deposition, either with service of this subpoena or at the time of the deposition.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued:

MAY 12 2008

CINDY LANDRUM

(TYPE OR PRINT NAME)

Cindy Landrum
 (SIGNATURE OF PERSON ISSUING SUBPOENA)

ATTACHMENT 3

Unless expressly excluded by the terms of the particular request, the following definitions shall be considered a part of each and every request herein:

DEFINITIONS AND INSTRUCTION

1. "You" or "Your" (whether or not capitalized or underlined in the text of this request) means the deponent specified in this Deposition Subpoena, and any other persons acting on behalf of said responding parties, including without limitation, attorneys, accountants, bankers, brokers, representatives, agents, employees, and advisors.
2. If you are a corporation, association, sole proprietorship, partnership, joint venture, or public entity, "you" includes your divisions, departments, subsidiaries, affiliates, predecessors, present or former officers, directors, shareholders, partners, owners, employees, agents and all persons acting or purporting to act on your behalf. If you are an individual, "you" includes your employees, agents, representatives, and all persons acting or purporting to act on your behalf.
3. "Document" means the original (as defined in California Evidence Code section 255) of any written, printed, typed, drawn, recorded, graphic or photographic matter of any kind or nature however produced or reproduced, whether sent or received or either, including all drafts and copies bearing notations, marks, or matter not found on the original, including, but not limited to, all writings (as defined in California Evidence Code section 250), contracts, agreements, representations, warranties, certificates, opinions, tapes, letters or other forms of correspondence or communications, including, but not limited to, envelopes, notes, telegrams, cables, telex messages, reports, notes, notations and memoranda of or related to telephone conversations or conferences, memoranda, reports, notes, transcripts, studies, analyses, evaluations, test results, books, tapes, records, journals, ledgers, invoices, statements, accounts, lists, comparisons, questionnaires, surveys, summaries, desk calendars, appointment books, diaries, articles, press releases, magazines, newspapers, booklets, circulars, bulletins, notices, all meetings, photographs, microfilms, tapes or other records, punch cards, magnetic tapes, discs, drums, print-outs and other data compilations from which information can be obtained (translated, if necessary, through detection or decoding devices into usable form).
4. "All documents" means every document as above-defined known to you and every such document which can be located or discovered by reasonably diligent efforts. Any documents partially relating to matters herein shall also be produced. All designated documents are to include all attachments and enclosures.
5. The terms "refer," "relating," or "pertaining to" any given subject as used herein means, in whole or in part, constituting, containing, embodying, reflecting, identifying, stating or referring to the given subject.
6. "Identify" in the case of a "document" means the date, title, subject matter, e.g., contract, letter, tape recording, etc. its title, if any, and parties to each such document together with

any other information reasonably necessary to enable the undersigned to identify the document in a notice calling for its production), together with name, address, and telephone number of the person presently having custody thereof.

DOCUMENTS FOR WHICH PRIVILEGE IS CLAIMED

For each document requested herein which you contend is privileged, provide the following information:

- A. The place, approximate date and manner of preparing the document;
- B. The name, position and/or title of the sender and the name and title of each of the recipients of the document;
- C. The name and position of each person or persons (other than clerical or stenographic assistants) participating in the preparation of the document;
- D. The name and position of each person or persons to whom the contents of the document have heretofore been communicated by copy, exhibition, reading, reference or substantial summarization;
- E. A statement of the basis upon which the privilege is claimed, and whether or not the subject matter of the contents of the document is limited to the legal advice or information provided for the purpose of legal advice; and
- F. The number of the request to which the document is responsive.

ITEMS TO BE PRODUCED FOR INSPECTION

REQUEST NUMBER:

