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|---|-----------|-----------------|--|
| ATTORNEY OR PARTY WITHOUT ATTORNEY | | STATE BAR NO.: | ELECTRONICALLY FILED Superior Court of California, County of San Diego 12/23/2019 at 07:59:00 PM Clerk of the Superior Court By Chona De Los Santos, Deputy Clerk |
| NAME: DARRYL COTTON | | | |
| FIRM NAME: | | | |
| STREET ADDRESS: 6176 Federal Boulevard | | | |
| CITY: San Diego | STATE: CA | ZIP CODE: 92114 | |
| TELEPHONE NO.: (619) 266-4004 | FAX NO.: | | |
| E-MAIL ADDRESS: indagrodarryl@gmail.com | | | |
| ATTORNEY FOR (name): Petitioner Pro Se | | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: 330 West Broadway CITY AND ZIP CODE: San Diego, CA 92101-2994 BRANCH NAME: Central Division - Civil | | | |
| PLAINTIFF/PETITIONER: LARRY GERACI DEFENDANT/RESPONDENT: DARRYL COTTON, et al. | | | |
| APPELLANT'S NOTICE DESIGNATING RECORD ON APPEAL (UNLIMITED CIVIL CASE) | | | SUPERIOR COURT CASE NUMBER: 37-2017-00010073-CU-BC-CTL |
| RE: Appeal filed on (date): 11/21/19 [Judgment After Jury Verdict 10/16/19] | | | COURT OF APPEAL CASE NUMBER (if known): |
| Notice: Please read form APP-001 before completing this form. This form must be filed in the superior court, not in the Court of Appeal. | | | |

1. RECORD OF THE DOCUMENTS FILED IN THE SUPERIOR COURT

I elect to use the following method of providing the Court of Appeal with a record of the documents filed in the superior court (check a, b, c, or d, and fill in any required information):

- a. ☒ A clerk's transcript under rule 8.122. (You must check (1) or (2) and fill out the clerk's transcript section on page 2 of this form.)
- (1) ☐ I will pay the superior court clerk for this transcript myself when I receive the clerk's estimate of the costs of this transcript. I understand that if I do not pay for this transcript, it will not be prepared and provided to the Court of Appeal.
- (2) ☒ I request that the clerk's transcript be provided to me at no cost because I cannot afford to pay this cost. I have submitted the following document with this notice designating the record (check (a) or (b)):
- (a) ☒ An order granting a waiver of court fees and costs under rule 3.50 et seq.; or
- (b) ☐ An application for a waiver of court fees and costs under rule 3.50 et seq. (Use Request to Waive Court Fees (form FW-001) to prepare and file this application.)
- b. ☐ An appendix under rule 8.124.
- c. ☐ The original superior court file under rule 8.128. (NOTE: Local rules in the Court of Appeal, First, Third, and Fourth Appellate Districts, permit parties to stipulate to use the original superior court file instead of a clerk's transcript; you may select this option if your appeal is in one of these districts and all the parties have stipulated to use the original superior court file instead of a clerk's transcript in this case. Attach a copy of this stipulation.)
- d. ☐ An agreed statement under rule 8.134. (You must complete item 2b(2) below and attach to your agreed statement copies of all the documents that are required to be included in the clerk's transcript. These documents are listed in rule 8.134(a).)

2. RECORD OF ORAL PROCEEDINGS IN THE SUPERIOR COURT

I elect to proceed (you must check a or b below):

- a. ☐ WITHOUT a record of the oral proceedings in the superior court. I understand that without a record of the oral proceedings in the superior court, the Court of Appeal will not be able to consider what was said during those proceedings in determining whether an error was made in the superior court proceedings.

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2. b. ☒ WITH the following record of the oral proceedings in the superior court (*you must check (1), (2), or (3) below*):
- (1) ☒ A reporter's transcript under rule 8.130. (*You must fill out the reporter's transcript section on page 3 of this form.*) I have (*check all that apply*):
- (a) ☒ Deposited the approximate cost of transcribing the designated proceedings with this notice as provided in rule 8.130(b)(1).
- (b) ☐ Attached a copy of a Transcript Reimbursement Fund application filed under rule 8.130(c)(1).
- (c) ☐ Attached the reporter's written waiver of a deposit for (*check either (i) or (ii)*):
- (i) ☐ all of the designated proceedings.
- (ii) ☐ part of the designated proceedings.
- (d) ☐ Attached a certified transcript under rule 8.130(b)(3)(C).
- (2) ☐ An agreed statement. (*Check and complete either (a) or (b) below.*)
- (a) ☐ I have attached an agreed statement to this notice.
- (b) ☐ All the parties have agreed in writing (stipulated) to try to agree on a statement. (*You must attach a copy of this stipulation to this notice.*) I understand that, within 40 days after I file the notice of appeal, I must file either the agreed statement or a notice indicating the parties were unable to agree on a statement and a new notice designating the record on appeal.
- (3) ☐ A settled statement under rule 8.137. (*You must check (a), (b), or (c) below.*)
- (a) ☐ The oral proceedings in the superior court were not reported by a court reporter.
- (b) ☐ The oral proceedings in the superior court were reported by a court reporter, but the appellant has an order waiving his or her court fees and is unable to pay for a reporter's transcript.
- (c) ☐ I am requesting to use a settled statement for reasons other than those listed in (a) or (b). (*You must attach the motion required under rule 8.137(b) to this form.*)

