

Re: Depositions

1 message

Darryl Cotton <indagrodarryl@gmail.com>

Thu, Feb 8, 2018 at 3:01 PM

To: Michael Weinstein <MWeinstein@ferrisbritton.com>, MPhelps@sandiego.gov, info@austinlegalgroup.com

All,

Please note that I will be filing suit in Federal court later today. It is clear to me that I will not be able to access justice in front of Judge Wohlfeil. At best, he is incapable of understanding that the Confirmation Email is not disputed and that it resolves this action dispositively in my favor. If that is not the case, I assume a Federal Judge will at least have the decency to explain to me why, unlike Wohlfeil, the Confirmation Email does not.

Also, note that I will simultaneously be filing an ex parte request for a TRO. As soon as I finish my pleadings and have a date and time for the court hearing, I will provide such information.

Mr. Phelps, one of my federal causes of action is against the City for violating my constitutional rights because Development Services' failed to provide me substantive and procedural due process when it (i) continued processing the CUP application after they provided a letter stating it would not process the CUP application as they had been informed the property had been sold and would need MY executed Grant Deed to continue processing the CUP application, which I never did, (ii) lying to me and telling me they could not accept a second CUP application on MY property when it had on other occasions for other CUP applicants and (iii) allowing me to submit a second CUP only after my then-counsel sent a demand letter, but creating a bullshit "horse-race," forcing me to compete against Geraci on my own property when the City, vicariously through your predecessor, KNEW that Geraci had no legal right to my property at that point in time. An exception to doctrine requiring exhaustion of administrative remedies - futility.

I am going to see Geraci, Austin, Weinstein, Toothacre and their respective law firms on the stand. There is no situation where I settle with those unethical "officers of the court" that will justify themselves like Weinstein does below with his legal bullshit. However, I have no desire to engage in litigation with the City. Once we get past the TRO, which is going to be premised solely on the breach of contract cause of action, aided and abetted by Austin and Weinstein, let's get together to discuss the best path forward.

However, please note, should the CUP suddenly and mysteriously be denied and/or you oppose my request for a TRO seeking to have a receiver put in charge of the CUP application until this lawsuit is settled, then I will seek to hold the City fully responsible for ALL of its actions. I note that in Federal Court I will be seeking to have the Federal Judge appoint me counsel to represent me, so it won't be against my legally unsophisticated self that you will be facing off against. Please do not allow Geraci to sabotage the CUP.

On Fri, Jan 26, 2018 at 2:37 PM, Darryl Cotton <indagrodarryl@gmail.com> wrote:

Mr. Weinstein,

If I'm mistaken than so is the Opinion I reference. The following is a link to Ethics Opinion CAL 1996-146 that discusses the questions below, perfectly on point. Mr. Weinstein you may not have known that this lawsuit is a fraudulent act by Geraci at the beginning, Gina obviously did, but you do now.

<http://www.calbar.ca.gov/Attorneys/Conduct-Discipline/Ethics/Opinions/1992-126-to-1997-151>

1. What are a lawyer's ethical obligations when she knows or should know her client is committing an ongoing or future fraud upon the public?
2. What are the lawyer's obligations where the client has used the lawyer's services in furthering the fraud?

Darryl Cotton

On Fri, Jan 26, 2018 at 2:17 PM, Michael Weinstein <MWeinstein@ferrisbritton.com> wrote:

Mr. Cotton,

You are mistaken, but that is your prerogative.

I will see you at your deposition.

Respectfully,

Michael R. Weinstein
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From: Darryl Cotton [mailto:indagroddarryl@gmail.com]
Sent: Friday, January 26, 2018 12:20 PM
To: Michael Weinstein <MWeinstein@ferrisbritton.com>; info@austinlegalgroup.com
Subject: Re: Depositions

Weinstein,

You are correct, you have not "made any misrepresentation to the court about the facts or the law." However, you know that he has made rulings premised on his incorrect belief that there is "disputed" evidence and, as such, you have an **Affirmative Duty** to tell Judge Wohlfeil about his mistaken belief upon which he has made numerous incorrect rulings. I wonder what Judge Wohlfeil is going to think about you and Gina when he eventually realizes that you allowed him to continuously, over the course of months and many motions and oral hearings, issue rulings that show he does not understand that, at least to this date, you have not disputed the Confirmation Email. He has issued orders on that mistaken belief and you have taken advantage of that mistaken belief.

This email by you is a blatant attempt to create a false record to cover your ass. This is why our judicial system fails miserably to achieve justice. I read the Ethics Opinion, I understand it. The violation here is not that you made a misrepresentation to the Court about facts or law, but that you have an Affirmative Duty to correct the judge and the rulings he has made based on an incorrect understanding of **dispositive** evidence. Again, his ruling is clear, he thinks the Confirmation Email is disputed, it is NOT. You are manipulating Judge Wohlfeil by not bringing this to his attention, hoping I run out of resources before the truth of your actions can come to light. And this email just proves it. You are playing word games, thinking I don't understand the nuances. You are no better than Demian. You are the absolutely the worst kind of unethical attorney there is. It is because of unethical attorneys like you, that manipulate the judicial system, that our system is so flawed. Gina conspired with Geraci from the beginning. But you, you keep doubling down, keeping on maintaining this vexatious lawsuit.