1. All written communications between yourself and any parties (Eugene Forte or Tommy Jones) named in this case, without limitation as to whether transmitted by internet e-mail, by postal service, by hand delivery, or otherwise, whether maintained in hard paper copy or maintained on computer storage devices;
2. All notes or notations which memorialize communications between yourself and the parties named in this case, whether maintained in hard paper copy or maintained on computer storage devices;
3. All written communications between yourself and any other person or entity including, but not limited to, Tom Faria, Michael Villalta, Steve Rath, Anna Brooks, Charles Guest, Jerry O'Banion, William Vaughn, Michael McAdams, Chet Guintini, any anonymous members/posters of ourlosbanos.com, Greg Hostetler, Gene Lieb of the Los Banos Enterprise, and Minerva Perez of the Los Banos Enterprise regarding Plaintiff Forte without limitation as to whether transmitted by internet e-mail, by postal service, by hand delivery, or otherwise, whether maintained in hard paper copy or maintained on computer storage devices;
4. All notes or notations which memorialize communications between yourself and any other person or entity including, but not limited to, Tom Faria, Michael Villalta, Steve Rath, Anna Brooks, Charles Guest, Jerry O'Banion, William Vaughn, Michael McAdams, Chet Guintini, any anonymous members/posters of ourlosbanos.com, Greg Hostetler, Gene Lieb of the Los Banos Enterprise, and Minerva Perez of the Los Banos Enterprise regarding Plaintiff Forte without limitation as to whether transmitted by internet e-mail, by postal service, by hand

- delivery, or otherwise, whether maintained in hard paper copy or maintained on computer storage devices.
5. All diaries maintained by you between the time period of October 2006 to May 1, 2008, whether maintained in hard paper copy or maintained on computer storage devices;
 6. All calendaring systems and/or daytimers maintained by you since October 2006 to May 1, 2008, whether maintained in hard paper copy or maintained on computer storage devices;
 7. Any documents, tapes, other tangible things or copies of such of the file that you have retained or have in your possession relating to Plaintiff Forte, whether maintained in hard paper copy, tapes, or computer storage devices;
 8. Any and all telephone bills, long distance carrier bills which include your home telephone number, home business number, cell phone number and fax numbers for the period between October 2006 and May 1, 2008 which show telephone calls regarding Plaintiff Forte including, but not limited to those made to or received from Tom Faria, Michael Villalta, Steve Rath, Anna Brooks, Charles Guest, Jerry O'Banion, any anonymous members/posters of ourlosbanos.com, Greg Hostetler, Gene Lieb of the Los Banos Enterprise, and Minerva Perez of the Los Banos Enterprise.
 9. Any and all deposition transcripts taken of you and settlement agreements pertaining to the case of Tommy Jones vs. The Los Banos Police Department and the City of Los Banos, et al
 10. Any and all documents pertaining to any gifts, loans, etc. between Tommy Jones and Mr. Greg Hostetler.
 11. Any and all evidence you have within your possession, or that you know exists, that establishes that plaintiff is a dangerous member of the Ku Klux Klan.

<i>Attorney or Party without Attorney:</i> EUGENE FORTE 688 BIRCH CT Los Banos, CA 93635 Telephone No: 209-829-1116				<i>For Court Use Only</i> 08 MAY 20 PM 12:44 CINDY LANDRUM DEPUTY	
<i>Attorney for: Plaintiff</i>				Ref. No. or File No.:	
<i>Insert name of Court, and Judicial District and Branch Court</i> MERCED COUNTY SUPERIOR COURT					
<i>Plaintiff:</i> FORTE					
<i>Defendant:</i> JONES					
PROOF OF SERVICE DEPOSITION SUBPOENA		<i>Hearing Date:</i> Fri, Jun. 20, 2008	<i>Time:</i> 1:00PM	<i>Dept/Div:</i>	<i>Case Number:</i> 150880

1. At the time of service I was at least 18 years of age and not a party to this action.

2. I served copies of the Deposition Subpoena- Personal Appearance and Production of Documents; and things

3. a. Party served:

JOSEPH SOUSA

4. Address where the party was served:

D.E.S. HALL
 1155 I ST
 Los Banos, CA 93635

5. I served the party:

- a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on: Sat, May. 17, 2008 (2) at 9:35PM
- b. I received this subpoena for service on: Tuesday, May 13, 2008

6. Witness fees were not demanded or paid

7. Person Who Served Papers:

- a. James Wyatt
 b. WYATT'S LEGAL SERVICE
 P. O. BOX 2560, Registration # 98
 Los Banos, CA 93635
 c. (209)826-0225

Recoverable Cost Per CCP 1033.5(a)(4)(B)

- d. The Fee for Service was: \$45.00
- e. I am: (3) registered California process server
- (i) Owner
 - (ii) Registration No.: 98
 - (iii) County: Merced
 - (iv) Expiration Date: Thu, Jan. 01, 2009