3. RECORD OF AN ADMINISTRATIVE PROCEEDING TO BE TRANSMITTED TO THE REVIEWING COURT

- ☐ I request that the clerk transmit to the reviewing court under rule 8.123 the record of the following administrative proceeding that was admitted into evidence, refused, or lodged in the superior court (*give the title and date or dates of the administrative proceeding*):

Title of Administrative Proceeding

Date or Dates

4. NOTICE DESIGNATING CLERK'S TRANSCRIPT

(*You must complete this section if you checked item 1a above indicating that you elect to use a clerk's transcript as the record of the documents filed in the superior court.*)

- a. **Required documents.** The clerk will automatically include the following items in the clerk's transcript, but you must provide the date each document was filed, or if that is not available, the date the document was signed.

| Document Title and Description | Date of Filing |
|---|------------------------|
| (1) Notice of appeal | 11/21/19 [ROA 705] |
| (2) Notice designating record on appeal (<i>this document</i>) | 12/23/19 [ROA TBD] |
| (3) Judgment or order appealed from | 10/16/19 [ROA 694] |
| (4) Notice of entry of judgment (<i>if any</i>) | 10/16/19 |
| (5) Notice of intention to move for new trial or motion to vacate the judgment, for judgment notwithstanding the verdict, or for reconsideration of an appealed order (<i>if any</i>) | 09/03/19 [ROA 656] |
| (6) Ruling on one or more of the items listed in (5) | 10/25/19 [ROA 698-699] |
| (7) Register of actions or docket (<i>if any</i>) | 03/21/17 TO 12/31/19 |

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37-2017-00010073-CU-BC-CTL**4. NOTICE DESIGNATING CLERK'S TRANSCRIPT**

- b. **Additional documents.** (If you want any documents from the superior court proceeding in addition to the items listed in 4a. above to be included in the clerk's transcript, you must identify those documents here.)

☒ I request that the clerk include the following documents from the superior court proceeding in the transcript. (You must identify each document you want included by its title and provide the date it was filed or, if that is not available, the date the document was signed.)

| | Document Title and Description | Date of Filing |
|------|---|----------------|
| (8) | Order [Proposed] on Dfdt/X-C Darryl Cotton's Motion for New Trial [ROA 700] | 10/28/19 |
| (9) | POES re Ruling on Motion for New Trial [ROA 699] | 10/25/19 |
| (10) | Notice of Ruling [ROA 698] | 10/25/19 |
| (11) | Minute Order Denying Motion for New Trial [ROA 697] | 10/25/19 |
| (12) | Tentative Ruling re Motion for New Trial [ROA 696] | 10/22/19 |

☒ Additional documents are listed on Attachment 4b beginning with number (13).

c. **Exhibits to be included in clerk's transcript**

☐ I request that the clerk include in the transcript the following exhibits that were admitted in evidence, refused, or lodged in the superior court (for each exhibit, give the exhibit number, such as Plaintiff's #1 or Defendant's A, and a brief description of the exhibit. Indicate whether or not the court admitted the exhibit into evidence):

| | Exhibit Number | Description | Admitted (Yes/No) |
|-----|----------------|-------------|-------------------|
| (1) | | | |
| (2) | | | |
| (3) | | | |
| (4) | | | |
| (5) | | | |

☐ Additional exhibits are listed on Attachment 4c beginning with number (6).

5. NOTICE DESIGNATING REPORTER'S TRANSCRIPT

You must complete both a and b in this section if you checked item 2b(1) above indicating that you elect to use a reporter's transcript as the record of the oral proceedings in the superior court. Please remember that you must pay for the cost of preparing the reporter's transcript.

