

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 07/16/2019

TIME: 09:00:00 AM

DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil

CLERK: Andrea Taylor

REPORTER/ERM: Margaret Smith CSR# 9733

BAILIFF/COURT ATTENDANT: R. Camberos

CASE NO: 37-2017-00010073-CU-BC-CTL CASE INIT.DATE: 03/21/2017

CASE TITLE: Larry Geraci vs Darryl Cotton [Imaged]

CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

EVENT TYPE: Civil Jury Trial

APPEARANCES

Michael R Weinstein, counsel, present for Respondent on Appeal, Cross - Defendant, Cross - Complainant, Plaintiff(s).

Scott H Toothacre, counsel, present for Respondent on Appeal, Cross - Defendant, Cross - Complainant, Plaintiff(s).

Jacob Austin, counsel, present for Defendant, Cross - Complainant, Appellant(s).

Darryl Cotton, Defendant is present.

Larry Geraci, Plaintiff is present.

(Clerk's note: At 6:38 a.m. Juror no. 4 called and left a voice mail message that he cannot come to Court today)

7:48 a.m. Alternate juror no. 1 and counsel are notified by phone to return to Court at 9:00 a.m.

8:44 a.m. Court is in session with counsel as noted above and the Defendant present. Outside the presence of the jury, Court explains that juror no. 4 has called in stating he cannot come to court today and that he has been excused. The clerk notified Alternate juror no. 1 to return to Court at 9:00 a.m. and the Court will replace juror no. 4 with Alternate juror no. 1. The Court will read jury instruction CACI 5014 to the jury and new original verdict forms will be sent into the jury room.

8:48 a.m. Court is in recess.

9:00 a.m. Court is in session with counsel as noted above, and jurors present. Alternate juror no. 1 is sworn in and becomes juror no. 4. The Court reads jury instruction CACi 5014 to the jury.

9:07 a.m. The jury retires to begin deliberations again.

9:08 a.m. Court is in recess.

(Clerk's note: Alternate jurors 2, 3 and 4 are not present.)

10:30 a.m. The jury recesses from deliberations for break and are instructed to return 10:40 a.m.

10:40 a.m. The Bailiff assembles all jurors and returns them to the jury room for further deliberation.

10:54 a.m. The Bailiff delivers a note from the jury, marked Jury Note no. 2, to the Court.

Jury note no. 2 reads as follows, **"Our jurors don't have complete copies of Special Verdict No. 2. The packets they have stop at page 2."**

11:05 a.m. Twelve complete copies of Verdict no. 2 are sent into the jury room.

11:39 a.m. The Bailiff notifies the Court that the jury has reached a verdict. The clerk notifies counsel to return to court at 1:30 p.m for reading of the verdict.

11:46 a.m. The jury recesses from deliberations for lunch and are instructed to return at 1:30 p.m.

1:22 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. The jurors are not present.

Outside the presence of the jury, Court and counsel discuss verdicts and polling of the jury. Court notifies counsel of jury note no. 2 and each side is given a copy.

1:27 p.m. Court is in recess.

1:28 p.m. This being the time scheduled for reading of the verdict as attached hereto and incorporated herein by reference in the above entitled cause, all parties and counsel appear as noted above and court is in session. The jury is escorted into the courtroom. Upon the Court's inquiry, the presiding juror states that the jury has reached a verdict. At the direction of the Court, the clerk reads the verdict.

1:36 p.m. Attorney Austin requests polling of the jury. The clerk records the following results to the question, "Is this your verdict?":

Special Verdict Form No. 1:

Questions no. 1-9
12/0

Question no. 10
10/2

Special Verdict Form No. 2:

Questions 1, 8, 13, and 19
12/0

1:43 p.m. At the direction of the Court, the clerk records the verdict.