I am attaching here the California States Bar Ethics opinion regarding Deceitful Conduct that has all the language needed for you to know, to the extent you may try to argue that you previously did not know, that you have an AFFIRMATIVE DUTY to tell Judge Wohlfeil that the Confirmation Email is dispositive and this case should be resolved in my favor. I don't think that you will, you are in too deep. I dare you to show this email to Judge Wohlfeil and bring to his attention the dispositive nature of the Confirmation Email so that he finally understands you have been manipulating him by **OMISSION**. It would be great to see you argue to him that you have allowed him to abuse his discretion on numerous occasions by stating that you "have not, in any pleading or oral argument, made any misrepresentation to the court about the facts or the law."

Per his stated opinions about you and counsel at the last oral hearing, he thinks you would not take these sorts of actions, don't you think he is going to be pissed once he finds out that after he went out of his way to make you seem like a nice, ethical guy that you actually continued to actively deceive him?

When you opposed the motions for stay, you had no problem citing case law and language to me via email. But, in response to this email, you have decided not to do so because you have no defense. Judge Wohlfeil did not read and/or take my opposition serious. It is a mess. But you did. I know you did. And you know what I tried to convey is true.

"No ill will" towards me? What kind of bullshit is that. I have lost everything. I have been to the ER for a stroke. I have been driven near insane and assaulted people, been disrespectful to people that I care about. I have lost my business and my property. Do you have any idea how I feel knowing that whether I win or lose I lost this property? I have had to negotiate away millions to keep this litigation financed. I have had to demean myself in public records. You are so good at distracting the judge that I don't even have legal representation anymore even though my cause of action is not just meritorious, the evidence makes it clear it is dispositive. No "ill will" towards me? I cannot say the same about you! When this is over, I hope that I can convince the Judge to have you prosecuted criminally for your actions here!!

Darryl Cotton

On Fri, Jan 26, 2018 at 9:56 AM, Michael Weinstein <MWeinstein@ferrisbritton.com> wrote:

Mr. Cotton,

You have chosen "the last day possible" for your deposition. By my calculation, that would be Wednesday, February 14, 2018 (20 days from today). I will serve an amended deposition notice scheduling your deposition for February 14. Thank you.

As for the remainder of your email, you are way off the mark. I have not, in any pleading or oral argument, made any misrepresentation to the court about the facts or the law.

Trial Call is May 11, 2018. At the trial the disputed facts in this case will be presented through admissible witness testimony and a decision will be made by the judge or jury. That is the way the process works. And that is where I, on behalf of my client, will present and argue my case. I will not do so in emails to you.

I wish you no ill will. Please be assured that I will continue to conduct myself in an ethical and civil matter in all my dealings with you.

Respectfully,

Michael R. Weinstein
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From: Darryl Cotton [mailto:indagrodarryl@gmail.com]
Sent: Thursday, January 25, 2018 3:34 PM
To: Michael Weinstein <MWeinstein@ferrisbritton.com>
Cc: info@austinlegalgroup.com
Subject: Depositions

Mr. Weinstein,

As to the date for depositions, I choose the last day possible as I am planning to file my appeal ASAP and hope the Court of Appeals will issue an order before I have to be deposed.

The Judge started off his hearing with how well he knows all counsel in these matters as you have all been before him on numerous occasions and how he doubts you would do anything along the lines I described in my pleading. Great. Your prior relationship somehow means I am wrong. I am sure you have read my opposition, so you know my thoughts, I am either crazy or I have just never been able to get the judge to focus on that one email from Geraci that I refer to as the Confirmation Email.

I note that his minute order for today makes no reference to the Confirmation Email despite my repeated requests in my Opposition that he explain how the Confirmation Email does not dispositively resolve this matter. I am assuming, if I am not actually crazy, that he just thinks I am crazy and has not really read my pleadings. This is the third hearing that the Confirmation Email has been in front of him and he has ruled in a manner that shows that he has not taken it into account. I note that in his minute order, he states there is "disputed" evidence, and you KNOW that neither you nor Gina Austin in the City matter have ever disputed that Confirmation Email. It would appear to me, if I am not crazy, that you have an **affirmative duty**, based on the case law and California State Bar opinions referenced in my pleading, to inform Judge Wohlfeil about his erroneous assumption. Or, you can choose to dispute the authenticity of the Confirmation Email after almost a year of not doing so.

If I really am crazy, I apologize to you. I really do. If I am not, this will eventually all come out and your actions in this matter will be incredibly clear. I note the the State Bar let me know about "Malicious Prosecution" causes of action. If I prevail in this matter, again, assuming I am not crazy and the Confirmation Email is taken into account by the COA, then you can be assured I will be using this email as evidence that you knew you had an affirmative duty to Judge Wohlfeil about letting him know that the Confirmation Email is **not** disputed and you did not. Again, only if I am crazy. It is not lost on me that I have yet again been before the Court and I still lost (He has never mentioned or referenced the Confirmation Email, I keep hoping he

just thinks I am a crazy pro se and don't know what I am doing). At some point I have to realize no matter how sure I am about something, that maybe, I really am not thinking well. If the COA comes back with a reasoned decision taking into account and describing why the Confirmation Email (along with the other communications from Geraci, which include the drafts of purchase agreements prepared by Gina Austin months after November of 2016) does not dispositively address this action in my favor, I shall personally and sincerely offer my apologies. If not, I will eventually, no matter how much it costs me personally financially and emotionally, see you and Gina in Court for malicious prosecution. And there will be no situation where I settle. I want to see you both on the stand responding to this email and why you did not tell Judge Wohlfeil about his incorrect assumption that would have dispositively addressed this case in my favor much sooner and saved me an incredible amount financial and emotional harm.

In anticipation of your reply I remain.

Darryl Cotton