- a. I request that the reporters provide (check one):

- (1) ☒ My copy of the reporter's transcript in electronic format.
- (2) ☐ My copy of the reporter's transcript in paper format.
- (3) ☐ My copy of the reporter's transcript in electronic format and a second copy in paper format.

(Code Civ. Proc., § 271.)

CASE NAME: LARRY GERACI v. DARRYL COTTON, et al.

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37-2017-00010073-CU-BC-CTL5. b. **Proceedings**

I request that the following proceedings in the superior court be included in the reporter's transcript. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings—for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions—and the name of the court reporter who recorded the proceedings [if known], and whether a certified transcript of the designated proceeding was previously prepared.)

| Date | Department | Full/Partial Day | Description | Reporter's Name | Prev. prepared? |
|-------------|------------|------------------|-------------|------------------------|---|
| (1)07/03/19 | C-73 | Full | Trial | Margaret A. Smith, CSR | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| (2)07/08/19 | C-73 | Full | Trial | Margaret A. Smith, CSR | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| (3)07/09/19 | C-73 | Full | Trial | Margaret A. Smith, CSR | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| (4)07/10/19 | C-73 | Full | Trial | Margaret A. Smith, CSR | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

☒ Additional proceedings are listed on Attachment 5b beginning with number (5).

6. **NOTICE DESIGNATING PROCEEDINGS TO BE INCLUDED IN SETTLED STATEMENT**

(You must complete this section if you checked item 2b(3) above indicating you elect to use a settled statement.) I request that the following proceedings in the superior court be included in the settled statement. (You must identify each proceeding you want included by its date, the department in which it took place, a description of the proceedings—for example, the examination of jurors, motions before trial, the taking of testimony, or the giving of jury instructions— and, if applicable, the name of the court reporter who recorded the proceedings [if known], and whether a certified transcript of the designated proceeding was previously prepared.)

| Date | Department | Full/Partial Day | Description | Reporter's Name | Prev. prepared? |
|------|------------|------------------|-------------|-----------------|---|
| (1) | | | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| (2) | | | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| (3) | | | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| (4) | | | | | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

☐ Additional proceedings are listed on Attachment 6 beginning with number (5).

7. a. The proceedings designated in 5b or 6 ☒ include ☐ do not include all of the testimony in the superior court.

b. If the designated proceedings DO NOT include all of the testimony, state the points that you intend to raise on appeal (rule 8.130(a)(2) provides that your appeal will be limited to these points unless, on motion, the reviewing court permits otherwise).

Points are set forth: ☒ Below ☐ On Attachment 7.

The trial court having required the jury to render a verdict on an issue of law - versus an issue of fact - regarding the contract which forms the basis of the lawsuit, notwithstanding the fact that only the court may rule on an issue of law.

Date: December 23, 2019

DARRYL COTTON
(TYPE OR PRINT NAME)


(SIGNATURE OF APPELLANT OR ATTORNEY)

APPELLANT'S NOTICE OF DESIGNATION OF TRANSCRIPT ON APPEAL**Attachment 4b – Continued Designation on Clerk's Transcript**

| NO. | DOCUMENT TITLE AND DESCRIPTION | DATE OF FILING |
|------------|---|-----------------------|
| 14 | Proof of Electronic Service [ROA 682] | 09/30/19 |
| 15 | Reply in Support of Motion for New Trial [ROA 681] | 09/30/19 |
| 16 | Geraci's Evidentiary Objections in Opposition to Cotton's Motion for New Trial [ROA 679] | 09/23/19 |
| 17 | Geraci's Notice of Lodgment in Support of Geraci's Opposition to Cotton's Motion for New Trial [ROA 678] | 09/23/19 |
| 18 | Declaration of Atty Scott Toothacre in Support of Geraci's Opposition to Cotton's Motion for New Trial [ROA 677] | 09/23/19 |
| 19 | Geraci's Memorandum of Points and Authorities in Opposition to Cotton's Motion for New Trial [ROA 676] | 09/23/19 |
| 20 | Proposed Order Granting Cotton's Attorney <i>Pro Hac Vice</i> Admission [ROA 675] | 09/23/19 |
| 21 | Cotton's Memorandum of Points and Authorities In Support of Motion for New Trial [ROA 673] | 09/13/19 |
| 22 | Cotton's Notice of Motion and Motion for New Trial [ROA 672] | 09/13/19 |
| 23 | Minute Order Denying Cotton's Motion for Directed Verdict [ROA 620] | 07/10/19 |
| 24 | Minute Order Denying Cotton's Motion for Non-Suit as Premature [ROA 605] | 07/03/19 |
| 25 | Minute Order re Motions <i>In Limine</i> – DENIES Cotton's Motions to Include Fraud and Conspiracy Charges [ROA 596] | 07/01/19 |
| 26 | Minute Order DENYING <i>Ex Parte</i> Motion to Intervene on Behalf of Attorney Andrew Flores [ROA 590] | 06/27/19 |
| 27 | Cotton's Opposition to Geraci's Motion <i>in Limine</i> No. 12 to Exclude Reference to the "Joint Venture Agreement" or the "JVA" [ROA 584] | 06/26/19 |

