



Darryl Cotton &lt;indagrodarryl@gmail.com&gt;

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**RE: Depositions**

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**Michael Weinstein** <MWeinstein@ferrisbritton.com>  
To: Darryl Cotton <indagrodarryl@gmail.com>

Fri, Jan 26, 2018 at 9:56 AM

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](mailto:indagrodarryl@gmail.com)]  
**Sent:** Thursday, January 25, 2018 3:34 PM  
**To:** Michael Weinstein <[MWeinstein@ferrisbritton.com](mailto:MWeinstein@ferrisbritton.com)>  
**Cc:** [info@austinlegalgroup.com](mailto: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