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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY s/ Lillianac DEPUTY

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Plaintiff Pro Se

Court's Ex. **155**
Case # 37-2017-00010073-CU-BC-CTL
Rec'd _____
Dept. **C-73** Clk. _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DARRYL COTTON, an individual,
Plaintiff,

CASE NO.: '18CV0325 GPC MDD

Judge:
Dept.:

vs.

PLAINTIFF'S COMPLAINT FOR:

LARRY GERACI, an individual;
REBECCA BERRY, an individual; GINA
AUSTIN, an individual; AUSTIN LEGAL
GROUP, a professional corporation;
MICHAEL WEINSTEIN, an individual;
SCOTT H. TOOTHACRE; an individual;
FERRIS & BRITTON, a professional
corporation; CITY OF SAN DIEGO, a
public entity; and DOES 1 through 10,
inclusive,
Defendants.

- 1. 42 U.S.C. SEC. 1983; 4TH AMEND. UNLAWFUL SEIZURE**
- 2. 42 U.S.C. SEC. 1983; 14TH AMEND. DUE PROCESS VIOLATIONS**
- 3. BREACH OF CONTRACT;**
- 4. FALSE PROMISE;**
- 5. BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING;**
- 6. BREACH OF FIDUCIARY DUTY;**
- 7. FRAUD IN THE INDUCEMENT;**
- 8. FRAUD / FRAUDULENT MISREPRESENTATION;**
- 9. TRESPASS;**
- 10. SLANDER OF TITLE;**
- 11. FALSE DOCUMENTS LIABILITY;**
- 12. UNJUST ENRICHMENT;**
- 13. INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS;**
- 14. NEGLIGENCE INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS;**
- 15. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;**
- 16. NEGLIGENCE INFLICTION OF EMOTIONAL DISTRESS;**
- 17. CONSPIRACY;**
- 18. RICO;**
- 19. DECLARATORY RELIEF; AND**
- 20. INJUNCTIVE RELIEF.**

DEMAND FOR JURY TRIAL

Exhibit 38
Cotton
5/14/18
S. Somers

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6 **Plaintiff Pro Se**

7 **UNITED STATES DISTRICT COURT**
8 **SOUTHERN DISTRICT OF CALIFORNIA**

9 **DARRYL COTTON, an individual,**

10 **Plaintiff,**

11 **vs.**

12 **LARRY GERACI, an individual;**
13 **REBECCA BERRY, an individual; GINA**
14 **AUSTIN, an individual; AUSTIN LEGAL**
15 **GROUP, a professional corporation;**
16 **MICHAEL WEINSTEIN, an individual;**
17 **SCOTT H. TOOTHACRE; an individual;**
18 **FERRIS & BRITTON, a professional**
19 **corporation; CITY OF SAN DIEGO, a**
20 **public entity; and DOES 1 through 10,**
21 **inclusive,**

22 **Defendants.**

CASE NO.:

Judge:

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PLAINTIFF'S COMPLAINT FOR:

1. 42 U.S.C. SEC. 1983; 4TH AMEND. UNLAWFUL SEIZURE
2. 42 U.S.C. SEC. 1983; 14TH AMEND. DUE PROCESS VIOLATIONS
3. BREACH OF CONTRACT;
4. FALSE PROMISE;
5. BREACH OF IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING;
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7. FRAUD IN THE INDUCEMENT;
8. FRAUD / FRAUDULENT MISREPRESENTATION;
9. TRESPASS;
10. SLANDER OF TITLE;
11. FALSE DOCUMENTS LIABILITY;
12. UNJUST ENRICHMENT;
13. INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS;
14. NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC RELATIONS;
15. INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS;
16. NEGLIGENT INFLECTION OF EMOTIONAL DISTRESS;
17. CONSPIRACY;
18. RICO;
19. DECLARATORY RELIEF; AND
20. INJUNCTIVE RELIEF.

23 **DEMAND FOR JURY TRIAL**

1
2 Plaintiff *Pro Se* Darryl Cotton ("Plaintiff," "Cotton" or "I") alleges upon information and
3 belief as follows:

4 INTRODUCTION

5 1. The origin of this matter is a simpler-than-most real estate contract dispute regarding
6 the sale of my property to defendant Larry Geraci ("Geraci").

7 2. My property qualifies to apply with the City of San Diego ("City") for a Conditional
8 Use Permit ("CUP"). If the City issues the CUP, the value of the Property will immediately be worth
9 at least \$16,000,000 because the CUP will allow the establishment of a Medical Marijuana Consumer
10 Collective ("MMCC"). Under the regulatory scheme being effectuated by the State of California, an
11 MMCC is a retail-for-profit marijuana store. Because the City is creating an incredibly small
12 oligarchy by only issuing 36 MMCC retail licenses across the entire City, and will not issue any more
13 for at least 10 years, the net present value of the Property, to an individual that has the capital and
14 resources to build, develop and operate the MMCC, is at least \$100,000,000.
15

16 3. However, the value of the Property is exponentially *greater* than \$100,000,000 to
17 organized, sophisticated and powerful criminals that are looking for legitimate businesses in the
18 marijuana industry that they can use as fronts for their illegal operations.
19

20 4. Defendant Larry Geraci ("Geraci") is exactly such a criminal -- he runs a criminal
21 enterprise that has for years operated in the illegal marijuana industry. He operates publicly through a
22 business providing tax and financial consulting services that he uses to invests his illegal gains and to
23 provide money laundering services to other criminals who own illegal marijuana stores.
24

25 5. It is a matter of public record that Geraci is an Enrolled Agent with the I.R.S. and that
26 he has been a named defendant in numerous lawsuits filed by the City against him for his
27 owning/operating of numerous illegal marijuana dispensaries. As described below, he now operates
28

1 through employees and attorneys to hide his illicit operations. There is no way to ascertain exactly the
2 breadth of his criminal enterprise given his use of private and legal proxies for his criminal activities.

3 6. In November of 2016, Geraci and I came to terms for the sale of my property to him,
4 the terms of which included my having an ownership interest in the contemplated MMCC. However,
5 I found out Geraci had induced me to enter into that agreement on fraudulent grounds and he
6 breached the agreement in numerous ways.

7
8 7. Consequently, I terminated the agreement. After I terminated the agreement, Geraci, in
9 concert with his office manager/employee Rebecca Berry ("Berry") and his counsel, Gina Austin
10 ("Austin"), Michael Weinstein ("Weinstein") and Scott H. Toothacre ("Toothacre"), and their
11 respective law firms, brought forth a meritless lawsuit in state court attempting to fraudulently
12 deprive me of my property (the "Geraci Action").

13
14 8. After the Geraci Action was filed, I requested the City transfer the CUP application
15 filed by Geraci on my property to me. The City refused. I then filed an action against the City seeking
16 to have the City transfer the CUP application to me as Geraci had no legal basis to my property after
17 our agreement was terminated (the "City Action;" and collectively with the Geraci Action, the "State
18 Action." Defendant attorneys named herein, and their respective law firms, are Geraci's counsel in
19 the State Action (the "Attorney Defendants").

20
21 9. Throughout the course of the State Action, I have dealt with officials from the City of
22 San Diego ("City") that have violated my constitutional rights in various ways. These actions, by
23 themselves unlawful, have also had the effect of allowing, condoning, perpetuating and augmenting
24 the irreparable harm done to me that was originally set in motion by Geraci, Berry and the Attorney
25 Defendants.

26
27 10. I believe the City as an entity is prejudiced against me and has, and is, seeking to
28 deprive me of my rights and property because of (i) my political activism for the legalization of

1 medical cannabis ("Political Activism") and/or (ii) as the result of political influence wielded by
2 Geraci.

3 11. Irrespective of motivation and whether the City is in some manner connected to
4 Geraci, which I believe to be true for the reasons explained below, but even I myself find hard to
5 believe (I understand how crazy it sounds), it does not change the facts – the City has taken unlawful
6 actions towards me.
7

8 12. For all intents and purposes, even assuming the City has not been unduly influenced
9 by Geraci and his political lobbyists, the effect to me by the City's actions would be no different as if
10 the City had actually purposefully conspired against me with Geraci to effectuate his unlawful
11 scheme against me to fraudulently deprive me of my Property.
12

13 13. These officials and their unconstitutional actions include, but are not limited to:

14 a. A criminal prosecutor who induced me into entering into a misdemeanor plea
15 agreement and did not tell me or my attorney representing me that as a consequence of entering that
16 misdemeanor plea agreement I would be forfeiting my real property at issue here (which at that point
17 in time was worth at least \$3,000,000). That City attorney then used that misdemeanor plea
18 agreement as the unreasonable basis of filing a lis pendens on my property, thereby unconstitutionally
19 seizing my property, and filing a Forfeiture Action seeking to acquire my property. The City attorney
20 initially requested \$100,000 to cease its unfounded Forfeiture Action, but when my then-counsel
21 produced evidence of my destitute financial status, the City agreed to only extort \$25,000 from me
22 (the short and long-term consequence of having to renegotiate the terms of my agreement with my
23 financial backers to meet the January 2, 2018 deadline to pay this unconstitutional \$25,000 obligation
24 or lose the Property that is worth millions of dollars is the single most financially catastrophic event
25 to happen in this litigation, other than Geraci's breach of our agreement and the actions he set in
26 motion leading to this Federal Complaint.)
27
28

1 b. Officials at Development Services that were processing the CUP application
2 submitted by Geraci violated my constitutional rights by denying me substantive and procedural due
3 process by failing to provide notice about a material change in how they were processing my
4 application; blatantly lying to me by telling me they could not accept a second CUP application on a
5 property (which they later said I could after my then-counsel sent them a demand letter and noted
6 there was no legal basis for their position and that he had personally filed a second CUP application
7 on another property for another landlord in a similar situation to mine);

9 c. Civil attorneys for the City in the State Action that (a) violated their ethical
10 duties by failing to inform the judges in the State Action about the Judge's mistakes/erroneous
11 assumptions and/or working in concert with the State Court Judges and other City officials against
12 me because of my Political Activism and (b) continuing to prosecute the State Action when they
13 knew it was meritless, thereby maliciously putting more undue financial and emotional pressure on
14 me by seeking money/fees and accusing me of having "unclean hands;" and

16 d. The State Court Judges presiding over the State Action whom I am forced to
17 conclude, given that their Orders simply cannot be reconciled with the evidence and arguments made
18 before them, are at the very least guilty of gross negligence by systemically denying me my
19 constitutional rights by assuming that because I am a crazy pro se and that no pleading, evidence and
20 oral argument I put forth over the course of months could actually contain enough legal and factual
21 basis so as to warrant the relief I requested.

23 14. Alternatively, the state court judges have been grossly negligent towards me either
24 because (i) they are unjustly dismissive of me because of my *pro se* and *blue-collar* status and simply
25 did not review my pleadings and disregarded my arguments at the oral hearings (ii) or they are not
26 impartial because, as one judge stated at the last hearing 2 weeks ago, he doubts my allegations of
27
28

1 ethical violations against counsel (including City attorneys) are true because he “knows them all
2 well.”

3 15. In the absence of additional information, I am forced to conclude that the state court
4 judges, actually City officials, are acting in concert with other City Officials as part of an off-the-
5 books illegal stratagem to deprive property owners of their properties via Forfeiture Actions if they
6 are sympathetic to and/or share my Political Activism.

7
8 16. I am not the only individual who has had their property unconstitutionally seized as
9 part of a Forfeiture Action that has been used by the City to extort significant financial gains from
10 property owners that share my Political Activism. Should I prevail in the TRO, I may seek out other
11 victims and bring forth a class action lawsuit against the City for their unconstitutional practice of
12 seizing properties.

13
14 17. I pray *this Federal Court* will not be dismissive of me because of my *pro se* and blue-
15 collar status and my Political Activism. I am painfully cognizant that from a statistical standpoint,
16 given my *pro se* status and the allegations above, that I will be perceived immediately as an
17 uneducated, legally-ignorant and conspiracy nut. I understand that. It is a reasonable assumption to
18 make. I just pray that this Federal Court, before it finalizes its conclusion, that it genuinely reviews
19 the evidence submitted with my TRO application because although from statistical standpoint I am
20 probably a *pro se* conspiracy nut, there is the possibility that my case is that 1 in a 1,000,000 chance
21 that there really is a conspiracy against me driven by the fact that the Property can be worth at least
22 \$100,000,000 to sophisticated individuals, such as the defendants herein (excluding the City).