| NO. | DOCUMENT TITLE AND DESCRIPTION | DATE OF FILING |
|-----|--|----------------|
| 28 | Cotton's Opposition to Geraci's Motion <i>in Limine</i> No 9 to Exclude Testimony that Geraci's Prior Settlement Agreements Bar Him from Obtaining a CUP or Operating a Dispensary Pursuant to a CUP [ROA 581] | 06/26/19 |
| 29 | Cotton's Opposition to Geraci's Motion <i>in Limine</i> No. 14 to Exclude Lay Testimony from Cotton and/or Hurtado Regarding the CUP Process [ROA 580] | 06/26/19 |
| 30 | Cotton's Opposition to Geraci's Motion <i>in Limine</i> No. 15 to Exclude Evidence of Cotton's Allegations that Geraci Conspired with Magagna on a Competing CUP Application [ROA 578] | 06/26/19 |
| 31 | Cotton's Opposition to Geraci's Motion <i>in Limine</i> No. 2 to Exclude Personal Attacks on Counsel for Geraci and Berry | 06/26/19 |
| 32 | Cotton's Opposition to Geraci's Motion <i>in Limine</i> No. 1 to Exclude Any Evidence of the Cotton and Hurtado Federal Lawsuits | |
| 33 | Order (Proposed) re Geraci's Motion <i>in Limine</i> No. 7 of 15 to Exclude Reference to Cotton's Allegations re Intimidation by Said Parties | 06/26/19 |
| 34 | Geraci's Notice of Motion and Motion <i>in Limine</i> to Exclude Reference to Hurtado's Allegations that Bartell Sexually Harassed Bianca Martinez | 06/21/19 |
| 35 | Geraci's Notice of Motion and Motion <i>in Limine</i> to Exclude Testimony that Geraci's Prior Settlement Agreements Bar Him from Obtaining a CUP or Owning a Business Pursuant to a CUP | 06/21/19 |
| 36 | Geraci's Notice of Motion and Motion <i>in Limine</i> to Exclude Reference to Hurtado's Allegations that Geraci "Screwed Some Other Guy and That Guy Committed Suicide" [ROA 386] | 06/21/19 |
| 37 | Cotton's Motion <i>in Limine</i> No. 1 of 1 to Exclude Geraci's November 3rd Factual Allegations [ROA 551] Cotton's Motion <i>in Limine</i> No 1 of 1 to Exclude Geraci's November 3rd Factual Allegations [ROA 551] | 06/21/19 |
| 38 | Minute Order – Denies Cotton's Motion for Partial Adjudication [ROA 525] | 05/10/19 |
| 39 | Minute Order – DENIES Cotton's Motion that Geraci's Interrogatories be binding and GRANTS Sanctions Against Cotton [ROA 511] | 04/29/19 |

| NO. | DOCUMENT TITLE AND DESCRIPTION | DATE OF FILING |
|-----|---|----------------|
| 41 | Cotton's Motion to Compel Geraci's Further Responses to Cotton's Request for Admissions (Set One) and supporting papers [ROA 399?] | 01/10/19 |
| 42 | Cotton's Motion to Compel Further Responses by Geraci to Special Interrogatories (Set Two) and supporting papers [ROA 391] | 01/10/19 |
| 43 | Cotton's Oppositions to Geraci's Motion <i>in Limine</i> to Exclude Evidence re Cotton and Hurtado Federal Lawsuits, Personal Attacks on Counsel for Geraci and Berry [ROA 390] | 01/10/19 |
| 44 | Cotton's Oppositions to Geraci's Motion <i>in Limine</i> to Exclude Evidence re Cotton and Hurtado Federal Lawsuits, Personal Attacks on Counsel for Geraci and Berry [ROA 390] | 01/10/19 |
| 45 | Motion by Cotton to Compel Further Responses of Geraci to Request for Admissions (Set Two) and supporting papers [ROA 387-389, ROA 399?] | 01/10/19 |
| 46 | Motion by Cotton to Compel Further Response of Geraci to Request for Admissions (Set One) and supporting papers [ROA 386?] | 01/10/19 |
| 47 | Notice of Order that Initial Answers to Interrogatories be Deemed Binding and for Sanctions [ROA 385] | 01/10/19 |
| 48 | Order Striking Cotton's Statement of Disqualification [ROA 297] | 09/17/18 |
| 49 | Notice of Ruling – DENIES Cotton's Motion for Judgement on the Pleadings and DECLINING to Take Judicial Notice on the Balance of the Request [ROA 254] | 07/13/18 |
| 50 | Minute Order – DENIES Cotton's Judgement on the Pleadings [ROA 256] | 07/13/18 |
| 51 | Notice of Ruling After Hearing – DENIES Cotton's Request for Judgement of the Pleadings [ROA 257] | 07/13/18 |
| 52 | Tentative Ruling – DENIES Cotton's Motion for Entry of a Judgment on the Pleadings [ROA 253] | 07/13/18 |
| 53 | Motion by Cotton for Judgment on the Pleadings and supporting documents [ROA 243-250] | 06/20/18 |

