

1 Benjamin L. Ratliff, Bar No. 113708  
2 **LAW OFFICES OF**  
3 **BENJAMIN L. RATLIFF**  
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8 Attorneys for Defendant, TOMMY JONES

9 **SUPERIOR COURT OF CALIFORNIA**  
10 **COUNTY OF MERCED**

11 EUGENE E. FORTE,

12 Plaintiff

13 vs.

14 TOMMY JONES, an individual, and does 1-100, et al,

15 Defendants.

) Case No. 150880  
) [Stanislaus Superior Court Case No.  
) 637857]

) **NOTICE OF MOTION AND**  
) **MOTION TO DECLARE**  
) **PLAINTIFF A VEXATIOUS**  
) **LITIGANT [CCP §391-391.7]; FOR**  
) **ENTRY OF PREFILING ORDER**  
) **AND TO POST \$15,000**  
) **SECURITY; MEMORANDUM OF**  
) **POINTS AND AUTHORITIES IN**  
) **SUPPORT THEREOF;**  
) **DECLARATION OF BENJAMIN**  
) **L. RATLIFF**

) Date: February 4, 2010  
) Time: 8:30 a.m.  
) Dept.: 21  
) Judge: Hon. William A. Mayhew  
) Action Filed: December 18, 2007

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22 TO PLAINTIFF IN PROPRIA PERSONA:

23 PLEASE TAKE NOTICE that on February 4, 2010 at 8:30 a.m., or as soon thereafter as  
24 the matter may be heard in Department 21 of the above named court, and before the Honorable  
25 William A. Mayhew, Defendant will and hereby does move this court for an order declaring  
26 Plaintiff to be a vexatious litigant pursuant to Code of Civil Procedure §391-391.7; and further  
27 requests:  
28

- 1           1. The entering of a pre-filing order against Plaintiff pursuant to Code of Civil Procedure  
2           section 391.7, prohibiting Plaintiff from filing any new litigation in the courts of this  
3           State in propria persona without first obtaining leave of the presiding judge of the  
4           court where the litigation is proposed to be filed;  
5  
6           2. Requiring Plaintiff, pursuant to Code of Civil Procedure section 391.3 to furnish  
7           security in the sum of \$15,000.00 for the benefit of the moving Defendant on the  
8           grounds there is no reasonable probability of his prevailing and because Plaintiff is a  
9           vexatious litigant; and  
10  
11          3. Requiring Plaintiff to furnish said security within ten (10) days of the entry of the  
12          order or face dismissal of the action pursuant to Code of Civil Procedure section  
13          391.4.

14           This motion is and shall be based upon this notice of motion and motion, the  
15          accompanying memorandum of points and authorities, declaration of Benjamin L. Ratliff,  
16          Exhibits and Request for Judicial Notice.

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19          DATED: January 6, 2010

**LAW OFFICES OF BENJAMIN L. RATLIFF**

20  
21          By 

Benjamin L. Ratliff  
Attorney for Defendant  
TOMMY JONES

1 **PROOF OF SERVICE**

2 My business address is 1100 West Shaw Avenue, Suite 124, Fresno, California 93711. I  
3 am employed in Fresno County, California. I am over the age of 18 years and am not a party to  
4 this case.

5 On the date indicated below, I served the foregoing document(s) described as: **NOTICE**  
6 **OF MOTION AND MOTION IN SUPPORT OF DEFENDANT'S MOTION TO DECLARE**  
7 **PLAINTIFF A VEXATIOUS LITIGANT (CCP SECTION 391-391.7); FOR ENTRY OF**  
8 **PREFILING ORDER AND TO POST \$15,000 SECURITY** on all interested parties in this  
9 action by placing a true copy thereof enclosed in a sealed envelope addressed as follows:

7 Mr. Eugene Forte  
8 688 Birch Court  
9 Los Banos, California 93635  
(Via Overnight Delivery)

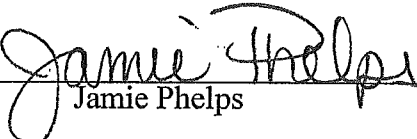
Thomas Holsinger, Research Attorney  
Stanislaus County Superior Court  
801 Tenth Street, Fourth Floor  
Modesto, California 95354  
(Via Hand Delivery)

10 Stanislaus County Superior Court  
11 Ceres Branch  
12 2744 Second Street  
Ceres, California 95307  
(Via Hand Delivery)

- 13 [ ] (BY MAIL) I am readily familiar with the business' practice for collection and  
14 processing of correspondence for mailing, and that correspondence, with postage thereon  
15 fully prepaid, will be deposited with the United States Postal Service on the date noted  
16 below in the ordinary course of business, at Fresno, California.  
17 [X] (BY PERSONAL SERVICE) I caused delivery of such envelope(s), by hand, to the  
18 office(s) of the addressee(s).  
19 [ ] (BY ELECTRONIC MAIL) I caused such documents to be scanned into PDF format and  
20 sent via electronic mail to the electronic mail addressee(s) of the addressee(s) designated.  
21 [ ] (BY FACSIMILE) I caused the above-referenced document to be delivered by facsimile  
22 to the facsimile number(s) of the addressee(s).  
23 [X] (BY OVERNIGHT COURIER) I caused the above-referenced envelope(s) to be  
24 delivered to an overnight courier service for delivery to the addressee(s).

25 EXECUTED ON January 7, 2010, at Fresno, California.

- 26 [X] (STATE) I declare under penalty of perjury under the laws of the State of California  
27 that the foregoing is true and correct.  
28 [ ] (FEDERAL) I declare under penalty of perjury under the laws of the United States of  
America that the foregoing is true and correct. I declare that I am employed in this office of  
a member of the bar of this court at whose direction this service was made.

25   
26 Jamie Phelps