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Cross-Defendant REBECCA BERRY

8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

10 LARRY GERACI, an individual,

11 Plaintiff,

12 v.

13 DARRYL COTTON, an individual; and
14 DOES 1 through 10, inclusive,

15 Defendants.

Case No. 37-2017-00010073-CU-BC-CTL

Judge: Hon. Joel R. Wohlfeil
16 Dept.: C-73

**PLAINTIFF LARRY GERACI'S
OBJECTIONS TO EVIDENCE LODGED
BY DEFENDANT DARRYL COTTON IN
SUPPORT OF HIS MOTION TO
EXPUNGE LIS PENDENS**

[IMAGED FILE]

16 DARRYL COTTON, an individual,

17 Cross-Complainant,

18 v.

19 LARRY GERACI, an individual, REBECCA
20 BERRY, an individual, and DOES 1
THROUGH 10, INCLUSIVE,

21 Cross-Defendants.

Hearing Date: April 13, 2018
Hearing Time: 9:00 a.m.

Filed: March 21, 2017
Trial Date: May 11, 2018

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23
24 Plaintiff, LARRY GERACI, hereby objects to evidence lodged by Defendant, DARRYL
25 COTTON, in support of his Motion to Expunge Notice of Pendency of Action (*Lis Pendens*).

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTIONS
Cotton Declaration, ¶ 3 in its entirety.	Irrelevant to the motion to expunge <i>lis pendens</i> . No evidence is admissible except relevant

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	evidence. (Cal. Evid. Code, § 350.)
Cotton Declaration, ¶ 4 in its entirety.	Irrelevant to the motion to expunge <i>lis pendens</i> . No evidence is admissible except relevant evidence. (Cal. Evid. Code, § 350.)
Cotton Declaration, ¶ 6 to the extent it mischaracterizes the written agreement as a “receipt”.	Nowhere on the document does it reference that it is a “receipt”. To the extent this is Cotton’s opinion, it is inadmissible lay opinion evidence. (Cal. Evid. Code, § 800.) To the extent Cotton is offering his lay opinion, the Declaration fails to lay proper foundation for the opinion. (Cal. Evid. Code, § 702.)
Cotton Declaration, ¶ 7 to the extent it mischaracterizes the written agreement as a “receipt”.	Nowhere on the document does it reference that it is a “receipt”. To the extent this is Cotton’s opinion, it is inadmissible lay opinion evidence. (Cal. Evid. Code, § 800.) To the extent Cotton is offering his lay opinion, the Declaration fails to lay proper foundation for the opinion. (Cal. Evid. Code, § 702.)
Cotton Declaration, ¶ 8 to the extent it mischaracterizes the written agreement as a “receipt”.	Nowhere on the document does it reference that it is a “receipt”. To the extent this is Cotton’s opinion, it is inadmissible lay opinion evidence. (Cal. Evid. Code, § 800.) To the extent Cotton is offering his lay opinion, the Declaration fails to lay proper foundation for the opinion. (Cal. Evid. Code, § 702.)
Cotton Declaration, ¶ 12 to the extent it references the “Text Communications”.	Lack of Foundation (Cal. Evid. Code, § 702); Hearsay (Cal. Evid. Code § 1200).
Cotton Declaration, ¶ 15 to the extent it refers to the “Metadata Evidence.”	This is improper lay opinion in violation of California Evidence Code, section 800. It also lacks foundation in violation of California Evidence Code, section 702. Additionally, this evidence is irrelevant. (Cal. Evid. Code, § 350.)
Cotton Declaration, ¶ 16 to the extent it refers to the “Parcel Information Report” provided by the City of San Diego, Development Services	Hearsay (Cal. Evid. Code, § 1200); Lack of Foundation (Cal. Evid. Code, § 702).

MATERIAL OBJECTED TO	GROUNDS FOR OBJECTIONS
Department.	
Cotton Declaration, ¶ 20 to the extent it references that Judge Wohlfeil told Cotton that he knew Austin and Weinstein well and that he did not believe the would engaged in unethical actions.	Irrelevant (Cal. Evid. Code, § 350).
Cotton Declaration, ¶ 21 in its entirety.	Completely irrelevant to any issue in this case. (Cal. Evid. Code, § 350).
Cotton Declaration, ¶ 22 to the extent it references an Independent Psychiatric Assessment of Mr. Cotton.	Irrelevant (Cal. Evid. Code, § 350).
Exhibit 1 – Summary of Emails.	Lacks foundation (Cal. Evid. Code, § 720); Hearsay (Cal. Evid. Code, § 1200).
Exhibit 3 – To the extent this has been identified as Metadata.	Lacks foundation (Cal. Evid. Code § 720); Hearsay (Cal. Evid. Code, § 1200); Irrelevant (Cal. Evid. Code, § 350.)
Exhibit 4.	Irrelevant (Cal. Evid. Code, § 350); Improper Expert Opinion as Cotton has failed to designate an expert witness in this case; Hearsay (Cal. Evid. Code, § 1200).

Dated: April 10, 2018

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By: 

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