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

EXHIBIT 8
 PG 11 OF 26

Wyatt's Legal Service

P. O. Box 2560 Los Banos, CA 93635
Ph: (209) 826-0225, Fx: (209) 826-3335

EUGENE FORTE
688 BIRCH CT
Los Banos CA 93635

Saturday May 17, 2008

INVOICE

EF1.6661

Work Order #: 4121
Case #: 150880
Court: MERCED COUNTY SUPERIOR COURT
Title: FORTE vs. JONES
Documents: Deposition Subpoena- Personal Appearance and Production of Documents; and things

Date	Description	Amount
05/17/08 09:35PM	Personal Service JOSEPH SOUSA, AT Other D.E.S. HALL 1155 1ST Los Banos CA 93635, Served By: James Wyatt	45.00
05/17/08	PROCESS SERVICE	\$45.00

PLEASE PAY FROM THIS INVOICE

PAID

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
6 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, California, 93635.

7 On May 30, 2008, I served the foregoing *NOTICE OF TAKING DEPOSITION BY*
8 *DEPOSITION SUBPOENA FOR PERSONAL APPEARANCE AND PRODUCTION OF*
9 *DOCUMENTS AND THINGS OF JOSEPH SOUSA; DECLARATION OF GENE FORTE*
IN SUPPORT THEREOF on the parties in this action by:

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

11 x facsimile machine pursuant to Rule 2008. Said document was sent to the below
12 listed party(ies). The fax number I used was: (209) 829-1952. The facsimile
13 machine I used complied with Rule 2004, and no error was reported by the
14 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.

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

17 _____ placing a true copy thereof enclosed in a postage prepaid and sealed envelope for
18 deposit, collection and mailing on the date and at the place shown above
19 following this firm's ordinary business practices. I am readily familiar with this
20 firm's business practice for collecting and processing correspondence for mailing.
On the same day that the correspondence is placed for collection and mailing, it is
deposited in the ordinary course of business with the United States Postal Service
at Monterey, California, and it was addressed as follows:

21 *Mr. Benjamin L. Ratliff, Esq.*
22 *The Law Firm of Weakley, Ratliff, Arendt, & McGuire, LLP*
23 *1630 East Shaw Avenue, Suite 176*
24 *Fresno, CA 93710*
(559) 221-5256 phone
(559) 221-5262 fax

25 I declare under penalty of perjury under the laws of the State of California that the foregoing
26 is true and correct and that this declaration was executed on May 30, 2008 at Los Banos, California.

27 
28 _____ EXHIBIT 8
Eileen Forte PG 13 OF 26

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

4 IN PROPRIA PERSONA

5

6

7

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,

12

NOTICE OF TAKING DEPOSITION
BY DEPOSITION SUBPOENA FOR
PERSONAL APPEARANCE AND
PRODUCTION OF DOCUMENTS AND
THINGS OF MANUEL TOM FARIA;
DECLARATION OF GENE FORTE IN
SUPPORT THEREOF

13

14

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vs.

16

TOMMY JONES, an individual, et al.

17

Defendants.

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19

TO: ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:

20

PLEASE TAKE NOTICE that Plaintiff EUGENE FORTE will take the deposition, on

21

oral examination, of the following individual, at *Al Cala and Associates, 1601 I Street, Suite*

22

410, Modesto, California, 95354, Telephone: (209) 521-9898, as follows:

23

*Deponent: Manuel Tom Faria
Los Banos, CA 93635*

24

Date: June 20, 2008

25

Time: 1:00 p.m.

26

NOTICE IS FURTHER GIVEN that plaintiff intends to record the testimony at the

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above-described depositions by video tape, in addition to recording this testimony by the

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stenographic method.

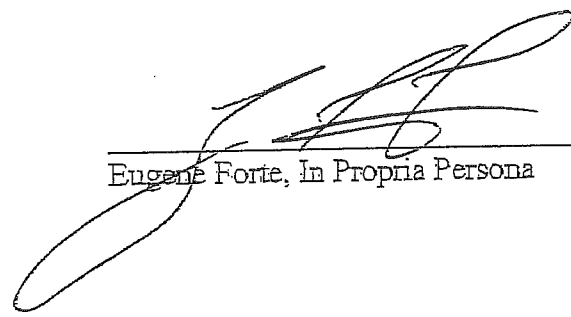
EXHIBIT 8
PG 14 OF 26

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NOTICE IS FURTHER GIVEN that plaintiff reserves the right to use at trial the video tape deposition, pursuant to Section 2025.62(d) of the Code of Civil Procedure.