23
24 18. The truth is, I am a step away from literally losing my sanity, and I am aware of that.
25 But I view this Federal Court as my last recourse to protect and vindicate my rights as a citizen of this
26 great country and, if nothing else, that it may please explain to me its logic and evidence in issuing its
27 orders – something the State Courts have never done.
28

1 19. I know how crazy all this sounds even as I write this now. But I would ask the Court
2 to consider that I have owned this property since 1997 and have worked the better part of my life in
3 building my business's and my future at this location. For me to lose this property and what it
4 represents of my life's work is incredibly difficult to bear.

5 20. I have done everything in my power in the State Action, including selling off my
6 future to finance the professional services of attorneys and representing myself pro se, but it has not
7 availed me in the slightest. I have been before the State Judges over eight times and never once have
8 they sought to explain, despite my repeated, specific and emotional pleas that they do so, why my
9 case should not be immediately, summarily adjudicated my favor given undisputed evidence and
10 facts in the record. (See Exhibit 1 (My opposition to a motion to compel my deposition filed in the
11 State Action in which I described the totality of the circumstances to the state judge presiding, which
12 was ignored.)
13
14

15 21. Thus, I am forced to conclude "that state courts [a]re being used to harass and injure
16 individuals [such as myself], either because the state courts [a]re powerless to stop deprivations or
17 [a]re in league with those who [a]re bent upon abrogation of federally protected rights." Mitchum v.
18 Foster, 407 U.S. 225, 240, 92 S. Ct. 2151, 2161, 32 L. Ed. 2d 705 (1972).
19

20 22. I file this Complaint today before this Federal Court, pursuant to s 1983, because
21 "[t]he very purpose of s 1983 was to interpose the federal courts between the States and the people, as
22 guardians of the people's federal rights – to protect the people from unconstitutional action under
23 color of state law, 'whether that action be executive, legislative, or judicial' Ex parte Virginia, 100
24 U.S., at 346, 25 L.Ed. 676." (*Id.*)
25

26 **JURISDICTIONAL FACTS**
27
28

23. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331, 1343(3), 2283, and 18 U.S.C. § 1964 which confer original jurisdiction to the District Courts of the United States for all civil actions arising under the United States Constitution or the laws of the United States, as well as civil actions to redress deprivation under color of state law, of any right immunity or privilege secured by the United States Constitution. Further this court has subject matter jurisdiction pursuant to the Federal Racketeering Act, 18 U.S.C. section 1651, et seq. I also request this Court exercise its supplemental jurisdiction and adjudicate claims arising under the laws of the State of California pursuant to 28 U.S.C. § 1367(a).

24. This action is brought pursuant to 42 U.S.C. § 1983 to redress the deprivation under color of state and/or local law of rights, privileges, immunities, liberty and property, secured to all citizens by the First, Fourth and Fourteenth Amendments to the United States Constitution, without due process of law. This action seeks injunctive and other extraordinary relief, monetary damages, and such other relief as this Court may find proper.

25. Venue is proper in this Court because the events described below took place in this judicial district and the real property at issue is located in this judicial district.

PARTIES

26. Cotton is, and at all times mentioned was, an individual residing within the County of San Diego, California.

27. Cotton is, and at all times material to this action was, the sole record owner of the commercial real property located at 6176 Federal Boulevard, San Diego, California 92114 (“Property”).

1 28. Cotton is the President of Inda-Gro that he founded in 2010 which is a manufacturer
2 of environmentally sustainable products, primarily horticulture lighting systems, that help enhance
3 crop production while conserving energy and water resources and which operates from the Property.

4 29. Cotton is the President of 151 Farms, a not-for-profit organization he founded in 2015
5 that is focused on providing ecologically sustainable horticultural practices for the food and medical
6 needs of urban communities which also operates from the Property.

7
8 30. Upon information and belief Defendant Larry Geraci ("Geraci") is, and at all times
9 mentioned was, an individual residing within the County of San Diego, California.

10 31. Upon information and belief, Defendant Rebecca Berry ("Berry") is, and at all times
11 mentioned was, an individual residing within the County of San Diego, California.

12 32. Upon information and belief, Defendant Gina Austin ("Austin") is, and at all times
13 mentioned was, an individual residing within the County of San Diego, California.

14 33. Upon information and belief, Austin Legal Group ("ALG") is, and at all times
15 mentioned was, a company located within the County of San Diego, California.

16 34. Upon information and belief, Defendant Michael Weinstein ("Weinstein") is, and at
17 all times mentioned was, an individual residing within the County of San Diego, California.

18 35. Upon information and belief, Defendant Scott H. Toothacre ("Toothacre") is, and at
19 all times mentioned was, an individual residing within the County of San Diego, California.

20 36. Upon information and belief, Ferris & Britton ("F&B") is, and at all times mentioned
21 was, a company located within the County of San Diego, California.

22 37. Defendant City of San Diego ("City") is, and at all times mentioned was, a public
23 entity organized and existing under the laws of California.

24 38. Cotton does not know the true names and capacities of the defendants named DOES 1
25 through 10 and, therefore, sues them by fictitious names. Cotton is informed and believes that DOES
26
27
28

1 through 10 are in some way responsible for the events described in this Complaint and are liable to Cotton based on the causes of action below. Cotton will seek leave to amend this Complaint when the true names and capacities of these parties have been ascertained.

39. At all times mentioned, defendants Geraci, Berry, Austin, ALG (the "Original Defendants") were each an agent, principal, representative, alter ego and/or employee of the others and each was at all times acting within the course and scope of said agency, representation and/or employment and with the permission of the others.

40. As detailed below, Weinstein, Toothacre & F&B are attorneys representing Geraci and Berry and joined the Original Defendants in their malfeasance when they became aware that the Geraci Lawsuit was vexatious, continued prosecuting the Geraci Lawsuit and took unlawful actions beyond the scope of their legal representation (F&B, from here on out, collectively, with the Original Defendants, the "Private Defendants").

41. As detailed below, the City, through various representatives, each acting either with purposeful intent, in concert with and/or with negligence, condoned, allowed, perpetuated and augmented the irreparable and unlawful actions taken by the Private Defendants with their own unconstitutional actions.

FACTUAL ALLEGATIONS

THE ORIGIN OF THIS MATTER - MY PROPERTY

42. In or around August 2016, Geraci first contacted Cotton to purchase the property and set up an MMCC. The Property is one of a very limited number of properties located in San Diego City Council District 4 that potentially satisfy the CUP requirements for a MMCC.

43. Over the ensuing weeks and months, Geraci and Cotton negotiated extensively regarding the terms of a potential sale of the Property and, in good faith, took various steps in

1 contemplation of finalizing their negotiations (including the execution of documents required for the
2 CUP application). During these negotiations, Geraci represented to Cotton, among other things, that:

3 a. Geraci was a trustworthy individual because Geraci operated in a fiduciary
4 capacity for many high net worth individuals and businesses as an Enrolled Agent for the IRS
5 and the owner-manager of Tax and Financial Center, Inc., an accounting and financial
6 advisory business;

7
8 b. Geraci, through his due diligence, had uncovered a critical zoning issue that
9 would prevent the Property from being issued a CUP to operate a MMCC unless Geraci first
10 lobbied with the City to have the zoning issue resolved (the "Critical Zoning Issue");

11 c. Geraci, through his personal, political and professional relationships, was in a
12 unique position to lobby and influence key City political figures to have the Critical Zoning
13 Issue favorably resolved and obtain approval of the CUP application once submitted;

14 d. Geraci was qualified to successfully operate a MMCC because he owned and
15 operated several other marijuana dispensaries in the San Diego County area through his
16 employee Berry and other agents; and

17
18 e. That through his Tax and Financial Center, Inc. company he knew how to "get
19 around" the IRS regulations and minimize tax liability which is something he did for himself
20 and other owners of cannabis dispensaries.

21
22 44. On November 2, 2016, Cotton and Geraci met and came to an oral agreement for the
23 sale of Cotton's Property to Geraci (the "November Agreement").

24 45. The November Agreement had a condition precedent for closing, which was the
25 successful issuance of a CUP by the City.

26
27 46. The November Agreement consisted of, among other things, Geraci promising to
28 provide the following consideration: (i) a \$50,000 non-refundable deposit for Cotton to keep if the

1 CUP was not issued, (ii) a total purchase price of \$800,000 if the CUP was issued; and a 10% equity
2 stake in the MMCC with a guarantee minimum monthly equity distribution of \$10,000.

3 47. At the November 2, 2016 meeting, after the parties reached the November
4 Agreement, Geraci (i) provided Cotton with \$10,000 in cash to be applied towards the total non-
5 refundable deposit of \$50,000 and had Cotton execute a document to record his receipt of the
6 \$10,000 (the "Receipt") and (ii) promised to have his attorney, Gina Austin, speedily draft and
7 provide final, written purchase agreements for the Property that memorialized all of the terms that
8 made up the November Agreement.
9

10 48. The parties agreed to effectuate the November Agreement via two written
11 agreements, one a "Purchase Agreement" for the sale of the Property and a second "Side Agreement"
12 that contained, among other things, Cotton's equity percentage, terms for his continued operations of
13 his Inda-Gro business and 151 Farms operations at the Property until the beginning of construction at
14 the Property of the MMCC, and the guaranteed minimum monthly payments of \$10,000 (collectively,
15 the ("Final Agreement").
16

17 49. On that same day, November 2, 2016, after the parties met, reached the November
18 Agreement and separated, the following email chain took place:

19 a. At 3:11 PM, Geraci emailed a scanned copy of the Receipt to Cotton.

20 b. At 6:55 PM, Cotton replied to Geraci stating the following:

21 "Thank you for meeting today. Since we executed the Purchase Agreement in
22 your office for the sale price of the property I just noticed the 10% equity
23 position in the dispensary was not language added into that document. I just
24 want to make sure that we're not missing that language in any final agreement
as it is a factored element in my decision to sell the property. I'll be fine if you
would simply acknowledge that here in a reply."

25 c. At 9:13 PM, Geraci replied with the following:

26 "***No no problem at all***"
27
28

1 50. In other words, on the same day the Receipt was executed and I received it from
2 Geraci, I realized it could be misconstrued and that it was missing material terms (e.g., my 10%
3 equity stake). Because I was concerned, I emailed him specifically, so that he would confirm that the
4 Receipt was not a final agreement and he confirmed it. That is why I refer to this email as the
5 “Confirmation Email.”

6 51. Thereafter, over the course of almost five months, the parties exchanged numerous
7 emails, texts and calls regarding the Critical Zoning Issue, the Final Agreements and comments to
8 various drafts of the Final Agreement that were drafted by Gina Austin.
9

10 52. On March 7, 2017, Geraci emailed a draft Side Agreement. The cover email states:
11 “Hi Darryl, I have not reviewed this yet but wanted you to look at it and give me your
12 thoughts. Talking to Matt, the 10k a month might be difficult to hit until the sixth
13 month....can we do 5k, and on the seventh month start 10k?”

14 53. The attached draft of the Side Agreement to the March 7, 2017 email from Geraci
15 provides, among other things, the following:

- 16 a. “WHEREAS, the Seller and Buyer have entered into a Purchase Agreement[,] dated as of approximate even date herewith, pursuant to which the Seller shall sell to
17 Buyer, and Buyer shall purchase from the Seller, the property located at 6176 Federal
18 Blvd., San Diego, California 92114[.]”
19 b. Section 1.2: “Buyer hereby agrees to pay to Seller 10% of the net revenues of
20 Buyer’s Business [...] Buyer hereby guarantees a profits payment of not less than
21 \$5,000 per month for the first three months [...] and \$10,000 a month for each month
22 thereafter[.]”
23 c. Section 2.12, which provides for notices, requires a copy of all notices sent to
24 Buyer to be sent to: “Austin Legal Group, APC, 3990 Old Town Ave, A-112, San
25 Diego, CA 92110.”

26 54. The draft was provided in a Word version and attached to the email from Geraci, the
27 “Details” information of that Word document states that the “Authors” is “Gina Austin” and that the
28 “Content created” was done on “3/6/2017 3:48 PM.” (the “Meta-Data Evidence”; a true and correct
copy of a screenshot of the Meta-Data Evidence is attached hereto as **Exhibit 2**).

1 55. I then found out that Geraci had been lying to me about the Critical Zoning Issue and
2 had submitted a CUP application with the City BEFORE we even finalized the November
3 Agreement.