| NO. | DOCUMENT TITLE AND DESCRIPTION | DATE OF FILING |
|-----|---|----------------|
| 54 | Cotton's Pro Per <i>Ex Parte</i> Application for an Order Extending the Time Within Which Cotton May File for a Writ of Mandate re The Courts April 13, 2018 Order DENYING his Motion to Expunge <i>Lis Pendens</i> and supporting documents, Cotton's Memorandum of Points and Authorities and Declaration of Cotton in Support Thereof [ROA 243-246] | 06/20/18 |
| 55 | Minute Order – DENIES Cotton's Request for a 3rd Party Court Appointed Receiver to Monitor the CUP Process at Cotton's Real Property [ROA 240] | 06/14/18 |
| 56 | Cotton's <i>Ex Parte</i> Application for Appointment of Receiver and Other Relief, and supporting documents [ROA 303-307] | 06/13/18 |
| 57 | Cotton's Pro Per <i>Ex Parte</i> Application for an Order Extending the Time Within Which Cotton May File for a Writ of Mandate re The Courts April 13, 2018 DENIAL of his Motion to Expunge <i>Lis Pendens</i> , Cotton's Memorandum of Points and Authorities and Declaration of Cotton in Support Thereof [ROA 212] | 04/25/18 |
| 58 | Tentative Ruling – DENIES Cotton's Petition for Removing Geraci's <i>Lis Pendens</i> Filed Against Cotton's Real Property ROA 191] | 04/11/18 |
| 59 | Minute Order – DENIES Cotton's Motion to Stay Case While on Appeal [ROA 162] | 04/05/18 |
| 60 | Cotton's <i>Ex Parte</i> Application for Orders for (1) Shortening Time for Hearing on Cotton's Motion to Expunge <i>Lis Pendens</i> and (2) Compelling the Attendance and Testimony of Geraci and supporting papers [ROA 160-189] | 04/04/18 |
| 61 | Minute Order – DENIES Oral Request for a 3rd Party Court Appointed Receiver to Monitor the CUP Application on Behalf of Cotton [ROA 157] | 04/03/18 |
| 62 | Minute Order – DENIES Cotton's <i>Ex Parte</i> Application for Temporary Restraining Order and Order to Show Cause re Preliminary Injunction [ROA 157] | 04/03/18 |
| 63 | Minute Order – DENYIES Cotton's <i>Ex Parte</i> Application for Temporary Restraining Order and Order to Show Cause re Preliminary Injunction [ROA 78] | 12/12/17 |

| NO. | DOCUMENT TITLE AND DESCRIPTION | DATE OF FILING |
|-----|--|----------------|
| 64 | Cotton's Pro Per <i>Ex Parte</i> Application for an Order Granting Motion for Reconsideration for Temporary Restraining Order and Order to Show Cause re Preliminary Injunction [ROA 77] | 12/11/17 |
| 65 | Minute Order – DENIES Cotton's Request for a Temporary Restraining Order [ROA 72] | 12/07/17 |
| 66 | Cotton's <i>Ex Parte</i> Application for TRO and OSC re Preliminary Injunction [ROA 69] | 12/06/17 |

APPELLANT'S NOTICE OF DESIGNATION OF TRANSCRIPT ON APPEAL

Attachment 5b – Continued Designation on Clerk's Transcript

| DATE | DEPT. | FULL/ PARTIAL DAY | DESCRIPTION | REPORTER NAME | PREVIOUSLY PREPARED [YES/NO] |
|-------------|--------------|----------------------------------|--------------------|------------------------|---|
| 07/15/19 | C-73 | Full | Trial | Margaret A. Smith, CSR | Yes |