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FILED

NOV 16 2005

LISA M. GALDOS
CLERK OF THE SUPERIOR COURT
DEPUTY

4
5 In Propria Persona

6
7 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
8 **IN AND FOR THE COUNTY OF MONTEREY**
9

10 EUGENE FORTE,
11 Plaintiff,

Case No. M72599

12 vs.

**DECLARATION OF CRYSTAL
POWSER DATED NOVEMBER 16,
2005**

13
14 ROBERT O'FARRELL, et al.

15
16 Defendants.
17

18 I, Crystal Powser, declare as follows:

- 19
20 1. On November 13th, 2005, at 1:53PM I received a phone call from Judge Michael Fields
21 telling me that he was going to Ventura to hear a case and he would be down there all week.
22 2. Judge Fields then went into the case telling me what the allegations were involving the
23 ethics of a judge and that he was going to be the Special Master.
24 3. Judge Fields told me that he wanted me to come with him and stay with him at the hotel.
25 I told him no.
26 4. On Monday, November 14th, 005, I contacted Mr. Gene Forte and told him of the
27 conversation I had with Judge Fields and I suggested that I should have taken him up on it.
28 Gene Forte told me that he thought that was a good idea.

- 1 5. I called back Judge Fields and left a message for him on his cell phone that I would like to
2 come down.
- 3 6. On November 14th, 2005, at 8:36PM, Judge Fields called me back and asked me what was
4 the change of heart and I told him that I had a fight with my boyfriend and wanted to get out
5 of town.
- 6 7. Judge Fields told me that was great and that he was staying at the Pierpont Inn in room 411
7 and gave me directions how to get there and told me that he would wait for me at the hotel
8 until I got there.
- 9 8. Judge Fields left a message for me on November 15th, 2005, at 8:10AM saying that he had
10 thought about it and said that he did not think he would be good company and it might not
11 be a good idea because he did not want me to be mad or disappointed with him because his
12 mind was on the case. Judge Fields did not say in the message he did not want me to come.
- 13 9. On November 15th, 2005, I had already talked with Mr. Forte and he had planned to go
14 down to the Pierpont Inn with me so that it could be verified that this meeting took place.
- 15 10. On November 15th, 2005, on my way to meet Judge Fields with Mr. Forte with me in my
16 car, I called Judge Fields and he told me to meet him at his room again, and he sounded very
17 excited and said he couldn't wait for me to "get there, baby."
- 18 11. When I arrived, I went to his room, #411, and he opened the door and hugged me. He had
19 no shoes on. He said, "I got some booze for us," and then he made me a strong drink.
- 20 12. He pulled back the covers and laid on the bed. I continued to stand and try and make small
21 talk. I said I was really hungry and I asked him if we were going to get something to eat?
22 He said, "After sex." I said, "No, we could talk about sex after I eat." He said, "Just lay on
23 the bed, please." I never took even my shoes off. I laid on the bed and he kissed me. He
24 kept trying to put his hand up my skirt as he was talking. At one point, I said, "You are
25 ripping my skirt." I started asking if we were going to get some dinner and he said, all in
26 good time.
- 27 13. He said, "I'm so glad you came down, you're my girlfriend until Thursday." I said I was
28

1 not staying, even tonight. He said, "you are not leaving tonight." He kept saying that I said
2 I would stay until Thursday, that I had said this on the phone. I said, "No, I said I could
3 come down Tuesday, Wednesday, or Thursday, but not Friday. I never said I was going to
4 stay all those days."

5 14. So I changed the subject and said, "so tell me about this crazy case you are working on."
6 I asked what was the judge's name and her girlfriend's name.

7 15. All I can remember is that the girlfriend's name was Dykeman or something like that.

8 16. Judge Fields said to be quieter, because one of the judges was right next door in his hotel
9 room.

10 17. He said there are three allegations: the drunk driving, spousal abuse, and tearing out the
11 phone line which he said was a felony.

12 18. He said they couldn't consider the spousal abuse or phone thing because it went to jury trial
13 and was hung 11-1 for guilty, however the drunk driving was a given. Her blood alcohol
14 was a .18.

15 19. Judge Fields told me the following:

16 The second allegation was that she called the DA in on the carpet as he put
17 it, asking the DA why he filed a 170.6 against her. First, the way he made it sound
18 was like she called him, but after talking to him, it happened in open court, she
19 called the DA and Public Defender came along up to the bench and she asked why
20 did you file a 170.6 CCP against me? Judge Fields said that's another guilty
21 allegation, because Judge Fields believed the DA and PD who testified against her
22 in court. Judge Fields said she was the only witness on her side and even her
23 girlfriend testified against her.