4 56. Thus, Geraci breached the November Agreement by, *inter alia*, (i) filing the CUP
5 application with the City without first paying Cotton the \$40,000 balance of the non-refundable
6 deposit; not paying Cotton the \$40,000 balance; and (ii) failing to provide the Final Agreement as
7 promised.
8

9 57. I gave Respondent Geraci numerous opportunities to live up to his end of the bargain.
10 I was forced to, I had put off other investors and was relying on the \$40,000 to make payroll and
11 purchase materials for a new line of lights I was developing for my company Inda-Gro. I also, if I had
12 to, would have sold part of my 10% equity stake in the MMCC once it was approved.
13

14 58. However, Geraci made it clear via his email communications that he was going to
15 attempt to deprive me of the benefits of the bargain I bargained for when he refused to confirm via
16 writing that he was going to honor the November Agreement and made a statement that he had his
17 "attorneys working on it."
18

19 59. On March 21, 2017, after Geraci refused to confirm in writing that he was going to
20 honor the November Agreement, I emailed him: "To be clear, as of now, you have no interest in my
21 property, contingent or otherwise." Having anticipated his breach and being in desperate need of
22 money, That same day, I entered into the Written Real Estate Purchase Agreement with a third-party.
23 That deal was brokered by my Investor.

24 60. The next day, Weinstein emailed me a copy of the Geraci Lawsuit and filed a *Lis*
25 *Pendens* on my Property. The Geraci Lawsuit is premised solely and exclusively on the allegation
26 that the Receipt is the Final Agreement. As stated in Geraci's own words in a declaration submitted
27 in State Action under penalty of perjury: "*On November 2, 2016, Mr. Cotton and I executed a*
28

1 *written purchase and sale agreement for my purchase of the Property from him on the terms and*
2 *conditions stated in the agreement[.]'*

3 61. Thus, putting aside an overwhelming amount of additional and undisputed evidence,
4 Geraci's own written admission in the Confirmation Email explicitly confirming the Receipt is not
5 the Final Purchase Agreements is completely damning and dispositive. It contradicts the only basis of
6 his complaint in the State Action and merits summary adjudication in my favor on the Breach of
7 Contract cause of action and related claims (hereinafter, the Breach of Contract cause of action
8 premised on the preceding facts is referred to as the "Original Issue").

10 62. The only argument that has been put forth in the State Action that at first glance
11 appears to have merit is Geraci's argument that the Confirmation Email should be prevented from
12 having legal effect pursuant to the Statute of Frauds (SOF) and the Parol Evidence Rule (PER). That
13 argument was the basis of Geraci's demurrer to my cross-complaint in the State Action, which the
14 State Court denied.

16 63. Thus, the FACTS prove Geraci is lying and that his Complaint is meritless. And the
17 LAW is on my side as it will not prevent the admission of the Confirmation Email. With neither the
18 facts nor the law supporting Geraci's lawsuits, why have the state court judges allowed both legal
19 actions to continue to my great and irreparable physical, emotional, psychological and financial
20 detriment?
21

22 64. The Receipt is the SOLE and ONLY basis of Geraci's claim to the Property in the
23 Civil Action and the CUP application in the City Action. Gina Austin is defending Geraci and Berry
24 in the City Action which is premised on the alleged fact that the Receipt is the Final Agreement for
25 my Property.
26

27 65. The Receipt was executed in November of 2016.
28

1 66. Geraci's motivation for his unlawful behavior here is deplorable, but it is
2 understandable – Greed. What I cannot understand, nor can the attorneys I have spoken with about
3 these matters, is how or what Austin was thinking when she decided to represent Geraci and Berry in
4 the City Action and, on numerous occasions, work with Weinstein and Toothacre in the Geraci
5 Action? The record was already clear by then, and unless she wants to perjure herself or allege that I
6 somehow can get Google to falsify its records, there is evidence that is beyond dispute that she is
7 LYING to the State Court perpetuating a meritless case based solely on one single argument she
8 knows is false.

10 67. She is representing to the State Court that the Receipt is the final agreement for my
11 property, but she drafted several versions of the purchase and the side agreement for my property as
12 late as March of 2017? This appears to me to be criminal. And really, really dumb.

14 68. She is supposedly incredibly smart, she was just named as one of the Top Cannabis
15 Attorneys in San Diego. This is actually the basis of the fear of my Investor, a former attorney
16 himself, what kind of influence does Geraci have that he can force and coerce Austin to commit a
17 crime, to be able to get F&B to bring forth a vexatious lawsuit and to continue to maliciously
18 prosecute a case with no probable cause? Why have the judges not addressed the evidence?

20 69. For me it is impossible to ascertain the full extent of Geraci's influence, but it is
21 significant and scary. It is even enough to force a convict out on parole to risk going back to jail - on
22 January 17, 2018 while attempting to find a paralegal to assist me with filing and proof reading my
23 pleadings in the State Action, my investor, a former federal judicial law clerk, called several
24 paralegals to see if they could help me on short notice because my pleadings were not professional.
25 He invited a paralegal named Shawn Miller of SJBM Consulting over to his home to interview him
26 and give him the background. After he gave a description of the case and the Complaint and my
27 Cross-Complaint, Shawn stated that he knew Geraci and his business associates.

1 70. Because Shawn knew Geraci, my investor told him that matters would not work out
2 and asked him not to mention him to Geraci and/or his associates. My investor specifically told
3 Shawn that as a paralegal, he was ethically and professionally bound to NOT disclose the
4 conversation and its contents.

5 71. Not even two hours later, at around 10:00 PM at night, Shawn called my investor and
6 told him that it would be in his "best interest" for him to use his influence on me to get me to settle
7 with Geraci. This was the last straw for my investor because he does not understand the actions taken
8 by the City, the attorneys and the judges in this action. Being threatened at his home late at night by a
9 convict out on parole who was clearly aware that by violating his ethical and professional duties he
10 would risk going back to jail, reflected to him, that Geraci, putting aside my own belief that he is a
11 thuggish drug-lord at the head of a criminal enterprise, was someone that had a great deal of
12 influence over criminals and was someone he did not want anything to do with.

13 72. My investor has been a nervous wreck knowing that Geraci and his associates,
14 including a former special forces green beret (discussed below) know where he lives.

15 73. With all these seemingly unrelated people and events all coming together to protect,
16 intimidate for, push unfounded legal claims for, and do Geraci's bidding has been disturbing and
17 created nothing but turmoil in my life. Even my family, friends, businessmen and investors are
18 concerned that matters have escalated to a degree that Geraci, in seeking to cover-up everything that
19 has transpired here, may take drastic actions against them.

20 **SUMMARY OF MATERIAL FACTS REGARDING WEINSTEIN, TOOTHACRE AND F&B**

21 74. Initially, given the simple nature of the Original Issue, believing that I would be able
22 to represent myself *pro se* in the Geraci Lawsuit. This was a foolish assumption as it turned out.
23 Without wealth, justice is difficult to access. I prepared and filed an Answer to the Geraci Lawsuit
24 and filed a Cross-Complaint. My Answer and Cross-Complaint were submitted in one document and,
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1 therefore, denied by the State Court for failing to comply with procedural requirements. Thus, I was
2 forced to realize, notwithstanding the simplicity of the Original Issue, that I would be unable to
3 efficiently represent myself in a legal proceeding and entered into an agreement with a third-party
4 (the "Investor") to finance my representation in the Geraci Lawsuit. (The Investor is also the
5 individual who brokered the Real Estate Written Purchase Agreement between Mr. Martin and
6 myself.)
7

8 75. In exchange for my Investor financing the Geraci Litigation, I exchanged a portion of
9 the proceeds that I would receive from the Real Estate Purchase Agreement.

10 76. Investor did research, interviewed and coordinated my retaining the services of Mr.
11 David Damien of Finch, Thornton and Baird ("FTB"). Investor recommended FTB for me to
12 interview and choose as counsel because Mr. Damien had previously worked on a very similar
13 matter, representing a property owner against an investor with whom he had an agreement to develop
14 an MMCC, but with which he had a falling out before the CUP was issued. Mr. Damien was able to
15 prevail in that lawsuit, a Writ of Mandate action against the City, and have the City transfer the CUP
16 application filed by and paid for by the investor in that matter to the property owner (see
17 *Engerbretsen v. City of San Diego*, 37-2015-00017734-CU-WM-CTL.) Thus, he appeared to be a
18 perfect fit to help represent me against Geraci.
19
20

21 77. Investor negotiated with Mr. Damien for FTB to fully represent me in various legal
22 matters without limitation and to do so via a financing arrangement of \$10,000 a month. However,
23 Mr. Damien did not actually want to do work in excess of \$10,000 a month. Consequently, he was
24 not prepared for several hearings and proved grossly incompetent.[6]
25

26 78. Mr. Damien was professionally negligent on December 7, 2017 when he represented
27 me before the state court judge on an application for a TRO. Summarily, he failed in oral argument to
28 raise with the state court judge the Confirmation Email – the single most powerful and dispositive

1 piece of evidence in this case. After he was berated by my Investor right outside the courtroom for his
2 negligence, he withdrew as my counsel before even speaking with me via email.

3 79. The State Court Judge's order denying my TRO states "The Court, after hearing oral
4 argument and taking into consideration papers filed, denies the request for Temporary Restraining
5 Order and provides counsel with a hearing for the Preliminary Injunction." Based on the facts above,
6 and as can be confirmed with the opposition to the TRO motion filed herewith, there is no factual or
7 legal basis for the Court's decision.
8

9 80. I then filed *pro se* a motion for reconsideration regarding the TRO motion in which I
10 explicitly stated that Damien had been negligent by failing to raise the Confirmation Email with the
11 state court judge. That motion was heard on December 12, 2017.
12

13 81. On December 12, 2017, five days after the denial of my TRO application. I showed
14 up with family, friends, and supporters, confident that I would have "my day in court" and that the
15 State Court judge would realize Damien's negligence and issue the TRO.

16 82. Instead, I was not even given the opportunity to speak a single word. Before I could
17 say anything, the State Court judge told me he was denying my motion for reconsideration and left
18 the bench.
19

20 83. The minute order states: "The Court denies without prejudice the ex parte application.
21 Defendant is directed to go by way of noticed motion." If I am correct in assuming that, even putting
22 aside additional evidence, the Confirmation Email by itself dispositively resolves the case in my
23 favor, then what is the basis of the State Court decision to deny my motion for reconsideration if he
24 had reviewed my motion and understood that Damien had been negligent by failing to raise the
25 Confirmation Email? And why was I not allowed to speak a single word? And how does allowing me
26 to file by way of "noticed motion" address the exigency that was the basis of my TRO? And how
27
28

1 does it address the professional negligence of my counsel at the TRO hearing on December 7, 2017?

2 It does not.

3 84. December 12, 2017 is, and always will be, the worst day of my life. I was in so much
4 shock from the denial of my motion for reconsideration and the way in which it happened, that I
5 suffered a Transient Ischemic Attack, a form of stroke. I had to go to the Emergency Room that day
6 after the state court judge denied my motion without even letting me speak a single word.
7

8 85. The next day my financial investor told me he was going to cease funding my personal
9 needs and the Geraci Litigation because he needed to “cut his losses.” I went to his home uninvited. I
10 again pleaded with him to continue his support and he refused. I could not control myself and I ended
11 up physically assaulting him.
12

13 86. He was going to call the police and have me arrested. I will forever be grateful that he
14 did not and instead called a medical doctor who found me to be a danger to myself and others. (See
15 exhibit 1.)

16 87. After the denial of my TRO application, I made numerous calls to the California State
17 Bar and their Ethic Hotline regarding Damien’s negligence at the TRO Motion hearing. I was
18 directed to various Ethics opinions regarding not just his actions, but those of the other attorneys who
19 were present who, because of the situation violated their ethical duties by failing to let the State Court
20 know that it was ruling on a motion when it had not taken into account the single most powerful piece
21 of evidence – the Confirmation Email.
22

23 88. The most relevant items that I was pointed to are the following:

24 a. “[A]n attorney has a duty not only to tell the truth in the first place, but a duty
25 to ‘*aid the court in avoiding error and in determining the cause in accordance with justice*
26 *and the established rules of practice.*’ (51 Cal.App. at p. 271, italics added.)”