The following jurors were sworn in to try the cause:

- 1) Barry Gross
- 2) Nicole Douglas Jones
- 3) Angela Hudson
- 4) Sergio Oaxaca
- 5) David Castle
- 6) Nathan Woods
- 7) Elizabeth Grimm
- 8) Jacqueline Frias
- 9) John Beazley
- 10) Jenna Ward
- 11) Michella Thomas
- 12) Dana Golan
- Alt. 1) Jeffrey Fitzgerald
- Alt. 2) Bridgette Fry
- Alt. 3) Sarah McKnight
- Alt. 4) Cyrus Dunbar

1:45 p.m. The jurors are thanked for their participation, released from the admonishment, and discharged from jury service. All jurors leave the courtroom.

1:47 p.m. Court is adjourned in this matter.

ORIGINAL

FILED
Clerk of the Superior Court

JUL 16 2019

By: A. TAYLOR

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION

LARRY GERACI,
Plaintiff,

v.

DARRYL COTTON,
Defendant.

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

Judge: Hon. Joel R. Wohlfeil

SPECIAL VERDICT FORM NO. 2

DARRYL COTTON,
Cross-Complainant,

v.

LARRY GERACI,
Cross-Defendant.

We, the Jury, in the above entitled action, find the following special verdict on the questions submitted to us:

Breach of Contract

1 1. Did Cross-Complainant Darryl Cotton and Cross-Defendant Larry Geraci enter into an oral
2 contract to form a joint venture?

3
4 Yes No

5
6 If your answer to question 1 is yes, answer question 2. If your answer to question 1 is no, do not
7 answer questions 2 – 7 and answer question 8.

8
9 2. Did Cross-Complainant do all, or substantially all, of the significant things that the contract
10 required him to do?

11
12 Yes No

13
14 If your answer to question 2 is yes, do not answer question 3 and answer question 4. If your
15 answer to question 2 is no, answer question 3.

16
17 3. Was Cross-Complainant excused from having to do all, or substantially all, of the significant
18 things that the contract required him to do?

19
20 Yes No

21
22 If your answer to question 3 is yes, answer question 4. If your answer to question 3 is no, do not
23 answer questions 4 – 7 and answer question 8.

24
25 4. Did all the condition(s) that were required for Cross-Defendant's performance occur?

26
27 Yes No

1 If your answer to question 4 is yes, do not answer question 5 and answer question 6. If your
2 answer to question 4 is no, answer question 5.

3
4 5. Was the required condition(s) that did not occur excused?

5
6 Yes No

7
8 If your answer to question 5 is yes, answer question 6. If your answer to question 5 is no, do not
9 answer questions 6 – 7 and answer question 8.

10
11 6. Did Cross-Defendant fail to do something that the contract required him to do?

12
13 Yes No

14
15 or

16
17 Did Cross-Defendant do something that the contract prohibited him from doing?

18
19 Yes No

20
21 If your answer to either option for question 6 is yes, answer question 7. If your answer to both
22 options is no, do not answer question 7 and answer question 8.

23
24 7. Was Cross-Complainant harmed by Cross-Defendant's breach of contract?

25
26 Yes No

27
28 Please answer question 8.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Fraud - Intentional Misrepresentation

8. Did Cross-Defendant make a false representation of an important fact to Cross-Complainant?

Yes No

If your answer to question 8 is yes, answer question 9. If your answer to question 8 is no, do not answer questions 9 – 12 and answer question 13.

9. Did Cross-Defendant know that the representation was false, or did Cross-Defendant make the representation recklessly and without regard for its truth?

Yes No

If your answer to question 9 is yes, answer question 10. If your answer to question 9 is no, do not answer questions 10 – 12 and answer question 13.

10. Did Cross-Defendant intend that Cross-Complainant rely on the representation?

Yes No

If your answer to question 10 is yes, answer question 11. If your answer to question 10 is no, do not answer questions 11 – 12 and answer question 13.

