



Darryl Cotton <indagrodarryl@gmail.com>

Re: Cotton v. City of San Diego - Proposed Judgment

Darryl Cotton <indagrodarryl@gmail.com>

Thu, Feb 22, 2018 at 11:28 AM

To: "Anna K. Lizano" <alizano@ferrisbritton.com>, stoothacre@ferrisbritton.com

Cc: "mphelps (mphelps@sandiego.gov)" <mphelps@sandiego.gov>, "Austin, Gina"

<gaustin@austinlegallgroup.com>, Michael Weinstein <MWeinstein@ferrisbritton.com>

Travis Phelps, Michael Weinstein, Gina Austin and Scott H. Toothacre:

Please note that I will be filing an ex-parte request for a stay in both matters and requesting Judge Wohlfeil not execute the proposed judgment from Weinstein in the City matter. (I wonder why Gina, the attorney in the City action is not submitting the proposed judgment on what is as a matter of record her case? Could it be because the Meta-Data Evidence makes it clear that she is complicit in Geraci's scheme to defraud me of my property and she is trying to distance herself as much as possible?)

The request for a stay is based on the fact that this Court has no jurisdiction pursuant to 28 U.S.C.A. § 1404(a) as I have filed a case in federal court involving substantially the same questions of law and fact as the issues here – the ownership of my property and the CUP and the constitutional violations by the City in handling the CUP application here.

Alternatively, and I am going to direct with Judge Wohlfeil, his inability to comprehend and/or purposefully address that two pieces of UNDISPUTED evidence - the Confirmation Email and the MetaData Evidence - make it clear that Geraci, Berry and Austin are conspiring to defraud me of my property leave me with zero faith that he will properly adjudicate this case. I will also provide the email from Weinstein stating that he "has not made any misrepresentations of facts or law to the court." Perfect Machiavellian response to deflect from his violation of his affirmative duty to inform Judge Wohlfeil of his error.

I have zero belief that Judge Wohlfeil will review the evidence and issue a just order, but will submit the ex-parte request so I can immediately after the hearing walk to the COA down the street and file an appeal for a stay on the same grounds discussed above.

Travis, per Weinstein's moving papers for the proposed judgment, your comment to him that you have no comments to the proposed order means that you are allowing him to continue this unfounded action. By now you are clearly aware of what the Confirmation Email means and that the Meta-Data Evidence makes it clear that Gina Austin is an attorney who has crossed the line and conspired with her client to unlawfully and unconstitutionally deprive me of my property. Your de facto approval of their actions means the **CITY OF SAN DIEGO** is knowingly complicit. Until now I had still hoped that the incidents with the City of San Diego were isolated incidents, however, you knowingly allowing this miscarriage of justice to take place is insulting and incredibly damaging. You are no better than Austin and Weinstein.

After this ex-parte request is denied, and I then file with the COA, I will then walk straight to the Federal Courthouse from the COA and make an emergency supplemental filing with Judge Curiel with copies of the ex parte application, the denial and the COA appeal. There will come a day when this will all come out and the record will make it unequivocally clear that you are all acting unethically.

Mr. Phelps, you are a disappointment. Do not bother seeking a settlement in Federal Court. While I do not believe you had anything to do with the origin of this matter, it is clear that you want me to go away. But you crossed the line and while I may not be able to cite to the perfect case or rule, what you are doing cannot possibly be just and allowed – it violates all notions of justice, fairness and simple decency. You should be ashamed of yourself, you are allowing them to drag this out and to unjustly win over me. Every day that this goes on I have trouble making ends meet and keeping basic utility bills paid and providing food for my loved ones, meeting my obligations to my employees and partners and you are allowing it? Why? Because if this all gets shut down you won't have to deal with me and the constitutional violations of my rights by the City's Development Services? Never mind that you are allowing CRIMINALS to deprive me of my property? Don't bother replying. To use Weinstein's words, this will be handled in Court. I just want there to be a clear record that you, **Travis Phelps**, had an opportunity to do the right thing and stop this completely unfounded and incredibly damaging lawsuit against me, but you knowingly chose not to. Not only did you not, you perpetuated the harm done to me by approving/condoning the submittal of the

proposed judgement thereby increasing the financial, emotional and psychological damage that I am dealing with on a daily basis. There will come a day that this email will be evidence of your actions in front of Judge Curiel.

You all have fooled Judge Wohlfeil, but you won't fool Judge Curiel. I have read a lot about him, he is incredibly detailed and intelligent. I believe your procedural arguments that have misled Judge Wohlfeil won't mislead him.

As soon as this ex-parte notice is denied and I file the COA appeal, I will submit an ex parte request with Judge Curiel regarding your attempt to deprive me of justice in Federal Court when you are all aware that the State Court no longer has jurisdiction. ***Your proposed judgment in the City action is nothing but an unjust scheme to circumvent the federal lawsuit I filed by using the proposed judgment in the City action in the Geraci action via a motion for judgment on the pleadings based on issue/claim preclusion.*** Weinstein, David Damien explained this to me when you opposed our motion for an expedited hearing in the City action seeking to shorten time and you opposed it on the same grounds in front of Judge Wohlfeil. Ironical isn't it? You are the one that led to me understanding why you are pushing so hard to get this proposed judgment through.

The core and case dispositive issue in both state suits and the federal suit is the same - is the document executed in November of 2016 a final contract for my property? If it is, Geraci has a right to the CUP application and I suffered no damage from the City's constitutional violations of my rights. If it is not, and as it is the only basis for Geraci having access to my property, then he has no right to a CUP on my property and I have suffered damages as a result of the City's violation of my constitutional rights. The Confirmation Email and the Meta Data Evidence are DISPOSITIVE on this question and you all KNOW it.

It does not matter how far I have to take this, I will see justice done against all of you even if I have to sell off everything and I end up with nothing in the end. I am not going to let you get away with this.

I have already started designing a blog that will go live soon where I am posting ALL pleadings and summaries and I will circulate the blog on news blogs and websites in the Cannabis community and I will post the link on every website that has reviews of attorneys for all four of you. People can look at the evidence and make up their own minds as to what it means and what type of attorneys you all are. There are a lot of people who are calling me every day asking what is taking place and wanting to know more about this case. I am going to expose you all so that even if something happens to me, the public will know why.

Don't any of you bother replying. Your legal responses that seek to create records of your "professionalism" and "reasonableness" make me sick.

✉

On Wed, Feb 21, 2018 at 12:39 PM, Anna K. Lizano <alizano@ferrisbritton.com> wrote:

Dear Mr. Cotton, Mr. Phelps, and Ms. Austin,

Attached are your service copies of the following documents:

- 1) Letter to Clerk of Department C-73 enclosing Proposed Judgment;
- 2) [Proposed] Judgment After Order Denying Motion for Issuance of Peremptory Writ of Mandate; and
- 3) Declaration of Michael R. Weinstein in Support of Entry of Proposed Judgment.

Thanks,

Anna K. Lizano, Paralegal

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