27 b. “A lawyer acts unethically where she assists in the commission of a fraud by
28 implying facts and circumstances that are not true in a context likely to be misleading.”[10]

1
2 89. When Weinstein first emailed me the complaint on March 22, 2017 from the state
3 court action, I replied and noted the facts above, including the Confirmation Email. Thus, Weinstein
4 knew from the very beginning that he was filing and prosecuting a vexatious lawsuit. Unless he wants
5 to argue that he assumed the SOF and the PER would prevent the admission of the Confirmation
6 Email AND he was not aware of the concept of promissory estoppel which would apply if the SOF
7 and PER did apply in the first instance to prevent the admission of the Confirmation Email. (Or likely
8 any of the other common law exceptions to the PER per the Rutter Guide such as fraud, formation
9 defect, condition precedent, collateral agreement, ambiguity or subsequent agreements most of which
10 would swallow up the rule thereby leaving him without a defense. Assuming of course that anyone
11 was actually paying attention or being unduly influenced by Geraci via his political lobbyist. In fact,
12 if I had the money I would hire a private investigator to see what ties Geraci has to my former
13 attorneys at FTB that helped them forget basic first year law school contract law concepts such as
14 promissory estoppel). In fact, an associate at FTB, when partner David Damien was not in the room,
15 even let slip that some of Geraci's clients were also clients of their law firm, FTB. Should FTB not
16 have to disclose that relationship as part of my representation because it could represent a conflict of
17 interest? They never did, aside from the associate, Mr. Witt, who did so in small conversation when
18 the partner Damien was not in the room.)
19
20
21

22 90. Even assuming the above is the case, that Weinstein was not aware of the concept of
23 promissory estoppel, no later than when the State Court denied Geraci's demurrer based on the SOF
24 and the PER, Weinstein knew that the case was at that point vexatious and yet he kept prosecuting it.
25

26 91. At the December 7, 2017 TRO hearing, Weinstein obviously knew that Damien was
27 negligent in not raising, among the other arguments, the Confirmation Email in front of the State
28 Court judge. I believe that given the language provided by the California State Bar, that he violated

1 his ethical obligations to the Court and, vicariously to me, by allowing the State Court judge to rule
2 on the TRO motion without raising with him the fact that he was doing so without having taken into
3 account material and dispositive evidence.

4 92. The obligations of an attorney must stop short of taking advantage of situations that
5 lead to a miscarriage of justice, especially when he knows that I am facing severe financial and
6 emotional distress. This appears to me to be an Abuse of Process, and this is in the best case scenario
7 in which it is can be assumed that he is not vexatiously continuing to prosecute this case when he
8 knows that there is no factual or legal basis for it.

10 93. I filed Notices of Appeal from the denial of my TRO application and Motion for
11 Reconsideration. I hired counsel, Mr. Jacob Austin, a criminal defense attorney, who graciously
12 agreed to help me on my appeals on a contingent basis (and with a guarantee of ultimately being paid
13 by my investor if I did not prevail on my Appeal).

15 94. I was working on the draft of my Appeal, when Weinstein, on January 8, 2018, filed
16 two motions to compel my deposition in the State Action and a large amount of discovery requests.

17 95. Against the advice of my counsel and my investor, I decided to take advantage of the
18 opportunity to oppose the Motion to Compel and highlight to the judge the Confirmation Email and
19 the actions by counsel as described above. I filed my Opposition and it is attached here as Exhibit 1.
20

21 96. The Motions to Compel were granted and the various requests I set forth in my
22 opposition were denied.

23 97. The order issued by the judge granting the motion to compel and denying the relief I
24 requested, is predicated on the erroneous belief that there is "disputed" evidence in the record. Up
25 until that point in time I believed that the state court judge decision was due to Damien's negligence,
26 I now believe that there are other nefarious factors at play and justice simply cannot be had in San
27 Diego state court.
28

1 98. That same day, January 25, 2018, I emailed Weinstein specifically accusing him of
2 violating his ethical obligations as he has an “affirmative duty” to inform the State Court judge about
3 his erroneous assumption regarding the fact that the Confirmation Email was not disputed. He replied
4 with a perfectly crafted legal response, by stating that he “had not made any misrepresentations to the
5 courts about facts or the law,” which is completely accurate. My accusation was that he was violating
6 an affirmative duty to act, not that he had taken an act that was a misrepresentation.
7

8 *SUMMARY OF ADDITIONAL MATERIAL FACTS REGARDING THE CITY*

9 The City Prosecutor – Mark Skeels

10 99. In July of 2015, I leased a portion of my building to a tenant who managed a non-
11 profit corporation, “Pure Meds,” to run a cannabis dispensary based on his representations that he
12 was fully compliant with the laws. I did not know then what I know now, that leasing my property to
13 Pure Meds without the proper City permit would be unlawful.
14

15 100. Although Pure Meds operated from my building, it was completely segregated with
16 separate entrances and addresses.
17

18 101. On April 6, 2016, the City shut down Pure Meds and brought charges against Pure
19 Meds and myself almost exactly one year later. On April 5, 2017, realizing and acknowledging my
20 error, I pled guilty to one misdemeanor charge of a Health and Safety Code section HS 11366.5 (a)
21 violation.
22

23 102. My plea agreement states that “*Mr. Cotton retains all legal rights pursuant to prop*
24 *215.*” The judge asked me during the hearing why that language was added. I explained that I run 151
25 Farms at my Property and that I cultivate medical cannabis there in compliance with prop 215.
26 Because I was giving up my 4th amendment rights in the plea agreement, I wanted to be sure that I
27
28

1 was protected for my cultivation at the Property pursuant to Proposition 215. In other words, my Plea
2 Agreement and my discussion was predicated on my keeping my Property.

3 103. Immediately upon entering into the Plea Agreement, the City filed a Petition for
4 Forfeiture of Property based on the Plea Agreement I entered into and filed a Lis Pendens putting yet
5 another cloud on my title.

6 104. Deputy City Attorney Skeels did not explain to me, nor my counsel, that he intended
7 to seek the forfeiture of my property or that it was even a possibility. In fact, he did the opposite, he
8 made it seem as if he was giving me a sweetheart deal with a small fine and informal probation.

9 105. My criminal defense attorney who defended me in that action submitted a sworn
10 declaration stating that he was not aware and was not made aware by Skeels that the forfeiture of my
11 property was a possibility. Skeels did not care.

12 106. In other words, Skeels fraudulently induced me to enter into a plea agreement without
13 telling me the consequences that he was actually planning to pursue. This appears to me to be a
14 violation of my constitutional right to be made aware of the consequences to pleading guilty to a
15 criminal charge. Based on representations of Skeels, I didn't fully understand the charges or the
16 effects of admitting guilt. I would not have entered into a misdemeanor plea agreement if the
17 consequence of that action was to forfeit my property for which at that point in time I was still going
18 to receive in excess of \$3,000,000. It is ludicrous to believe otherwise.

19 107. In fact, this unlawful seizure is, I believe, part of an unconditional strategy by Skeels
20 and the City to deprive individuals of their property. This belief is bolstered by the fact that I have
21 been told on numerous occasions by numerous criminal attorneys as I have explained these facts that
22 it is incredibly rare for prosecutors to talk to defense counsel in the presence of the accused, much
23 less directly communicate with a defendant.

1 108. Skeels told me he was giving me a "sweetheart" deal. I feel that if it wasn't a pressure
2 tactic than it was essentially a "confidence game" and a complete sham designed to gain undeserved
3 trust and pretend to be helpful while concealing his true intent of pursuing Asset Forfeiture. Under
4 information and belief, I feel that this is just one example of what appears to be endemic, systemic
5 maneuvering to confiscate the properties of as many defendants as possible.

6 109. This seemingly mild misdemeanor, my leasing out my property to third-parties over
7 who I had no control, with its \$239 fine, ended up in an unimaginable \$25,000 extortion that also
8 forced me to renegotiate with numerous parties to get it at a time when I was completely destitute
9 because of this legal action brought forth by Geraci and his crew of criminals.

10 110. Once I hired FTB, Damien reached out to Skeels and according to Damien, even
11 Skeels was not aware of the fact that there would be a forfeiture action. While that would be
12 believable under some circumstances, the Petition for Forfeiture of Property & Lis Pendens were
13 filed the next day so it is impossible to believe him.

14 111. Ultimately, facing numerous lawsuits and needing to prioritize my time and limited
15 financing, I settled and agreed to pay the City \$25,000. For the record, I am not here in this legal
16 action seeking to have that Plea Agreement nullified. Per the Forfeiture Settlement Agreement that
17 Skeels and Damien convinced me into entering, if I fight the Stipulation for Entry of Judgement, then
18 I lose the Property. I am stating these series of events so that it can be taken into account with the
19 other actions by the City via Development Services and the Officers of the Court that together make
20 it clear that there is a pattern of discriminatory and unconstitutional behavior towards me by the City.
21 Whether these actions are because of my Political Activism, Geraci's influence or a combination of
22 both, will be proven through discovery and trial. (As a side note in regards to Skeels: I would hope
23 that Judge Cano may take it upon herself to sanction Skeels for his manipulation of the Plea
24 Agreement that she approved and which clearly did not contemplate the Forfeiture Action that he
25
26
27
28

1 brought under it as she and I had explicitly discussed the continuation of my cultivation practices on
2 the Property, the basis of the Prop 215 language added into the Plea Agreement. Who knows how
3 many more victims Skeels has extorted and how many orders by judges he has manipulated?)

4
5 The City's Development Services Department

6 112. On March 21, 2017, when I terminated my agreement with Geraci and sold the
7 property to a third-party, I also emailed the Development Project Manager responsible for the CUP
8 application on my Property. I stated:

9
10 "the potential buyer, Larry Geraci (cc'ed herein), and I have failed to finalize the purchase of
11 my property. As of today, there are no third-parties that have any direct, indirect or contingent
12 interests in my property. The application currently pending on my property should be denied
because the applicants have no legal access to my property."

13 113. The City refused to cease processing the CUP application as the application was
14 submitted by Geraci's employee, Berry.

15 114. However, on May 19, 2017, after numerous emails and calls with various individuals
16 at Development Services, the Project Manager provided a letter addressed to Abhay Schweitzer,
17 Geraci's architect who is in control of processing the CUP application with City, stating, in relevant
18 part:
19

20 "City staff has been informed that the project site has been sold. In order to continue the
21 processing of your application, with your project resubmittal, please provide a new Grant
22 Deed, updated Ownership Disclosure Statement, and a change of Financial Responsible Party
Form if the Financial Responsible Party has also changed."

23 115. Thus, as of May 19, 2017, I proceeded under the assumption that I was not at risk of
24 losing the CUP process because the CUP process was on hold until, *inter alia*, I executed a Grant
25 Deed. **If a CUP application is submitted and it is denied, then another CUP application cannot**
26 **be resubmitted for a year on the same Property.**
27
28

1 116. Sometime after May 19, 2017, I contacted Development Services and requested that I
2 be allowed to submit a second CUP application. Development Services denied my request and stated
3 that they could not accept a second CUP application on the same property. This is a blatant lie.
4 Damien had, in the Engerbretsen matter, submitted a second CUP application on behalf of his client
5 with the City.

6 117. On September 22, 2017, my then-counsel Damien wrote to Development Services
7 noting their refusal to accept a second CUP application and that such "refusal is not supported by any
8 provision of the Municipal Code."
9

10 118. The City replied on September 29, 2017, by stating, inter alia, that I could submit a
11 second CUP application, but then also stated the following:
12

13 "As you've acknowledged in your letter, DSD is currently processing an application,
14 submitted by Ms. Rebecca Berry [...] Please be advised that the City is only able to make a
15 decision on one of these applications; the first project deemed ready for a decision by the
16 Hearing Officer will be scheduled for a public hearing. Following any final decision on one of
the CUP applications submitted [...], the CUP application still in process would be obsolete
and would need to be withdrawn."

17 119. On October 30, 2017, through my then-counsel Damien, I filed a Motion for Writ of
18 Mandate directing the City to transfer the CUP application to me. It was not until I reviewed the
19 Declaration of Abhay Schweitzer in Support of Geraci's opposition to my Motion for a Writ of
20 Mandate that I came to find out that the City had, in complete contradiction of the letter provided on
21 May 19, 2017, continued to process the Geraci CUP application on MY Property without the
22 executed Grant Deed.
23

24 120. The City never informed me of this or provided notice of any kind. Had I known, I
25 would have taken alternative steps to secure my rights to the CUP process. Per Schweitzer's
26 declaration, everything was going great and he anticipates the CUP being approved in March of 2018.
27
28

121. To summarize, first, DSD communicated that it would not process a CUP application on my Property without an executed grant deed by me. However, without any notice or knowledge and in complete contradiction of its own letter stating it required an executed Grant Deed, it continued to prosecute the Geraci CUP application.