11. Did Cross-Complainant reasonably rely on the representation?

Yes No

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

If your answer to question 11 is yes, answer question 12. If your answer to question 11 is no, do not answer question 12 and answer question 13.

12. Was Cross-Complainant's reliance on Cross-Defendant's representation a substantial factor in causing harm to Cross-Complainant?

Yes No

Please answer question 13.

Fraud - False Promise

13. Did Cross-Defendant make a promise to Cross-Complainant that was important to the transaction?

Yes No

If your answer to question 13 is yes, answer question 14. If your answer to question 13 is no, do not answer questions 14 – 18 and answer question 19.

14. Did Cross-Defendant intend to perform this promise when Cross-Defendant made it?

Yes No

If your answer to question 14 is no, answer question 15. If your answer to question 14 is yes, do not answer questions 15 – 18 and answer question 19.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

15. Did Cross-Defendant intend that Cross-Complainant rely on this promise?

Yes No

If your answer to question 15 is yes, answer question 16. If your answer to question 15 is no, do not answer questions 16 – 18 and answer question 19.

16. Did Cross-Complainant reasonably rely on this promise?

Yes No

If your answer to question 16 is yes, answer question 17. If your answer to question 16 is no, do not answer questions 17 – 18 and answer question 19.

17. Did Cross-Defendant perform the promised act?

Yes No

If your answer to question 17 is no, answer question 18. If your answer to question 17 is yes, do not answer question 18 and answer question 19.

18. Was Cross-Complainant's reliance on Cross-Defendant's promise a substantial factor in causing harm to Cross-Complainant?

Yes No

Please answer question 19.

1 **Fraud - Negligent Misrepresentation**

2
3 19. Did Cross-Defendant make a false representation of an important fact to Cross-Complainant?

4
5 Yes No

6
7 If your answer to question 19 is yes, answer question 20. If your answer to question 19 is no, do
8 not answer questions 20 – 24 but if your answer to questions 7, 12 or 18 is yes, answer question 25. If
9 your answers to questions 7, 12 and 18 were not yes, answer no further questions, and have the presiding
10 juror sign and date this form.

11
12 20. Did Cross-Defendant honestly believe that the representation was true when Cross-Defendant
13 made it?

14
15 Yes No

16
17 If your answer to question 20 is yes, answer question 21. If your answer to question 20 is no, do
18 not answer questions 21 – 24 but if your answer to questions 7, 12 or 18 is yes, answer question 25. If
19 your answers to questions 7, 12 and 18 were not yes, answer no further questions, and have the presiding
20 juror sign and date this form.

21
22 21. Did Cross-Defendant have reasonable grounds for believing the representation was true when
23 Cross-Defendant made it?

24
25 Yes No

26
27 If your answer to question 21 is yes, answer question 22. If your answer to question 21 is no, do
28 not answer questions 22 – 24 but if your answer to questions 7, 12 or 18 is yes, answer question 25. If

1 your answers to questions 7, 12 and 18 were not yes, answer no further questions, and have the presiding
2 juror sign and date this form.

3
4 22. Did Cross-Defendant intend that Cross-Complainant rely on the representation?

5
6 Yes No

7
8 If your answer to question 22 is yes, answer question 23. If your answer to question 22 is no, do
9 not answer questions 23 – 24 but if your answer to questions 7, 12 or 18 is yes, answer question 25. If
10 your answers to questions 7, 12 and 18 were not yes, answer no further questions, and have the presiding
11 juror sign and date this form.

12
13 23. Did Cross-Complainant reasonably rely on the representation?

14
15 Yes No

16
17 If your answer to question 23 is yes, answer question 24. If your answer to question 23 is no, do
18 not answer question 24 but if your answer to questions 7, 12 or 18 is yes, answer question 25. If your
19 answers to questions 7, 12 and 18 were not yes, answer no further questions, and have the presiding juror
20 sign and date this form.