24 The third allegation was about her girlfriend putting \$20,000 into a bank
25 account for her campaign, (he referred to it as money laundry) and she put in
26 \$25,000. Judge Fields said she didn't disclose this campaign "gift" or whatever you
27 call it, because Judge Fields said, she didn't want anyone to know that she was gay.
28

- 1 20. Judge Fields told me that this was the most serious charge because it was considered money
2 laundering.
- 3 21. I told Judge Fields that I was hungry and I wanted to eat. Judge Fields said he didn't want
4 me to have to come all this way and not have an orgasm. I mentioned something about my
5 boyfriend maybe calling and I would need to answer the phone. He said, "I hope he calls
6 and when he does, I want to be eating your pussy. And the same goes for if my wife calls,
7 I want you to be sucking my dick."
- 8 22. Then, when Gene Forte called, I pretended it was Teresa. While I was on the phone, Judge
9 Fields was making gyrating motions, making humping type things, putting his two fingers
10 to his mouth and sticking his tongue out and making motions with it, indicating oral sex on
11 me obviously. He kept getting closer and I had to actually push him away to be able to talk
12 to Gene Forte because I did not want Judge Fields to know that Mr. Forte was on the phone.
- 13 23. After that, he laid back down on the bed, and I continued to stand and changed the subject.
14 I said, "Hey, what do you think about Judge Scott getting 170.6's and exchanging them with
15 Judge Moody's 170.6's on a daily basis? I asked Judge Fields is that what they are supposed
16 to do? He said, it was okay as long as they had an understanding with Judge Duncan, who
17 at the time was the presiding judge. I then asked, "Well, what do you do in Monterey with
18 170.6's?"
- 19 24. Judge Fields said that Judge O'Farrell was the presiding over there, and that he (Fields)
20 would get all of O'Farrell's 170.6s. He said there may be others that he doesn't know of,
21 he just gets O'Farrell's, but he doesn't know for sure if he gets all of them. However, he
22 did say that Judge Dauphine is only part time in Monterey and Judge Kingsley had some
23 kind of family issues sometimes.
- 24 25. We finally went to dinner. At dinner, he said we couldn't talk about the case because the
25 judge (the one on trial) and her lawyer were right behind us and he didn't want them to
26 hear. He whispered this to me in my ear.
- 27 26. I asked him at dinner, what did he think about Judge Scott having me, as his court clerk,
28

1 contact the DA's and tell them what to ask in jury trials, because Judge Scott told me that
2 it would be wrong for him to do it, but not me to do it for him, and told me not to tell the
3 attorney who told me to do it.

4 27. Judge Fields just shook his head and said he didn't agree with that.

5 28. I asked him if he ever had his clerk Erica do that. He said that's not the kind of thing he
6 would ever do.

7 29. After dinner, we took drinks to the pool area. He wanted me to take off my clothes and
8 skinny dip. He said that it wouldn't be indecent exposure. He told me it would only be
9 indecent exposure if I told people, or tried to attract people's attention to look at me. I said,
10 "So if I was walking naked in PG (Pacific Grove) down the street and as long as I didn't tell
11 people to look, it was legal?" He said absolutely.

12 30. He talked about picking the commissioner to replace Rutledge. He said it was down to five
13 (5) people. Tim Roberts, Chester Phillips, Leigh Rodriguez, some lady from Santa Cruz
14 and some guy from Los Angeles.

15 31. Judge Fields also talked about when he ran for appeals judge, he said he made enemies, i.e.
16 Judge Phillips, Mr. Fenton and some other guy, I can't remember his name. He said he
17 doesn't know why Phillips didn't like him, he said Judge Phillip never did.

18 32. Also at dinner, he asked me if I heard about Judge Velasquez issuing warrants for people
19 when they were present in court and their attorneys would be there and have to go to another
20 courtroom, so the client would wait outside, and then Velasquez would call the case, and
21 not only order the warrants, but would make sure they were issued.

22 33. I said, I hadn't heard because, I'm out of the loop of the court now.

23 34. Then he started saying something about sex again that he wanted to "fuck" me. I said, I
24 thought you said, your mind was too much on this case and I didn't think I was coming
25 down here for sex. I said I just thought you were my friend and we could have some laughs.

26 35. He then crossed his arms, got mad and said well, why did you come down here, if you
27 weren't planning on letting me fuck you?

28

- 1 36. I got up and stormed off and went to the room, then realized my keys were in there and I
2 didn't have a way in. I went around to the other side just as Judge Fields was coming out
3 of the pool area. He said, oh, I thought you were just going to have a cigarette. I said, no,
4 I need to get my keys because I want to leave now. He opened the door, I ran in, grabbed
5 my purse and keys.
- 6 37. Judge Fields blocked the door and said, are you mad? I said, no, I just want to leave. He
7 said, don't you want to stay and I'll wake you up at like 4am? I said I just wanted to leave.
8 He said, "Don't you want to come in and stay and talk about it"? I said, no I just want to
9 leave and I went under his arm that he had against the door and left quickly.
- 10 38. It got a little scary at the end, because he's a big guy.
- 11 39. Judge Fields also told me that the other judges and him would discuss the present case, that
12 he is the Special Master on, every morning at breakfast, every day at lunch and every night
13 at dinner except for the night I came down there. He said the other judge was meeting a
14 friend for dinner and the other judge was just staying in his room tonight.
- 15 40. Judge Fields said that they already decided she (the judge on trial) was guilty of all three
16 allegations. He also made fun of the fact that her girlfriend's name was Dykeman and that
17 he wasn't sure which one was the man or which one played the woman part. In other words,
18 Judge Fields said he didn't know which one got on top.
- 19 41. When I told him about how Judge Scott would ask me to talk to the DA's and tell them
20 what questions to ask during on-going jury trials, he sat back with this disgusted look on his
21 face, crossed his arms and said he totally thought that was wrong and he would never have,
22 or never has had his clerk do such a thing.
- 23 42. I also told him about a phone call I received from an attorney Miguel Hernandez accusing
24 me of a so-called friend of mine, a Char? That she said he was seeing me, that I worked at
25 Club Octane and I was his girlfriend. I told Judge Fields I don't have a friend named Char,
26 never have, and I don't even know where Club Octane is. Judge Fields laughed and said
27 that was pretty funny and weird.
- 28