The deposition will be taken before a deposition officer who is authorized to administer an oath. If the deposition is not completed on the date set out above, the taking of the deposition will be continued from day to day thereafter, except for Sundays and holidays, at the same place, until completed.

DATED: May 30, 2008



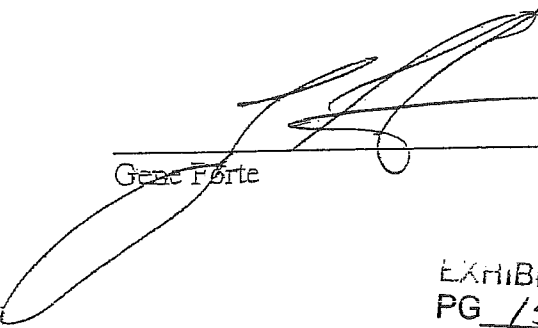
Eugene Forte, In Propria Persona

DECLARATION OF GENE FORTE

I, Eugene Forte, declare the following:

1. I am the plaintiff in the subject case representing myself in propria persona.
2. Attached as Exhibit 1 is a true and correct copy of the Deposition Subpoena for Personal Appearance and Production of Documents and Things served upon Manuel (Tom) Faria on May 16, 2008.

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 May 30, 2008 at Los Banos, California.



Gene Forte

Exhibit "1"

FOR COURT USE ONLY

08 MAY 20 PM 12:43

COURT OF THE SUPERIOR COURT

CINDY LANDRUM
DEPUTY

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Eugene Forte
688 Birch Court
Los Banos, CA 93635

TELEPHONE NO.: (209) 829-1116

FAX NO. (Optional): (209) 829-1952

E-MAIL ADDRESS (Optional): geneforte@badgerflats.com

ATTORNEY FOR (Name): In Propria Persona

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Merced

STREET ADDRESS: 627 West 21st Street

MAILING ADDRESS:

CITY AND ZIP CODE: Merced, 95340

BRANCH NAME: Merced

PETITIONER: Eugene Forte

RESPONDENT: Manuel (Tom) Faria

CASE NUMBER:

150880

DEPOSITION SUBPOENA
FOR PERSONAL APPEARANCE AND PRODUCTION OF DOCUMENTS AND THINGS

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (name, address, and telephone number of deponent, if known):
Manuel (Tom) Faria, (street unknown) Los Banos, CA 93635 (209) 826-9004

1. YOU ARE ORDERED TO APPEAR IN PERSON TO TESTIFY AS A WITNESS in this action at the following date, time, and place:

Date: June 20, 2008 Time: 1:00pm Address: 1601 I Street, Ste 410, Modesto, CA 95354

- a. As a deponent who is not a natural person, you are ordered to designate one or more persons to testify on your behalf as to the matters described in item 4. (Code Civ. Proc., § 2025.220(a)(5)).
 - b. You are ordered to produce the documents and things described in item 3.
 - c. This deposition will be recorded stenographically through the instant visual display of testimony, and by audiotape videotape
 - d. This videotape deposition is intended for possible use at trial under Code of Civil Procedure section 2025.620(d).
2. The personal attendance of the custodian or other qualified witness and the production of the original records are required by this subpoena. The procedure authorized by Evidence Code sections 1560(b), 1561, and 1562 will not be deemed sufficient compliance with this subpoena.
3. The documents and things to be produced and any testing or sampling being sought are described as follows:
See Attachment 3.
- Continued on Attachment 3.
4. If the witness is a representative of a business or other entity, the matters upon which the witness is to be examined are described as follows:

 Continued on Attachment 4.
5. IF YOU HAVE BEEN SERVED WITH THIS SUBPOENA AS A CUSTODIAN OF CONSUMER OR EMPLOYEE RECORDS UNDER CODE OF CIVIL PROCEDURE SECTION 1985.3 OR 1985.6 AND A MOTION TO QUASH OR AN OBJECTION HAS BEEN SERVED ON YOU, A COURT ORDER OR AGREEMENT OF THE PARTIES, WITNESSES, AND CONSUMER OR EMPLOYEE AFFECTED MUST BE OBTAINED BEFORE YOU ARE REQUIRED TO PRODUCE CONSUMER OR EMPLOYEE RECORDS.
6. At the deposition, you will be asked questions under oath. Questions and answers are recorded stenographically at the deposition later they are transcribed for possible use at trial. You may read the written record and change any incorrect answers before you sign the deposition. You are entitled to receive witness fees and mileage actually traveled both ways. The money must be paid, the option of the party giving notice of the deposition, either with service of this subpoena or at the time of the deposition.