122. Second, when I first reached out to DSD to submit a second CUP application, it blatantly lied by stating that they could not accept a second CUP application on the property when it had on other occasions for similarly situated individuals.

123. Third, not until my then-counsel sent a demand letter noting there was no legal basis for the City's refusal, did DSD allow me to submit a CUP application. But, the City created an unjust "horse-race" between myself and Geraci.

124. DSD has been processing the Geraci CUP application for over a year at that point, allowing me to submit a second CUP application on those terms is a futile task that would only have resulted in needless additional expense and actions and which, per the declaration of Schweitzer, was a fool's task as it is expected that the CUP will issue in March. This is simply a malicious ploy to get me to expend more money and resources when all these parties knew that I was fighting a meritless lawsuit and incredibly financially challenged.

City Civil Attorneys

125. For the same reasons explained above, the City attorney at the TRO Motion hearing should have informed the State Court judge about Damien's negligence and the Confirmation Email.

126. Further, the City through its attorney, filed its Answer to my application for a Writ of Mandate AFTER the TRO Motion hearing. At that point, the City knew that Damien had been negligent and the attorney for the City even communicated to Damien that he "should have won" based on the pleading papers.

1 127. Pursuant to the Answer filed, even though the City KNOWS that the case is meritless,
2 it is seeking legal fees against me and it is accusing me, among other things, of being guilty of
3 “unclean hands.”

4 128. The City is accusing me of wrongdoing when it knows that I am not in the wrong.
5 The only wrongs that the City could hold against me are the leasing of my Property to a non-profit
6 that operated an unlicensed dispensary. I recognize I was wrong in not seeking out confirmation of
7 the dispensary’s legality and I pled guilty, for which I was extorted \$25,000.
8

9 129. The only other potential reason is that the City, when taking into account all of the
10 other unfounded and unconstitutional actions described herein, is that the City is systemically
11 discriminating against me whenever it can because of my Political Activism and/or in connection
12 Geraci as a result of his influence.
13

14 The State Court Judges

15 130. At the oral hearing held on January 25, 2018 on Geraci’s motions to compel, the State
16 Court judge started the hearing by stating that he does not believe that counsel against whom I made
17 my allegations would engage in the actions I described. He specifically stated that he has known them
18 all for a long period of time.
19

20 131. As I view it, he was telling me he has some form of relationship with attorneys and
21 that he does not believe they would engage in unethical actions. OK, I understand that. I could just be
22 a crazy pro per, but why did he not review the evidence submitted and make a judgment that takes
23 that evidence into account? I literally begged him in my opposition, and for that matter, in my Motion
24 for Reconsideration, that he please provide the reasoning for why the Confirmation Email does not
25 dispositively address my breach of contract cause of action.
26

27 132. The Order he issued granting Weinstein’s Motions to Compel and denying my
28 requests in my Opposition states the following: “*Disputed* evidence exists suggesting that Cotton was

1 not the only person who possess the right to use the subject property.” THERE IS NO DISPUTED
2 EVIDENCE. The only evidence in the record ever put forth by Geraci for his claim to my Property is
3 his allegation that the Receipt is the final purchase agreement for my property, a lie which is blatantly
4 exposed by his admission in the Confirmation Email. That, again, is NOT DISPUTED.

5 133. To clearly highlight this issue: The Confirmation Email was the subject of a demurrer
6 that the State Court judge ruled on, it was objected to on SOF and PER grounds, not its authenticity
7 that has never been challenged, disputed or denied since November 2, 2016!

9 134. I was preparing yet another Motion for Reconsideration regarding his order granting
10 the Motions to Compel, exhausting my limited resources attempting to make all kinds of arguments
11 when I came to a realization: even if he did turn around and issue some kind of order favorable to me,
12 all the evidence proves that he is at best, grossly negligent, and, at worst, conspiring against me
13 because of my Political Activism.
14

15 **THE FILING OF THIS FEDERAL COMPLAINT – THREATS**

16
17 135. On February 3, 2018, two individuals visited me. (I am not naming them because one
18 of the individuals is a former special forces operative for the US military and, for the reasons
19 described below, an agent of Geraci.) These two individuals came to my Property and during the
20 course of that conversation contradicted themselves by stating first that they had nothing to do with
21 Geraci and that they would buy the Property/CUP and assured me a long term job.
22

23 136. When I told them that Mr. Martin was paying a total purchase price of \$2,500,000,
24 they told me they would pay significantly *more* than \$2,500,000 and that it would also be beneficial
25 for me as I would be able to “end” the litigation with Geraci.
26
27
28

1 137. I then explained to them that I was already contractually and legally obligated to
2 pursue the litigation action against Geraci, prevail, and then transfer the Property and the CUP
3 application to Mr. Martin.

4 138. They looked at each other and then contradicted themselves. They told me that Geraci
5 was "powerful" and had "deep ties and influence" with the "City" and that it would not go well for
6 me if I did not agree to settle the action with Geraci. These individuals are NOT simple, street level
7 individuals. One of them is a high-net worth individual that recently sponsored a large art gala at San
8 Diego State (the "Sponsor").

9 139. The other is a former special forces operative for the US Military (the "Operative").
10 The Operative told me that because of my Plea Agreement, Geraci could use his influence with the
11 City to have the San Diego Police Department raid my Property at any time and have me arrested. I
12 told him that all the cannabis on my Property was compliant with Proposition 215 and my rights to
13 cultivate as I had specifically discussed with the judge who accepted the plea agreement. I showed it
14 to them, I have a large photocopy of it on my wall at the Property, and it was clear they were
15 expecting me to be more intimidated.

16 140. Yesterday, **February 8, 2018**, when I was wrapping up this Federal Complaint and all
17 the required documents for the filing of my TRO submitted concurrently with herewith, I sent an
18 email notice **ONLY** to counsel in the State Action (the "Federal Notice Email").

19 141. NO ONE ELSE KNEW THAT WAS PLANNING ON FILING IN FEDERAL
20 COURT WITH THESE CAUSES OF ACTION YESTERDAY. NOT EVEN MY OWN FAMILY,
21 FRIENDS, INVESTORS, SUPPORTERS, PARALEGALS AND COUNSEL.

22 142. I sent the Federal Notice Email at **3:01 PM**.

23 143. At **3:36 PM**, not even an hour later, the Operative called me and told me *emphatically*
24 that he no longer has anything to do with the Sponsor, Geraci or anything related to me. He was
25
26
27
28

1 aware that I was immediately filing in Federal Court. He asked that I not name him or involve him
2 in this Federal lawsuit. Because he is ex-special forces, I have no desire to do so. Should the Sponsor,
3 Geraci, and whichever attorney informed him deny this allegation, then they can name him and be
4 responsible for the consequences of doing so. I note I have the phone records to prove this and am
5 creating copies that will be kept separately by third-parties.

6
7 144. How could Sponsor and Operative claim to not know Geraci? Why is Operative
8 calling me to tell me that he has nothing to do with Geraci or the actions that have transpired here? I
9 ONLY told counsel in the State Action. Clearly, Sponsor and Operative are working with Austin,
10 Weinstein, Toothacre and Geraci and they were sent to coerce and/or intimidate me at the behest of
11 Geraci in an attempt to force me to settle this lawsuit when they came to visit me on February 8,
12 2018.

13 14 CONCLUSION

15 145. I was researching the last Order by the state judge that denied my requested relief
16 because, he decrees, that I have not Exhausted my Administrative Remedies. In the Rutter guide it
17 states that: "The failure to pursue administrative remedies does not bar judicial relief where the
18 administrative remedy is *inadequate*, or where it would be *futile to pursue* the remedy" and
19 "administrative remedies also inadequate when irreparable harm would result by requiring exhaustion
20 before seek judicial relief" [Rutter Guide 1:906.26.]

21
22 146. Additionally, it stated in that subsection that: "Generally, a plaintiff is not required to
23 exhaust state administrative or judicial remedies before suing under federal civil rights statutes."
24 [Rutter Guide 1:906.29]

25
26 147. This reference led to me researching Section 1983 claims that I already knew allowed
27 federal action, but I was not aware could stop State Court actions while it adjudicated the Federal
28 Questions. That Rutter Guide section has a link to Mitchum v. Foster.

1 148. The United States Supreme Court held in Mitchum v. Foster that Section 1983 claims
2 in Federal Court are an exception to the Anti-Injunction Act that would allow a Federal Court to stay
3 a state court action. In reaching this decision, the United States Supreme Court noted the following
4 from the legislative debates leading to the passing of Section 1983:

5
6 “Senator Osborn: ‘If the State courts had proven themselves competent to suppress the local
7 disorders, or to maintain law and order, we should not have been called upon to legislate[.]’

8 Representative Perry concluded: ‘Sheriffs, having eyes to see, see not; judges, having ears to
9 hear, hear not; witnesses conceal the truth or falsify it; grand and petit juries act as if they
10 might be accomplices.... (A)ll the apparatus and machinery of civil government, all the
11 processes of justice, skulk away as if government and justice were crimes and feared
12 detection. Among the most dangerous things an injured party can do is to appeal to justice.’”

13 In my case, among other things, the City attorney unreasonably seized my property, they
14 “saw” and “heard” me speak with the judge regarding my right to retain my Prop 215 rights and my
15 property, but they pretend that they do not; I have repeatedly and emphatically demeaned myself and
16 begged the State Court judges in writing and at oral hearings to hear me regarding the Confirmation
17 Email, but they do not “hear me;” all attorneys present at the TRO hearing on December 7, 2017
18 where obligated to aid the Court in avoiding error, but they “conceal the truth or falsify it.” The City
19 attorneys “skulk away” and pretend to not be involved by stating that this case is a “private dispute”
20 between private actors.

21 149. It is futile to seek to protect and vindicate my rights in State Court. I have been
22 repeatedly told by numerous attorneys that if I were to appeal the State Court orders that there would
23 be severe backlash because judges take severe and personal offense when their judgment is
24 challenged. And that it is especially true when it turns out that they were actually wrong as there is
25 then a record of their “abuse of discretion” – “Among the most dangerous things an injured party
26 can do is to appeal to justice.” (*Id.*)
27
28

1 150. Thus, I find myself here and now today. I do not ask this Federal Court to believe me,
2 I only ask that this Court please genuinely review the evidence submitted with my application
3 submitted herewith for a TRO and the causes of action I bring forth in this Federal Complaint. If
4 Geraci and/or the City is allowed to passively and/or actively sabotage the CUP application, I will
5 have lost everything of value in my life completely unlawfully and unconstitutionally.

6 151. Please, I realize that this is a Federal Court and my Political Activism will not endear
7 me to the Federal Judiciary as an entity, but I do not come before this Federal Court to enforce or
8 argue rights related to my Political Activism, but rather for the protection and vindication of those
9 rights that are granted to me by the Constitution of the United States of America.

11 **FIRST CLAIM 42 U.S.C. SEC. 1983: 4TH AMEND. UNLAWFUL SEIZURE (As**
12 **against the City of San Diego)**

13 152. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1
14 through 135 as though fully set forth herein.

15 153. Defendant(s), acting under the color of state law, county ordinances, and penal codes,
16 individually and in their official capacity, and in violation of 42 U.S.C. § 1983, have violated
17 Plaintiff's right to be free from unreasonable search and seizure under the Fourth Amendment.

18 154. Well after my property was raided because the wrong-doings of my adjoining tenant
19 (Pure Meds), it occurred upon the City that (although they declined to press charges shortly after the
20 raid and waited the full statute of limitations under California Penal Code 364/365 days) I could
21 easily be charged and set up for an Asset Forfeiture action, so they filed. Upon entering a plea
22 following City Attorney Skeels' repeated assurances that the plea was a "sweetheart deal", and for
23 the sake of expediency, I went ahead and pled guilty.

24 155. I thought the action was over at that time. I was wrong, the City used this transaction
25 to further their suspicious utilization of Asset Forfeiture and almost immediately filed a Lis Pendens.
26
27
28

1 THAT is where the truly unreasonable seizure comes into play. This was essentially a retroactive
2 punishment tacked on to the punishment that the City had already meted out.