21
22 24. Was Cross-Complainant's reliance on Cross-Defendant's representation a substantial factor
23 in causing harm to Cross-Complainant?

24
25 Yes No

1 If your answer to question 24 is yes, answer question 25. If your answer to question 24 is no, but
2 if your answer to questions 7, 12 or 18 is yes, answer question 25. If your answers to questions 7, 12 and
3 18 were not yes, answer no further questions, and have the presiding juror sign and date this form.
4

5 25. What are Cross-Complainant's damages?

6
7 \$ _____
8
9

10
11 Dated: 7/16/19

Signed: 

Presiding Juror

12
13 After all verdict forms have been signed, notify the bailiff that you are ready to present your verdict in
14 the courtroom.
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORIGINAL

FILED
Clerk of the Superior Court

JUL 16 2019

By: A. TAYLOR

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION

LARRY GERACI,
Plaintiff,

v.

DARRYL COTTON,
Defendant.

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

SPECIAL VERDICT FORM NO. 1

Judge: Hon. Joel R. Wohlfeil

DARRYL COTTON,
Cross-Complainant,

v.

LARRY GERACI,
Cross-Defendant.

We, the Jury, in the above entitled action, find the following special verdict on the questions submitted to us:

Breach of Contract

1. Did Plaintiff Larry Geraci and Defendant Darryl Cotton enter into the November 2, 2016 written contract?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Yes No

If your answer to question 1 is yes, answer question 2. If your answer to question 1 is no, answer no further questions, and have the presiding juror sign and date this form.

2. Did Plaintiff do all, or substantially all, of the significant things that the contract required him to do?

Yes No

If your answer to question 2 is yes, do not answer question 3 and answer question 4. If your answer to question 2 is no, answer question 3.

3. Was Plaintiff excused from having to do all, or substantially all, of the significant things that the contract required him to do?

Yes No

If your answer to question 3 is yes, answer question 4. If your answer to question 3 is no, answer no further questions, and have the presiding juror sign and date this form.

4. Did all the condition(s) that were required for Defendant's performance occur?

Yes No

If your answer to question 4 is yes, do not answer question 5 and answer question 6. If your answer to question 4 is no, answer question 5.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

5. Was the required condition(s) that did not occur excused?

Yes No

If your answer to question 5 is yes, then answer question 6. If your answer to question 5 is no, answer no further questions, and have the presiding juror sign and date this form.

6. Did Defendant fail to do something that the contract required him to do?

Yes No

or

Did Defendant do something that the contract prohibited him from doing?

Yes No

If your answer to either option for question 6 is yes, answer question 7. If your answer to both options is no, do not answer question 7 and answer question 8.

7. Was Plaintiff harmed by Defendant's breach of contract?

Yes No

If your answer to questions 4 or 5 is yes, please answer question 8.

Breach of the Implied Covenant of Good Faith and Fair Dealing

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

8. Did Defendant unfairly interfere with Plaintiff's right to receive the benefits of the contract?

Yes No

If your answer to question 8 is yes, answer question 9. If your answer to question 8 is no, but your answer to question 7 is yes, do not answer question 9 and answer question 10. If your answers to questions 7 and 8 were not yes, answer no further questions, and have the presiding juror sign and date this form.

9. Was Plaintiff harmed by Defendant's interference?

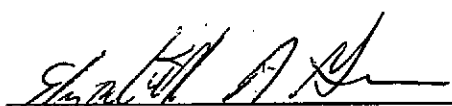
Yes No

If your answer to question 9 is yes, answer question 10. If your answer to question 9 is no, but your answer to question 7 is yes, answer question 10. If your answers to questions 7 and 9 were not yes, answer no further questions, and have the presiding juror sign and date this form.

10. What are Plaintiff's damages?

\$ 260,109.28

Dated: 7/16/19

Signed: 
Presiding Juror

After all verdict forms have been signed, notify the bailiff that you are ready to present your verdict in the courtroom.