DISOBEDIENCE OF THIS SUBPOENA MAY BE PUNISHED AS CONTEMPT BY THIS COURT. YOU WILL ALSO BE LIABLE FOR THE SUM OF FIVE HUNDRED DOLLARS AND ALL DAMAGES RESULTING FROM YOUR FAILURE TO OBEY.

Date issued: MAY 12 2008

CINDY LANDRUM

(TYPE OR PRINT NAME)

Cindy Landrum

(SIGNATURE OF PERSON ISSUING SUBPOENA)

EXHIBIT 8

PG 17 OF 26

ATTACHMENT 3

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2. If you are a corporation, association, sole proprietorship, partnership, joint venture, or public entity, "you" includes your divisions, departments, subsidiaries, affiliates, predecessors, present or former officers, directors, shareholders, partners, owners, employees, agents and all persons acting or purporting to act on your behalf. If you are an individual, "you" includes your employees, agents, representatives, and all persons acting or purporting to act on your behalf.

3. "Document" means the original (as defined in California Evidence Code section 255) of any written, printed, typed, drawn, recorded, graphic or photographic matter of any kind or nature however produced or reproduced, whether sent or received or either, including all drafts and copies bearing notations, marks, or matter not found on the original, including, but not limited to, all writings (as defined in California Evidence Code section 250), contracts, agreements, representations, warranties, certificates, opinions, tapes, letters or other forms of correspondence or communications, including, but not limited to, envelopes, notes, telegrams, cables, telex messages, reports, notes, notations and memoranda of or related to telephone conversations or conferences, memoranda, reports, notes, transcripts, studies, analyses, evaluations, test results, books, tapes, records, journals, ledgers, invoices, statements, accounts, lists, comparisons, questionnaires, surveys, summaries, desk calendars, appointment books, diaries, articles, press releases, magazines, newspapers, booklets, circulars, bulletins, notices, all meetings, photographs, microfilms, tapes or other records, punch cards, magnetic tapes, discs, drums, print-outs and other data compilations from which information can be obtained (translated, if necessary, through detection or decoding devices into usable form).

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any other information reasonably necessary to enable the undersigned to identify the document in a notice calling for its production), together with name, address, and telephone number of the person presently having custody thereof.

DOCUMENTS FOR WHICH PRIVILEGE IS CLAIMED

For each document requested herein which you contend is privileged, provide the following information:

- A. The place, approximate date and manner of preparing the document;
- B. The name, position and/or title of the sender and the name and title of each of the recipients of the document;
- C. The name and position of each person or persons (other than clerical or stenographic assistants) participating in the preparation of the document;
- D. The name and position of each person or persons to whom the contents of the document have heretofore been communicated by copy, exhibition, reading, reference or substantial summarization;
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ITEMS TO BE PRODUCED FOR INSPECTION

REQUEST NUMBER:

1. All written communications between yourself and any parties (Eugene Forte or Tommy Jones) named in this case, without limitation as to whether transmitted by internet e-mail, by postal service, by hand delivery, or otherwise, whether maintained in hard paper copy or maintained on computer storage devices;
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- delivery, or otherwise, whether maintained in hard paper copy or maintained on computer storage devices.
5. All diaries maintained by you between the time period of October 2006 to May 1, 2008, whether maintained in hard paper copy or maintained on computer storage devices;
 6. All calendaring systems and/or daytimers maintained by you since October 2006 to May 1, 2008, whether maintained in hard paper copy or maintained on computer storage devices;
 7. Any documents, tapes, other tangible things or copies of such of the file that you have retained or have in your possession relating to Plaintiff Forte, whether maintained in hard paper copy, tapes, or computer storage devices;
 8. Any and all telephone bills, long distance carrier bills which include your home telephone number, home business number, cell phone number and fax numbers for the period between October 2006 and May 1, 2008 which show telephone calls regarding Plaintiff Forte including, but not limited to those made to or received from Joe Sousa, Michael Villalta, Steve Rath, Anna Brooks, Charles Guest, Jerry O'Banion, any anonymous members/posters of ourlosbanos.com, Greg Hostetler, Gene Lieb of the Los Banos Enterprise, and Minerva Perez of the Los Banos Enterprise.
 9. Any and all deposition transcripts taken of you and settlement agreements pertaining to the case of Tommy Jones vs. The Los Banos Police Department and the City of Los Banos. et al.
 10. Any and all documents pertaining to any gifts, loans, etc. between Tommy Jones and Mr. Greg Hostetler.
 11. Any and all evidence you have within your possession, or that you know exists, that establishes that plaintiff is a dangerous member of the Ku Klux Klan.

