

ELECTRONICALLY FILED

Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Adriana Ive Anzalone, Deputy Clerk

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12 Cross-Defendant REBECCA BERRY

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9 **SUPERIOR COURT OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO, HALL OF JUSTICE**

11 LARRY GERACI, an individual,

12 Plaintiff,

13 v.

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

16 Defendants.

17 DARRYL COTTON, an individual,

18 Cross-Complainant,

19 v.

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

23 Cross-Defendants.

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

Judge: Hon. Joel R. Wohlfeil

**PLAINTIFF/CROSS-DEFENDANTS'
EVIDENTIARY OBJECTIONS IN
OPPOSITION TO DEFENDANT/CROSS-
COMPLAINANT'S MOTION FOR NEW
TRIAL**

[IMAGED FILE]

DATE: October 25, 2019

TIME: 9:00 a.m.

DEPT: C-73

Filed: March 21, 2017

Trial Date: June 28, 2019

Notice of Entry
of Judgment: August 20, 2019

26 Plaintiff and Cross-Defendants submit these evidentiary objections to the evidence submitted
27 by Defendant/Cross-Complainant in support of his Motion for New Trial.


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PLAINTIFF/CROSS-DEFENDANTS' EVIDENTIARY OBJECTIONS

MATERIAL OBJECTED TO:	GROUND FOR OBJECTION:	RULING ON THE OBJECTION
<p>“Mr. Cotton propounded discovery seeking, among other things, documents and communications by and between Mr. Geraci and Mrs. Austin. (See Exhibit I (Discovery Responses) at 13:1-13, 14:L8-23.) Mr. Geraci refused to produce any documents or communications based upon attorney-client privilege. (<i>See id.</i></p>	<p><u>Objection:</u> Evid. Code §210 –Relevance-Matters Outside Trial Record’ Evid. Code §702 -Lack of Foundation; Evid. Code §§ 402, 403-Lacks Authentication</p> <p>NOTE: Mr. Geraci has offered written discovery in support of his motion for the limited purpose of putting Defendant Cotton’s claims vis-à-vis the discovery responses into context to give the Court a full picture of the issue.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>_____</p> <p>Judge</p> <p>Dated: _____, 2019</p>
<p>“The draft agreements did not state they were amending a prior agreement for the purchase of the property, did not reference a prior agreement, and the “date of the agreement for the purchase of the property, did not reference a prior agreement...”</p> <p>(Cotton’s P’s&A’s, p. 10:9-12)</p>	<p><u>Objections:</u> Evid. Code §210 –Relevance-Matters Outside Trial Record’ Evid. Code §702 -Lack of Foundation; Evid. Code §§ 402, 403-Lacks Authentication</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>_____</p> <p>Judge</p> <p>Dated: _____, 2019</p>
<p>“The non-disclosure was purposeful (<i>See Exhibit I-</i> (Discovery Resp.) at 12:8-16) Indeed, efforts were undertaken to exclude any reference to Mr. Cotton in the CUP application because of his “legal issues” with the City.</p> <p>(Cotton’s P’s&A’s, p. 12:16-18.)</p>	<p><u>Objections:</u> Evid. Code §210 –Relevance-Matters Outside Trial Record’ Evid. Code §702 -Lack of Foundation; Evid. Code §§ 402, 403-Lacks Authentication; Evid. Code §§ 1200, et. seq. - Hearsay.</p>	<p>Sustained: _____</p> <p>Overruled: _____</p> <p>_____</p> <p>Judge</p> <p>Dated: _____, 2019</p>

MATERIAL OBJECTED TO:	GROUNDS FOR OBJECTION:	RULING ON THE OBJECTION
<p>“Although AUMA was adopted days after the alleged November 2, 2016 agreement, pursuant to Ordinance No. O-20793, all MMCC application in the city were replaced with the new retail sales category called an MO. Thus, the CUP application submitted by Ms. Berry on behalf of Mr. Geraci is subject to AUMA. Furthermore, the text of AUMA was circulated in July of 2016 so all of the requirements for potential successful applications were already known to the public and attorneys specializing in cannabis laws and regulations prior to November 2, 2016.”</p> <p>(Cotton’s P’s&A’s, p. 12:26-28)</p>	<p><u>Objections:</u> Evid. Code §210 –Relevance-Matters Outside Trial Record’ Evid. Code §702 -Lack of Foundation; Evid. Code §§ 402, 403-Lacks Authentication; Evid. Code §§ 1200, et. seq. - Hearsay; Evid. Code § 800 et. seq. Impermissible Expert Opinion;</p>	<p>Sustained: _____ Overruled: _____ _____ Judge Dated: _____, 2019</p>
<p>“Similarly, the policy of AUMA is to bring marijuana into a regulated and legitimate market to create a transparent and accountable system.”</p> <p>(Cotton’s P’s&A’s, p. 13:1-2)</p>	<p><u>Objection:</u> Evid. Code §210 –Relevance-Matters Outside Trial Record’ Evid. Code §702 -Lack of Foundation; Evid. Code §§ 402, 403-Lacks Authentication; Evid. Code §§ 1200, et. seq. - Hearsay; Evid. Code § 800 et. seq. Impermissible Expert Opinion;</p>	<p>Sustained: _____ Overruled: _____ _____ Judge Dated: _____, 2019</p>

Dated: September 23, 2019

Respectfully submitted,
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A Professional Corporation
By: 
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LARRY GERACI and Cross-Defendant
REBECCA BERRY