3 156. Defendants (City Attorney's Office) violated Plaintiffs' right to procedural due
4 process by issuing a Lis Pendens as a result of the plea without any prior notice and under false
5 pretenses. Defendant City has violated Plaintiffs' right to be free from unreasonable search and
6 seizure under the Fourth Amendment by conducting in such underhanded behavior.

7
8 157. As a direct and proximate result of the foregoing, Plaintiffs have been damaged in an
9 amount according to proof at trial.

10
11 **SECOND CLAIM FOR 42 U.S.C. SEC. 1983: 14TH AMEND. DUE PROCESS
VIOLATIONS (As against City)**

12 158. Cotton hereby incorporates by reference all of his allegations contained above as if
13 fully set forth herein.

14
15 159. Defendants, acting under the color of state law, county ordinances, regulations,
16 customs and usage of regulations and authority, individually and in their official capacity, and in
17 violation of 42 U.S.C. § 1983, have deprived Plaintiff of the rights, privileges or immunities secured
18 by the Due Process Clause of the Fourteenth Amendment.

19
20 160. Defendant City, specifically Development Services, has violated Plaintiff's rights to
21 substantive and procedural due process by the actions alleged above in regards to my Property and
22 the associated CUP application pending on my Property.

23 161. As a direct and proximate result of the foregoing, Plaintiffs have been damaged in an
24 amount according to proof at trial.

25
26 **THIRD CLAIM FOR BREACH OF CONTRACT (Against Geraci, Berry, Austin, ALG and
DOES 1 through 10)**

1 162. Cotton hereby incorporates by reference all of his allegations contained above as if
2 fully set forth herein.

3 163. Geraci and Cotton entered into an oral agreement regarding the sale of the Property
4 and agreed to negotiate and collaborate in good faith on mutually acceptable purchase and sale
5 documents reflecting their agreement.

6 164. The November 2nd Agreement was meant to be the written instrument that solely
7 memorialized the partial receipt of the non-refundable deposit.

8 165. Cotton upheld his end of the bargain, including by deciding to not sell his Property to
9 another party while Geraci, among other matters, ostensibly prepared a CUP application for
10 submission.
11

12 166. Under the parties' oral contract, Geraci was bound to negotiate the terms of an
13 agreement for the Property in good faith. Geraci breached his obligation to negotiate in good faith
14 by, among other things, intentionally delaying the process of negotiations, failing to deliver
15 acceptable purchase documents, failing to pay the agreed-upon non-refundable deposit, demanding
16 new and unreasonable terms in order to further delay and hinder the process of negotiations, and
17 failing to timely or constructively respond to Cotton's requests and communications.
18

19 167. Geraci breached the contract by, among other reasons, alleging the November 2nd
20 Agreement is the final agreement between the parties for the purchase of the Property. Berry, as
21 Geraci's agent is also liable. And Gina Austin and ALG were fully aware and apparently supportive
22 of these actions based on the multiple drafts and revisions of what was to be the final purchase
23 agreement.
24

25 168. As a direct and proximate result of Geraci's breaches of the contract, Cotton has been
26 damaged in an amount not yet fully ascertainable, has suffered and continues to suffer damages
27 because of Geraci's actions that constitute a breach of contract. This intentional, willful, malicious,
28

1 outrageous, and unjustified conduct entitles Cotton to an award of general, compensatory, special,
2 exemplary and/or punitive damages.

3 **FOURTH CAUSE OF ACTION FALSE PROMISE – (As Against Geraci, Berry and DOES 1**
4 **through 10)**

5 169. Cotton hereby incorporates by reference all of his allegations contained above as if
6 fully set forth herein.

7 170. On November 2, 2016, among other things, Geraci falsely promised the following to
8 Cotton without any intent of fulfilling the promises.

9 171. Geraci would pay Cotton the remaining \$40,000 of the non-refundable deposit prior to
10 filing a CUP application;

11 172. Geraci would cause his attorney to promptly draft the final integrated agreements to
12 document the agreed-upon deal between the parties;

13 173. Geraci would pay Cotton the greater of \$10,000 per month or 10% of the monthly
14 profits for the MMCC at the Property if the CUP was granted; and

15 174. Cotton would be a 10% owner of the MMCC business operating at Property if the
16 CUP was granted.

17 175. Geraci had no intent to perform the promises he made to Cotton on November 2, 2016
18 when he made them.

19 176. Geraci intended to deceive Cotton in order to, among other things, cause Cotton to
20 rely on the false promises and execute the document signed by the parties at their November 2, 2016
21 meeting so that Geraci could later deceitfully allege that the document contained the parties' entire
22 agreement.

23 177. Cotton reasonably relied on Geraci's promises.

24 178. Geraci failed to perform the promises he made on November 2, 2016.

1 179. As a result of the actions taken in reliance on Geraci's false promises, Geraci created a
2 cloud on Cotton's title to the Property. As a further result of Geraci's false promises, Geraci has
3 diminished the value of the Property, reduced the price Cotton will be able to receive for the
4 Property, and caused Cotton to incur significant unnecessary costs and attorneys' fees to protect his
5 interest in his Property. As a further result of Geraci's false promises, Cotton has been deprived of
6 the remaining \$40,000 of the non-refundable deposit that Geraci promised to pay prior to filing a
7 CUP application for the Property.
8

9 180. Geraci's representations were intentional, willful, malicious, outrageous, unjustified,
10 done in bad faith and in conscious disregard of the rights of Cotton, with the intent to deprive Cotton
11 of his interest in the Property. This intentional, willful, malicious, outrageous and unjustified conduct
12 entitles Cotton to an award of general, compensatory, special, exemplary and/or punitive damages
13 under Civil Code section 3294.
14

15 **FIFTH CLAIM OF BREACH OF THE IMPLIED COVENANT OF GOOD FAITH**
16 **AND FAIR DEALING (As against Geraci, Berry, Austin, ALG, the City of San Diego, and**
17 **DOES 1 through 10)**

18 181. Cotton hereby incorporates by reference all of his allegations contained above as if
19 fully set forth herein.
20

21 182. Geraci breached the implied covenant of good faith and fair dealing when, among
22 other actions described herein, he alleged that the November 2nd Agreement is the final purchase
23 agreement between the parties for the Property.

24 183. As discussed above, Geraci, Berry, by and through counsel (Austin and ALG) and
25 personally continued to negotiate terms of the initial agreement for months following the November 2
26 Agreement.
27
28

1 199. Cotton has suffered and continues to suffer damages because of Geraci's actions that
2 constitute a breach of his fiduciary duties.

3 200. This intentional, willful, malicious, outrageous, and unjustified conduct entitles Cotton
4 to an award of general, compensatory, special, exemplary and/or punitive damages.

5
6 **SEVENTH CLAIM FOR FRAUD IN THE INDUCEMENT (As against Geraci, Berry, ALG,
7 Austin and DOES 1 through 10)**

8 201. Plaintiff incorporates by reference each and every allegation contained above as
9 though fully set forth herein.

10 202. Geraci made promises to Cotton on November 2nd, 2016, promising to effectuate the
11 agreement reached on that day, but he did so without any intention of performing or honoring his
12 promises.

13 203. Geraci had no intent to perform the promises he made to Cotton on November 2nd,
14 2016 when he made them, as is clear from his actions described herein, that he represented he would
15 be preparing a CUP application.

16 204. In fact, he had already deceived Cotton and submitted a CUP application PRIOR to
17 November 2, 2016.

18 205. Geraci intended to deceive Cotton in order to, among things, execute the November
19 2nd Agreement.

20 206. Cotton reasonably relied on Geraci's promises and had no idea Geraci had already
21 started the CUP application process.

22 207. Geraci failed to perform the promises he made on November 2nd, 2016, notably, his
23 delivery of the balance of the non-refundable deposit and his promise to treat the November 2nd
24 Agreement as a memorialization of the \$10,000 received towards the non-refundable deposit and not
25 the final legal agreement for the purchase of the Property.
26
27
28

1 208. Cotton has suffered and continues to suffer damages because he relied on Geraci's
2 representations and promises.

3 209. This intentional, willful, malicious, outrageous, and unjustified conduct entitles Cotton
4 to an award of general, compensatory, special, exemplary and/or punitive damages.

5
6 **EIGHTH CLAIM FOR FRAUD/FRAUDULENT MISREPRESENTATION (As against**
7 **Geraci, Berry, Austin, ALG and DOES 1 through 10)**

8 210. Cotton hereby incorporates by reference all of his allegations contained above as if
9 fully set forth herein.

10 211. Each of the Defendants and their agents intentionally and/or negligently made
11 representations of material fact(s) in discussions with Cotton. On November 2, 2016, Geraci
12 represented to Cotton, among other things, that:

13 212. He would honor the agreement reached on November 2nd, 2016, which included a
14 10% equity stake in the Business and a guaranteed monthly equity distribution of \$10,000 a month.
15

16 213. He would pay the balance of the non-refundable deposit as soon as possible, but at the
17 latest when the alleged critical zoning issue was resolved, which, in turn, he alleged was a necessary
18 prerequisite for submission of the CUP application.

19 214. He understood and confirmed the November 2nd Agreement was not the final
20 agreement for the purchase of the Property.
21

22 215. That he, Geraci, as an Enrolled Agent by the IRS was someone who was held to a high
23 degree of ethical standards and that he could be trusted to prepare and forward the final legal
24 agreements, honestly effectuate the agreement that they had reached, including the corporate
25 structure of the contemplated businesses so as to ultimately minimize Cotton's tax liability.
26

27 216. That the preparation of the CUP application would be very time consuming and take
28 hundreds of thousands of dollars in lobbying efforts.

1 217. Geraci knew that these representations were false because, among other things, Geraci
2 had already filed a CUP application with the City of San Diego prior to that day. At that point in
3 time, all of his declarations regarding the issues that needed to be addressed, his trustworthiness and
4 his intent to follow through with accurate final legal agreements were false. His subsequent
5 communications via email, text messages and Final Agreement draft revisions make clear that he
6 continued to represent to Cotton that the preliminary work of preparing the CUP application was
7 underway, when, in fact, he was just stalling for time. Presumably, to get an acceptance or denial
8 from the City and, assuming he got a denial, to be able to deprive Cotton of the \$40,000 balance due
9 on the non-refundable deposit.
10

11 218. Geraci intended for Cotton to rely on his representations and, consequently, not
12 engage in efforts to sell his Property.
13

14 219. Cotton did not know that Geraci's representations were false.

15 220. Cotton relied on Geraci's representations.

16 221. Cotton's reliance on Geraci's representations were reasonable and justified.

17 222. As a result of Geraci's representations to Cotton, Cotton was induced into executing
18 the November 2nd Agreement, giving Geraci the only basis of his Complaint and, consequently,
19 among other unfavorable results, allowing Geraci to unlawfully create a cloud on title to his Property.
20 Thus, Cotton has been forced to sell his Property at far from favorable terms.
21

22 223. Cotton has been damaged in an amount of no less than \$2,000,000 from this Claim
23 alone. Additional damages from potential future profit distributions and other damages will be proven
24 at trial.
25

26 224. Geraci's representations were intentional, willful, malicious, outrageous, unjustified,
27 done in bad faith and in conscious disregard of the rights of Cotton, with the intent to deprive Cotton
28 of his interest in the Property.

1 225. This intentional, willful, malicious, outrageous and unjustified conduct entitles Cotton
2 to an award of general, compensatory, special, exemplary and/or punitive damages.

3 **NINTH CLAIM FOR TRESPASS (As against Geraci, Berry, Toothacre, Weinstein,**
4 **F&B and DOES 1 through 10)**

5 226. Cotton hereby incorporates by reference all of his allegations contained above as if
6 fully set forth herein.

7 227. The Property was owned by Cotton and is in his exclusive possession.

8 228. Geraci, or an agent acting on his behalf, illegally entered the subject property on or
9 about March 27, 2017, and posted two NOTICES OF APPLICATION on the Property.

10 229. Geraci's attorney, Michael Weinstein, emailed Cotton on March 22, 2017 stating that
11 Geraci or his agents would be placing the aforementioned Notices upon Cotton's property.
12

13 230. Geraci knew that he had fraudulently induced Cotton into executing the November
14 2nd Agreement and, consequently, he had no valid legal basis to trespass unto Cotton's Property.
15

16 231. Alternatively, setting aside the fraudulent inducement, on March 21, 2017, Cotton,
17 having discovered Geraci's criminal scheme to deprive him of his Property, emailed Geraci stating
18 that he no longer had any interests in the Property and should not trespass on his Property, yet he
19 continued to do despite being warned not to.
20

21 232. Geraci's Notices of Application posted on his Property has caused and continues to
22 damage Cotton because the discouragement of future businesses, partnerships and potential buyers it
23 immediately caused to which Weinstein was a knowing party.