For Court Use Only

Attorney or Party without Attorney:
 EUGENE FORTE
 688 BIRCH CT
 Los Banos, CA 93635
 Telephone No: 209-829-1116

Ref. No. or File No.:

Attorney for: Plaintiff

Insert name of Court, and Judicial District and Branch Court:
 MERCED COUNTY SUPERIOR COURT

Plaintiff: FORTE
 Defendant: JONES

FILED
 08 MAY 20 7 PM 12:43
 BY CINDY LANDRUM
 DEPUTY

PROOF OF SERVICE DEPOSITION SUBPOENA	Hearing Date: Fri, Jun 20, 2008	Time: 1:00PM	Dept/Div:	Case Number: 150880
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1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of the Deposition Subpoena- Personal Appearance and Production of Documents; and things
3. a. Party served: MANUEL (TOM) FARIA
4. Address where the party was served: LOS BANOS HIGH SCHOOL
1966 11TH ST
Los Banos, CA 93635
5. I served the party:
 - a. by personal service. I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on: Fri., May. 16, 2008 (2) at 9:35PM
 - b. I received this subpoena for service on: Tuesday, May 13, 2008
6. Witness fees were not demanded or paid
7. Person Who Served Papers:
 - a. James Wyatt
 - b. WYATT'S LEGAL SERVICE
P. O. BOX 2560, Registration # 98
Los Banos, CA 93635
 - c. (209)826-0225

Recoverable Cost Per CCP 1033.5(a)(4)(B)

d. The Fee for Service was: \$45.00

e. I am: (3) registered California process server

- (i) Owner
- (ii) Registration No.: 98
- (iii) County: Merced
- (iv) Expiration Date: Thu, Jan. 01, 2009

8. I declare under penalty of perjury under the laws of the State of California that the foregoing is ~~and~~ correct

Date: Sat, May. 17, 2008

EXHIBIT 8
 PG 21 OF 20
 [Signature]

Wyatt's Legal Service

P. O. Box 2560 Los Banos, CA 93635
Ph: (209) 826-0225, Fx: (209) 826-3335

EUGENE FORTE
688 BIRCH CT
Los Banos CA 93635

Saturday May 17, 2008

INVOICE

EF1.6669

Work Order #: 4121
Case #: 150880
Court: MERCED COUNTY SUPERIOR COURT
Title: FORTE vs. JONES
Documents: Deposition Subpoena- Personal Appearance and Production of Documents; and things

Date	Description	Amount
05/16/08 09:35PM	Personal Service MANUEL (TOM) FARIA, AT Business LOS BANOS HIGH SCHOOL 1966 11TH ST Los Banos CA 93635, Served By: James Wyatt	45.00
05/17/08	PROCESS SERVICE	\$45.00

PLEASE PAY FROM THIS INVOICE

PAID

EXHIBIT 8
PG 22 OF 26

HP Officejet 5600 series 5610

Personal Printer/Fax/Copier/Scanner

Log for
Gene Forte
209-829-1952
May 30 2008 2:54p

Last Transaction

Date	Time	Type	Identification	Duration	Pages	Result
May 30	02:44p	Fax Sent	15592215262	9:40	24	OK

COPY

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

03 MAY -5 10:53:50

MARICELA HERNANDEZ

6 IN PROPRIA PERSONA

7 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,

NOTICE OF UNAVAILABILITY
OF COUNSEL

12 vs.

13 TOMMY JONES, an individual, and DOES

14
15 Defendants.