1 43. I live in the County of Monterey, State of California, and have reviewed this document and
2 know the contents herein. The matters stated here in this declaration are true of my own
3 knowledge except as to those matters which are stated on information and belief, and as to
4 those matters I believe them to be true. The statements made between Judge Fields and I as
5 stated above are to the best of my recollection at this time.

6 44. I have been informed by Mr. Gene Forte on numerous occasions that he is not an attorney,
7 nor that anything that he tells me is to be considered legal advice or a legal opinion in any
8 way from him. Mr. Forte has disclosed to me some of the matters that he has been dealing
9 with in the cases he has in Monterey County and has provided me copies of letters he has
10 sent to judges and other public officials concerning the investigation of Commission
11 Rutledge by DA Dean Flippo.


12 45. Mr. Forte has not influenced me in what I have put in this document and told me that the
13 most important thing was to be as accurate as possible. There may be other matters that I
14 do not recall at this time due to the fact that Mr. Forte and I traveled through the night from
15 Ventura, California, until I dropped him off at this home at about 12:40AM. I then
16 continued home and rested a few hours prior to speaking to Mr. Forte about the preparation
17 of this declaration.

18 46. Mr. Gene Forte has informed me that he will be filing this declaration in this case and a
19 couple of others.

20 47. I did not know Mr. Forte until contacted by him sometime in late September 2005 after the
21 announcement of the conclusion of the investigation of Commissioner Rutledge by DA
22 Flippo and his offices.

23
24 I declare under penalty of perjury under the laws of the State of California that the foregoing
25 is true and correct. Executed this 16th day of November, 2005, at Monterey, California.

26
27 Dated: November 16, 2005

28

Ms. Crystal Powser

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

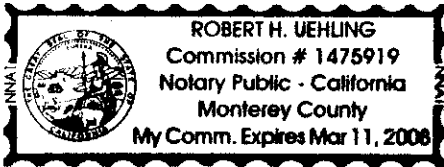
State of California

County of Monterey } ss.

On November 16, 2005 before me, Robert M. Uehling
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")
personally appeared Ms. Crystal Powser
Name(s) of Signer(s)

personally known to me

proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

WITNESS my hand and official seal.

Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: #M72599 - Declaration of Crystal Powser

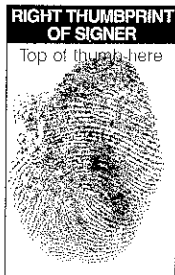
Document Date: November 16, 2005 Number of Pages: 8

Signer(s) Other Than Named Above: N/A

Capacity(ies) Claimed by Signer(s)

Signer's Name: Ms. Crystal Powser

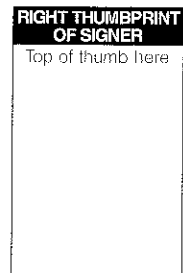
- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer — Title(s): _____
- Partner — Limited General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA)
3 COUNTY OF MONTEREY) ss.

4 I, the undersigned, declare that I am employed in the County of Merced, State of
5 California; I am over the age of 18 years and not a party to the within action; my business
address is 1631 Fir Drive, Los Banos, California, 93635.

6 On November 16, 2005, I served the foregoing **DECLARATION OF CRYSTAL
7 POWSER DATED NOVEMBER 16, 2005** on the parties in this action by:

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

9 _____ facsimile machine pursuant to Rule 2008. Said document was sent to the below
10 listed party(ies). The fax number I used was: _____ The facsimile
11 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.

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

13 _____ placing a true copy thereof enclosed in a postage prepaid and sealed envelope for
14 deposit, collection and mailing on the date and at the place shown above
15 following this firm's ordinary business practices. I am readily familiar with this
16 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:

17 Mailed:
Mr. Bill Lockyer
Attorney General
18 **455 Golden Gate Avenue, Suite 11000**
19 **San Francisco, CA 94102-7004**
(415) 703-5520 telephone
20 **(415) 703-5480 facsimile**

21 I declare under penalty of perjury under the laws of the State of California that the
22 foregoing is true and correct and that this declaration was executed on November 16, 2005 at
Los Banos, California.

23 _____
24 *Eileen Forte*
Eileen Forte