24 233. Cotton has no adequate remedy at law for the injuries currently being suffered in that
25 it will be impossible for Cotton to determine the precise amount Cotton has suffered and continues to
26 suffer damages because of Geraci's actions.
27
28

1 234. This intentional, willful, malicious, outrageous, and unjustified conduct entitles Cotton
2 to an award of general, compensatory, special, exemplary and/or punitive damages.

3 **TENTH CLAIM FOR SLANDER OF TITLE (As against Geraci, Berry, Austin, ALG,**
4 **F&B and the City of San Diego)**

5 235. Cotton hereby incorporates by reference all of his allegations contained above as if
6 fully set forth herein.

7 236. Geraci disparaged Cotton's exclusive valid title by and through the preparing, posting,
8 publishing, and recording of the documents previously described herein, including, but not limited to,
9 a Complaint in state court and Lis Pendens filed on the Property.

10 237. The City of San Diego separately also used/abused the Lis Pendens process to strong
11 arm me and violate my 4th Amendment Rights against unreasonable seizure.

12 238. Defendants knew that such documents were improper in that at the time of the
13 execution and delivery of the documents, Defendants had no right, title, or interest in the Property.
14 These documents were naturally and commonly to be interpreted as denying, disparaging, and casting
15 doubt upon Cotton's legal title to the Property. By posting, publishing and recording documents,
16 Defendants' disparagement of Cotton's legal title was made to the world at large.

17 239. As a direct and proximate result of all Defendants' conduct in publishing these
18 documents, Cotton's title to the Property has been disparaged and slandered, and there is a cloud on
19 Cotton's title, and Cotton has suffered and continues to suffer damages, including, but not limited to,
20 lost future profits, in an amount to be proved at trial, but in an amount of no less than \$2,000,000.

21 240. As a further and proximate result of Defendants' conduct, Cotton has incurred
22 expenses in order to clear title to the Property. Moreover, these expenses are continuing, and Cotton
23 will incur additional expenses for such purpose until the cloud on Cotton's title to the Property has
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1 been removed. The amounts of future expenses are not ascertainable at this time but will be proven at
2 trial.

3 241. The amount of such damages shall be proven at trial (expert witness testimony will
4 likely be of critical importance).

5
6 **ELEVENTH CLAIM FOR FALSE DOCUMENTS LIABILITY (As against Geraci,
7 Berry, Austin, ALG, F&B and DOES 1 through 10)**

8 242. Cotton hereby incorporates by reference all of his allegations contained above as if
9 fully set forth herein.

10 243. Geraci filed a Complaint against Cotton and a Lis Pendens on the Property with a
11 public office, respectively, this Court and the San Diego County Recorder's Office.

12 244. Geraci knew the Complaint and Lis Pendens, both solely and completely predicated
13 upon his allegation that the November 2nd Agreement was the final agreement for the purchase of the
14 Property, was false and unfounded when he filed them.

15
16 245. Geraci, his agents and counsel, all knew at the time of the filing he was committing a
17 crime (in violation of California Penal Code Section 115 PC) and did so knowingly anyway.

18 246. Cotton has suffered and continues to suffer damages because of Geraci's actions.

19 247. This intentional, willful, malicious, outrageous, and unjustified conduct entitles Cotton
20 to an award of general, compensatory, special, exemplary and/or punitive damages.

21
22 **TWELFTH CLAIM OF UNJUST ENRICHMENT (As against Geraci, Berry, and the
23 City of San Diego)**

24 248. Cotton hereby incorporates by reference all of his allegations contained above as if
25 fully set forth herein.

26 249. Geraci represented to Cotton that executing the November 2nd Agreement was only to
27 memorialize the \$10,000 good-faith deposit towards the total \$50,000 non-refundable deposit, but
28

1 Geraci now alleges that the November 2nd Agreement is the final agreement for the purchase of the
2 Property.

3 250. Geraci himself confirmed via email that the November 2nd Agreement is not the final
4 agreement.

5 251. Had Geraci described the effect of executing the November 2nd Agreement in the way
6 that Geraci presently interprets it, then Cotton would never have signed the November 2nd
7 Agreement.
8

9 252. Geraci will be unjustly enriched at the expense of Cotton if he is permitted to retain
10 the interest in the Property that he now asserts under the November 2nd Agreement.

11 253. The City of San Diego was able trick me into entering deals that caused me to lose
12 \$25,000 to remove the Lis Pendens from the property.
13

14 254. Cotton has suffered and continues to suffer damages because of Geraci's actions.

15 255. This intentional, willful, malicious, outrageous, and unjustified conduct entitles Cotton
16 to an award of general, compensatory, special, exemplary and/or punitive damages.
17

18 **THIRTEENTH CLAIM OF INTENTIONAL INTERFERENCE WITH**
19 **PROSPECTIVE ECONOMIC RELATIONS – (As Against Geraci, Berry, Austin, F&B and**
20 **DOES 1 through 10)**

21 256. Cotton hereby incorporates by reference all of his allegations contained above as if
22 fully set forth herein.

23 257. Cotton has an ongoing prospective business relationship with Mr. Martin and the City
24 via by the then-filed CUP application that was resulting, and would have resulted, in an economic
25 benefit to Cotton based on and in connection with the approval of the CUP application.
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1 258. Further, specifically, Cotton has an ongoing prospective business relationship with Mr.
2 Martin for the sale of the Property that was resulting, and would have resulted, in an economic
3 benefit to Cotton based on and in connection with the sale of the Property.

4 259. Defendants knew of Cotton's ongoing and prospective business relationship with Mr.
5 Martin and the City arising from and related to the CUP Application and defendants knew of
6 Cotton's ongoing and prospective business relationship with the new buyer for the Property.
7

8 260. Defendants intentionally engaged in acts designed to interfere, and which have
9 interfered and are likely to continue to interfere, with Cotton's relationship with the City, the CUP
10 application, and the new buyer, including without limitation, their refusal to acknowledge they have
11 no interest in the Property and/or the CUP application.

12 261. As a direct and proximate result of the defendants' conduct, Cotton has suffered and
13 will continue to suffer damages in an amount not yet fully ascertainable and to be determined
14 according to proof at trial.
15

16 262. The aforementioned conduct by defendants was despicable, willful, malicious,
17 fraudulent, and oppressive conduct which subjected Cotton to cruel and unjust hardship in conscious
18 disregard of Cotton's rights, so as to justify an award of exemplary and punitive damages in an
19 amount to be determined according to proof at trial, including pursuant to Civil Code section 3294.
20

21 **FOURTEENTH CLAIM OF NEGLIGENT INTERFERENCE WITH PROSPECTIVE**
22 **ECONOMIC RELATIONS – (As Against Geraci, Berry, and DOES 1 through 10)**

23 263. Cotton hereby incorporates by reference all of his allegations contained above as if
24 fully set forth herein.

25 264. Cotton has an ongoing prospective business relationship with the City that was
26 resulting, and would have resulted, in an economic benefit to Cotton based on and in connection with
27 the approval of the CUP application. In addition, Cotton has an ongoing prospective business
28

1 relationship with the new buyer of the Property that was resulting, and would have resulted, in an
2 economic benefit to Cotton based on and in connection with the sale of the Property.

3 265. Defendants knew or should have known of Cotton's ongoing and prospective business
4 relationship with the City arising from and related to the CUP Application, and defendants knew or
5 should have known of Cotton's ongoing and prospective business relationship with the new buyer for
6 the Property.

7
8 266. Defendants failed to act with reasonable care when they engaged in acts designed to
9 interfere, and which have interfered and are likely to continue to interfere, with Cotton's relationship
10 with the City, the CUP application, and the new buyer, including without limitation, their refusal to
11 acknowledge they have no interest in the Property and/or the CUP application.

12
13 267. As a direct and proximate result of the defendants' conduct, Cotton has suffered and
14 will continue to suffer damages in an amount not yet fully ascertainable and to be determined
15 according to proof at trial.

16
17 **FIFTH CLAIM OF INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS (As against
All Defendants)**

18 268. Cotton hereby incorporates by reference all of his allegations contained above as if
19 fully set forth herein.

20
21 269. Defendants, and each of them, engaged in outrageous conduct towards Plaintiff, with
22 the intention to cause or with reckless disregard for the probability of causing Plaintiff to suffer
23 severe emotional distress. Geraci has even sent convicts to intimidate, coerce and threaten my
24 investors by telling him that it would be in his "best interest" to use his influence me to settle with
25 Geraci.
26
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1 270. All of the above-named defendants know that this is an unfounded lawsuit against me
2 and the continued malicious attempts at depriving me of my rights, money and sanity can only be
3 described as outrageous.

4 271. The defendants have acted for the purpose of causing me emotional distress so severe
5 that it could be expected to adversely affect mental health and well-being.

6 272. The defendants' conduct is causing such distress, which includes, but is not limited to,
7 chronic loss of sleep, paranoia, and other injuries to health and well-being. All of these injuries
8 continue on a daily basis.

9 273. To the extent that said outrageous conduct was perpetrated by certain Defendants, the
10 remaining Defendants adopted and ratified said conduct with a wanton and reckless disregard of the
11 deleterious consequences. As a proximate result of said conduct, I have suffered and continue to
12 suffer extreme mental distress, humiliation, anguish, and emotional and physical injuries, as well as
13 economic losses.

14 274. Defendants committed the acts alleged herein maliciously, fraudulently and
15 oppressively with the wrongful intention of injuring Plaintiff, from an improper and evil motive
16 amounting to malice and in conscious disregard of Plaintiff's rights, entitling Plaintiff to recover
17 punitive damages in amounts to be proven at trial.

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19
20
21 **SIXTHTEENTH CLAIM FOR NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**
22 **(As against All Defendants)**

23 275. Plaintiff realleges and incorporates by reference the allegations contained above as
24 though fully set forth.

25 276. All Defendants, and each of them, knew or reasonably should have known that the
26 conduct described herein would, and did, proximately result in physical and emotional distress to
27 Plaintiff. Being as all of the above-named defendants know that this is an unfounded lawsuit against
28

1 me and the continued malicious attempts at depriving me of my rights, money and sanity can only be
2 described as outrageous.

3 277. At all relevant times, all Defendants, and each of them, had the power, ability,
4 authority, and duty to stop engaging in the conduct described herein and/or to intervene to prevent or
5 prohibit said conduct.

6 278. Despite said knowledge, power, and duty, Defendants negligently failed to act so as to
7 stop engaging in the conduct described herein and/or to prevent or prohibit such conduct or otherwise
8 protect Plaintiff. Therefore, whether or not the defendants have acted for the express purpose of
9 causing me this extreme emotional distress, they have caused it. And they should have known this
10 would happen.

11 279. Further, they have been made aware and have been on notice. Weinstein of F&B,
12 specifically. To the extent that said negligent conduct was perpetrated by certain Defendants, the
13 remaining Defendants confirmed and ratified said conduct with the knowledge that Plaintiff's
14 emotional and physical distress would thereby increase, and with a wanton and reckless disregard for
15 the deleterious consequences to Plaintiff.

16 280. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has
17 suffered and continues to suffer serious emotional distress, humiliation, anguish, emotional and
18 physical injuries, as well as economic losses, all to his damage in amounts to be proven at trial.

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22 **SEVENTEENTH CLAIM FOR CONSPIRACY (As against Geraci, Berry, Austin, ALG,**
23 **Weinstein, the City of San Diego and DOES 1 through 10)**

24 281. Cotton hereby incorporates by reference all of his allegations contained above as if
25 fully set forth herein.

26 282. Geraci fraudulently induced Cotton to execute the Ownership Disclosure Statement on
27 October 31st, 2016, alleging that the Ownership Disclosure Statement was necessary because the
28

1 parties did not have a final agreement in place at that time, thus, he needed it to show other
2 professionals involved in the preparation of the CUP application and the lobbying efforts to prove
3 that he, Geraci, had access to the Property.