16
17 PLEASE TAKE NOTICE that Plaintiff, EUGENE FORTE, will be out of town
18 and therefore, will be unavailable for any purpose whatsoever, including and not limited to,
19 receiving notices of any kind, appearing in Court except as described above, responding to ex
20 parte applications, responding to pleadings or discovery, or attending depositions, on the
21 following dates:

22 June 5, 2008 to June 17, 2008, inclusive.

23 Purposefully scheduling a conflicting proceeding without good cause is sanctionable
24 conduct. Tenderloin Housing Clinic v. Sparks (1992) 8 Cal.App.4th 299.

25
26 Date: May 5, 2008

27 Eugene Forte, In Propria Persona

28 EXHIBIT 8
PG 25 OF 26

Exhibit "9"

[Print](#) | [Close Window](#)

Subject: 150880/Sleep with Dogs, Awake with Fleas
From: geneforte@badgerflats.com
Date: Fri, May 30, 2008 3:33 pm
To: William Vaughn <wvaughn@waviaw.net>

May 30th, 2008

Mr. Vaughn:

You have not responded to my letter of May 24th, 2008 requesting for you to put on record your position concerning the depositions/representation of Mr. Faria and Mr. Sousa as it relates to the case of Forte v. Jones.

I am quite concerned that you may be inappropriately billing the City of Los Banos for your legal work done in a litigation it is not a named defendant in for the benefit of Mayor Jones, Faria and Sousa.

I have no doubt as evidenced from the improper ex parte application by Ratliff that you have involved yourself in unethical game playing which was intended to cause me harm and to interfere with discovery.

To say that I am disappointed by your conduct would be an understatement and that I put you on notice that it will not be tolerated.

You are escaping my seeking sanctions against you but I assure you that if you continue with the nonsense I will file a complaint against you with the State Bar of California.

I am not naive enough to think they will do anything about it, but I assure you citizens of Los Banos will become aware of your sordid activities.

You will find attached my letter to your buddy Ratliff.

Regards,

Gene Forte

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EXHIBIT 9
PG 1 OF 1

Exhibit "10"

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
ERICA M. CAMARENA

1630 East Shaw Avenue, Suite 176
Fresno, California 93710
Telephone (559) 221-5256
Facsimile (559) 221-5262
E-mail: ben@wrlaw.com

May 30, 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

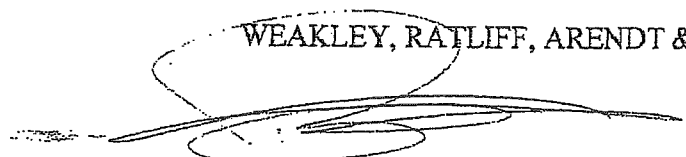
Dear Mr. Forte:

Thank you for your fax dated May 30, 2008.

I have rescheduled the Ex Parte Application hearing to June 3, 2008 at 1:15 p.m., in Courtroom 4. I will be mailing out the documents to you this afternoon. The relief sought will be an order continuing the depositions of Tommy Jones and Joseph Sousa.

Yours very truly,

WEAKLEY, RATLIFF, ARENDT & MCGUIRE, LLP



Benjamin L. Ratliff

BLR:lp

EXHIBIT 10
PG 1 OF 1

3

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Exhibit "11"

Badger Flats Gazette

688 Birch Court, Los Banos, California, 93635

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

Fax

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: 5/30/2008 **Pages:** 1 (Including Cover Sheet)

Subject: 150880

Notes: Since you were unable to provide me any firm alternative deposition dates I think it is best that we take the matter up of your and Mr. Vaughns' waiting until the 11th hour to thwart discovery and disrupt my vacation.

Please timely and properly provide me your motion papers so that I may prepare my opposition.

Thank you.

Exhibit "12"

http://www.wrlaw.com/s/attorneys-overview.html

File Edit View Favorites Tools Help

Links Customizer Links Free Hotmail Windows Windows Marketplace Windows Media

Google weakley ratliff arendt Go Bookmarks 998 blocked Check

Weakley, Ratliff, Arendt & McGuire LLP | Our Practice

WEAKLEY, RATLIFF, ARENDT & MCGUIRE LLP

HOME OUR FIRM OUR ATTORNEYS PRACTICES CONTACT US

OUR ATTORNEYS

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James@wrlaw.com

Benjamin L. Ratliff

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James J. Arendt

James@wrlaw.com

Rosemary T. McGuire

Rose@wrlaw.com

Associates

Leslie M. Dillahunty

Leslie@wrlaw.com

Michael R. Linden

Mike@wrlaw.com

Erica M. Camarero

Erica@wrlaw.com

Our Attorneys

Overview

Partners

- James D. Weakley
- Benjamin L. Ratliff
- James J. Arendt
- Rosemary T. McGuire

Associates

- Leslie M. Dillahunty
- Michael R. Linden
- Erica M. Camarero

Exhibit "13"

RECEIVED

APR 28 2008

COPY

CITY OF LOS BANOS
NOTICE OF INTENTION TO CIRCULATE RECALL PETITION

TO THE HONORABLE Tommy Jones: Pursuant to Section 11020, California Elections Code, the undersigned registered qualified voters of the City of Los Banos, in the State of California, hereby give notice that we are the proponents of a recall petition and that we intend to seek your recall and removal from the office of Mayor, in Los Banos, California, and to demand election of a successor in that office.

The grounds for the recall are as follows:

Mayor Jones, while under investigation by the Fair Political Practices Commission for not disclosing personal loans he received from Greg Hostetler/Ranchwood Homes, has refused to disqualify himself from voting upon the annexation of approximately 1,000 acres owned by Hostetler and has publicly stated he intends to vote in favor of the Hostetler annexation.


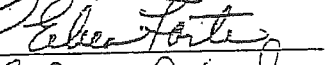

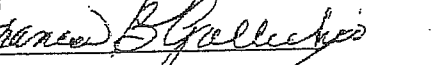
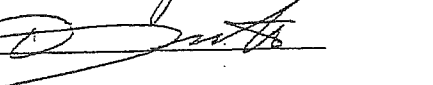
The FPPC does not have the legal authority to have Jones removed from office. Only we citizens can demand that Jones be removed by the recall process.

Newspapers across the nation reported that Jones broke conflict of interest laws. Jones' actions have brought attention/and humiliation to the citizens and local government of Los Banos.

To assure the public's trust and restore the public reputation of the city and citizens of Los Banos, Jones must be removed from office. An example must be made that any public official that breaches the duty/trust bestowed upon them by citizens will be removed from office by Los Banos citizens.

Thereafter, other public officials taking the oath of office in the City of Los Banos will understand that they will be vigilantly kept to a high standard of accountability to citizens, by citizens, or meet the same fate as Jones.

The printed names, signatures, and residence addresses of the proponents are as follows:

	NAME	ADDRESS	SIGNATURE
1.	EUGENE E. FORTE	688 Birch Court, L.B.	
2.	Eileen M. Forte	688 Birch Court, L.B.	
3.	EDUARDO J. GALLICHIO	1626 Fiera, L.B.	
4.	FRANCES B. GALLICHIO	1626 Fiera, L.B.	
5.	Tony F. Dutra	830 Fiera 1614 Hillview	

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

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8 IN PROPRIA PERSONA

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

EUGENE FORTE,

Plaintiff,

vs.

TOMMY JONES, an individual, et al.

Defendants.

Case No. 150880

[PROPOSED] ORDER

GOOD CAUSE HAVING BEEN SHOWN THEREFOR, it is ordered that any and all ex parte hearings set between June 5, 2008 and June 17, 2008 inclusive shall be vacated.

It is also ordered that Plaintiff be granted sanctions from Defendant's counsel, Mr. Ratliff, for Plaintiff's costs in the amount of \$83.

Date: _____

Judge

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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, California, 93635.

On June 2, 2008, I served the foregoing *EX PARTE APPLICATION FOR ORDER VACATING HEARING OF JUNE 5, 2008 AND FOR SANCTIONS; DECLARATION OF EUGENE FORTE; POINTS AND AUTHORITIES; AND PROPOSED ORDER IN SUPPORT THEREOF* on the parties in this action by:

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

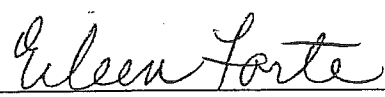
 x facsimile machine pursuant to Rule 2008. Said document was sent to the below listed party(ies). The fax number I used was: (209) 829-1952. The facsimile machine I used complied with Rule 2004, and no error was reported by the machine. Pursuant to Rule 2006(d), I caused the machine to print a transmission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

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

 x placing a true copy thereof enclosed in a postage prepaid and sealed envelope for express overnight delivery by 10:30am the next day, and deposited at the United States Postal Service at Los Banos, California, 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 June 2, 2008 at Los Banos, California.



Eileen Forte