4 283. As a sign of good-faith by Cotton as they had not reached a final agreement for the
5 sale of the Property, Geraci wanted something in writing proving Cotton's support of the CUP
6 application at his Property because he needed to immediately spend large amounts of cash to continue
7 with the preparation of the CUP application and the lobbying efforts. However, Geraci promised that
8 the Ownership Disclosure Statement would not under any circumstances actually be submitted to the
9 City of San Diego. Further, that it was impossible to submit the CUP application as the critical zoning
10 issue had been resolved with the city of San Diego.
11

12 284. The Ownership Disclosure Statement is also executed by Rebecca Berry and denotes
13 Rebecca Berry is the "Tenant/Lessee" of the Property.
14

15 285. Geraci represented to Cotton that Rebecca Berry could be trusted and was one of his
16 best employees who was familiar with the medical marijuana industry.

17 286. Cotton has never met or entered into any agreement with Rebecca Berry.

18 287. Rebecca Berry knew that she had not entered into a lease of any form with Cotton for
19 the Property.
20

21 288. Upon information and belief, Rebecca Berry allowed the CUP application to be
22 submitted in her name on behalf of Geraci because Geraci has been a named Cotton in numerous
23 other lawsuits brought by the City of San Diego against him for the operation and management of
24 unlicensed and unlawful marijuana dispensaries.[14]
25

26 289. Rebecca Berry knew that she was filing a document with the City of San Diego that
27 contained a false statement, specifically that she was a lessee of the Property.
28

1 290. Rebecca Berry, at Geraci's instruction or her own desire, submitted the CUP
2 application as Geraci's agent, thereby Geraci's scheme to deprive Cotton of his Property.

3 291. Gina Austin and ALG represented Berry and Geraci in the initial Writ motion
4 involving the City of San Diego, additionally, Austin and ALG drafted the proposed Final Purchase
5 Agreements and subsequent revisions well into March of 2017. Therefore these acts were in full
6 knowledge that the November 2 Agreement (which this whole case is premised on) was NOT
7 intended to be the full and final agreement. The egregiousness of not informing the court of these
8 material facts and allowing this case to proceed so far is a slight to the Superior Court to which an
9 officer of the court has a duty of honesty, integrity and candor. No other possible explanation comes
10 to mind other than Austin and ALG have been knowingly working in concert together to defraud the
11 court, and myself.
12

13 292. Inexplicably, no one working in The City Attorney's Office of the City of San Diego
14 have raised their voices to assist me when they have received all the above information. They have
15 seen my evidence, they have expressed surprise that I was not granted a TRO after reading my
16 Motion for Reconsideration for the TRO. Yet, knowing this is an unfounded case San Diego is still
17 permitting this injustice continue.
18

19 293. The San Diego Department of Services seemingly worked exclusively for Geraci and
20 Berry and essentially blocked me from having any say as to the CUP for my property. They have
21 continued to process the CUP application for Geraci and Berry when they know that Geraci and
22 Berry have no legal right to my Property.
23

24 294. Then I was told to submit a new application which necessarily creates an inequitable
25 race – all these facts can only be reconciled if one is to accept that 1) the city is prejudiced against me
26 or; 2) Geraci has them in his pocket.
27
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1 295. Not only that, this all follows the tyrannical practices of Deputy City Attorney Mark
2 Skeels who tricked me and my young defense counsel into setting myself up for an Asset Forfeiture
3 Action that ultimately resulted in a \$25,000 extortion. Under the Fourth Amendment, "[t]he right of
4 the people to be secure in their persons, houses, papers, and effects, against unreasonable searches
5 and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause." U.S. Const.
6 amend. IV. "The Fourth Amendment does not proscribe all state-initiated searches and seizures; it
7 merely proscribes those which are unreasonable." *Florida v. Jimeno*, 500 U.S. 248, 250, 111 S.Ct.
8 1801, 114 L.Ed.2d 297 (1991). In light of the situation I was in, the unforeseen and extreme result
9 must surely constitute an "unreasonable" seizure.
10

11 296. Further adding to my confusion, frustration and inability to gain any traction in
12 protecting my own interests, the Honorable Judge Wohlfeil presiding over my case has not seemed
13 interested in reading any of my prior submissions. He "knows [the attorneys opposing me] well" and
14 I believe based on that he is biased against me now that I am pro se and a likely mark for everyone to
15 be able to walk over and take advantage of with no repercussions. At best, Judge Wohlfiel probably
16 hopes my case can be settled out of court relieving him of further responsibility (or culpability?) in
17 regard to my case. At worst, Wohlfeil's seemingly purposeful negligence at this point is an
18 intentional cover-up of the fact that he does not care about my case or he is actively helping Geraci.
19
20

21 297. Ultimately, whether it was done purposefully, working in concert with, and/or because
22 of gross negligence, all the parties here, even if operating in their own "mini-conspiracies," have de
23 facto operated in a one, large conspiracy by perpetuating and augmenting the unlawful actions and
24 harm caused to Darryl.
25

26 298. Cotton has suffered and continues to suffer damages because of actions of all
27 defendants such that it would be "a challenge to imagine a scenario in which that harassment would
28

1 not have been the product of a conspiracy.” [*Geinosky v. City of Chicago* (7th Cir. 2012) 675 F3d
2 743, 749].

3 299. As a direct and proximate result of Defendants’, their agents’ and conspirators’
4 concerted, intentional (and even negligent), willful, malicious, outrageous, and unjustified conduct
5 entitles Cotton to an award of general, compensatory, special, exemplary and/or punitive damages.
6 unlawful conduct. Plaintiff has suffered and continues to suffer serious emotional distress,
7 humiliation, anguish, emotional and physical injuries, as well as economic losses, all to his damage in
8 amounts to be proven at trial.
9

10 **EIGHTEENTH CLAIM FOR RACKETEER INFLUENCED AND CORRUPT**
11 **ORGANIZATION ACT (As against All Defendants)**

12 300. Cotton hereby incorporates by reference all of his allegations contained above as if
13 fully set forth herein.
14

15 301. The elements of civil RICO are as follows: (1) conduct, (2) of an enterprise, (3)
16 through a pattern (4) of racketeering activity, (5) resulting in injury.

17 302. Geraci, as proven by public records of lawsuits filed by the City against him for the
18 operating of illegal dispensaries, has run an enterprise of illegal marijuana dispensaries over the
19 course of years. His enterprise if focused on marijuana dispensaries and related financial support
20 services meant to unlawfully circumvent IRS tax liabilities. As discussed above, he uses employees,
21 third-parties, attorneys and criminals to operate his criminal enterprise.
22

23 303. Geraci specifically told Cotton, when fraudulently inducing him to enter into the
24 November Agreement, that as an Enrolled Agent for the IRS, he was uniquely positioned to “get
25 around” paying IRS Code Section 280(e). At the time, it appeared to Cotton that Geraci was stating
26 he had some form of unknown method to do so lawfully. In retrospect, it is apparent that he is
27
28

1 providing money laundering services for himself and others, using his Tax and Financial company as
2 legitimate front for his behind the scenes unlawful activities.

3 304. Geraci runs his enterprise through his employees, such as Berry, who use their names
4 on applications, such as the CUP application at issue here, to provide anonymity and for Geraci to
5 stay off the radar of law enforcement agencies. For example, Geraci, and Berry, were required by law
6 to state the names of all individuals who had an interest in the CUP when the CUP application was
7 filed. Geraci's name is NOT on the CUP application. His office manager, Berry, is. Had this instant
8 lawsuit not required him to fraudulently attempt to enforce the Receipt as the final agreement for the
9 Property, there would be no record of his ownership in the CUP application.
10

11 305. Geraci is the lead perpetrator in the enterprise. It is Geraci that had his office manager,
12 Berry submit the CUP application with material omissions (his name); having Gina Austin, his
13 attorney, represent him in the State Actions although she knows she is violating her ethical (and
14 potentially legal) obligations to the Court by representing Geraci under the false premise that the
15 Receipt is the final agreement for the Property; Geraci is directing Weinstein, also his attorney, to
16 continue to represent him when Weinstein knows that there is no factual or legal basis to continue
17 prosecuting the State Action against me to my great detriment.
18

19 306. Mr. Geraci has told me that he has run many illegal marijuana dispensaries through his
20 employee, Berry. I believe that he has invested the proceeds of the pattern of racketeering activity
21 into the enterprise endeavors to continuously open more illegal dispensaries. Further, because he has
22 evaded criminal prosecution and additionally managed to pull off this farce of a civil suit against me,
23 I believe he has also used said monies to compensate Austin and Weinstein, and, de facto, their
24 respective law firms, for the unethical and unlawful actions against me. How else can one explain
25 why two, ostensibly intelligent attorneys who statistically speaking should be smarter than most
26 would take the actions they have which are clearly unethical and unlawful.
27
28

1 307. The way in which the City has dealt with me in every avenue also points to the distinct
2 possibility that Geraci's "influence" has in fact tainted the state legal process against me. I have been
3 specifically told by Mr. Dwayne and his associate Mr. L that Geraci has deep connections to the
4 City's politicians.

5 308. To my knowledge all defendants and Does above in some way shape or form have
6 worked in conjunction with one another willfully, occasionally negligently, but at all times in
7 association against me. Most certainly, Austin, ALG, Weinstein, Toothacre, Berry and F&B do
8 Geraci's bidding and are complicit in all of his dishonest schemes.

10 309. As a direct and proximate result of the Defendants', their agents' and coconspirators'
11 plot to participate in the conduct of the affairs of their conspiracy and wrongs, alleged herein,
12 Plaintiff has been and is continuing to be injured in his property, person and business as set forth
13 herein.
14

15 **NINETEENTH CLAIM OF DECLARATORY RELIEF (As Against All Defendants)**

16 310. Cotton hereby incorporates by reference all of his allegations contained above as if
17 fully set forth herein.

18 311. An actual controversy has arisen and now exists between Cotton and all defendants
19 concerning their respective rights, liabilities, obligations and duties based on the actions described
20 herein.
21

22 312. A declaration of rights is necessary and appropriate at this time in order for the parties
23 to ascertain their respective rights, liabilities, and obligations because no adequate remedy other than
24 as prayed for exists by which the rights of the parties may be ascertained.

25 313. Accordingly, Cotton respectfully requests a judicial declaration of rights, liabilities,
26 and obligations of the parties. Specifically, Cotton requests a judicial declaration that (a) Cotton is
27 the sole owner of the Property, (b) Cotton is the owner and sole interest-holder in the CUP
28

1 application for the Property submitted on or around October 31, 2016, (c) defendants have no right or
2 interest in the Property or the CUP application for the Property submitted on or around October 31,
3 2016, and (d) the Lis Pendens filed by Geraci be released.

4
5 **INJUNCTIVE RELIEF (As Against All Defendants)**

6 314. Cotton hereby incorporates by reference all of his allegations contained above as if
7 fully set forth herein.

8 315. For the reasons argued above, Cotton respectfully requests that all defendants be
9 immediately be notified and enjoined that their actions, even if under the color of effectuating
10 professional legal services, the law or the authority of any governmental agency, cease violating Mr.
11 Cotton's rights.
12

13 316. That the Geraci be ordered to continue to pay for the costs associated with getting
14 approval of the CUP application and the development of the MMCC per his agreement with Cotton,
15 and as he stated in his declaration in the state action.
16

17 317. That the City not be allowed to passively and/or affirmatively sabotage the CUP so as
18 to limit its liability for its actions stated herein.

19 318. Such as other injunctive relief as is required based on the facts alleged above to protect
20 and vindicate my rights.
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26 //

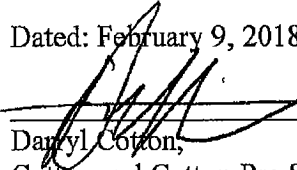
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PRAYER FOR RELIEF

WHEREFORE, Cotton prays for relief against defendants as follows:

1. That the Court order the Lis Pendens on the Property be released;
2. That the Court order, by way of declaratory relief, that there is no purchase agreement between the Geraci and that Cotton is the sole owner of the Property;
3. That the CUP application be transferred to me;
4. General, exemplary, special and/or consequential damages in the amount to be proven at trial, but which are no less than \$5,000,000;
5. Punitive damages against all defendants;
6. Sanctions against counsel as this Court may find warranted based on the allegations above that will be proven to be true during the course of this litigation;
7. That this Court appoint Mr. Cotton counsel until such time as he has the financial wherewithal to pay for counsel himself; and
8. That other relief is awarded as the Court determines is in the interest of justice.

Dated: February 9, 2018.


Darryl Cotton,
Cotton and Cotton Pro Se