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Attorneys for Defendants
GINA M. AUSTIN and
AUSTIN LEGAL GROUP APC

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DARRYL COTTON, an individual,
Plaintiff,

v.

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.

CASE NO.: 3:18-cv-325-BAS-MDD

**DEFENDANTS GINA M. AUSTIN
AND AUSTIN LEGAL GROUP
APC'S NOTICE OF MOTION AND
MOTION TO DISMISS**

Date: June 15, 2020
Time: N/A

**NO ORAL ARGUMENT UNLESS
REQUESTED BY THE COURT**

Courtroom: 4B (4th Floor)
District Judge: Cynthia A. Bashant
Magistrate Judge: Mitchell D. Dembin
Complaint Filed: February 9, 2018
Trial Date: None

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TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on Monday, June 15, 2020, or as soon thereafter as the matter may be heard in Courtroom 4B of the above-entitled Court, located at United States Courthouse – Southern District, Edward J. Schwartz U.S. Courthouse, 221 W. Broadway, San Diego, California 92101, Defendants GINA M. AUSTIN and AUSTIN LEGAL GROUP APC (“ALG Defendants”) will and hereby do move this Court for an Order dismissing them from this litigation without prejudice. **Oral argument will not be heard unless requested by the Court.**

This motion is made on the grounds that Plaintiff’s Complaint fails to state a claim for which relief can be granted, fails to plead allegations of fraud and RICO with the requisite particularity required by the Federal Rules of Civil Procedure. The allegations against the ALG Defendants in Plaintiff’s Complaint are in violation of the applicable California Anti-SLAPP statute.

This motion is based upon this Notice of Motion, the accompanying Memorandum of Points and Authorities, Declaration of Julia Dalzell, Esq. with attached Exhibits, Request for Judicial Notice with attached Exhibits, and all pleadings, records and files herein, such matters of which the Court may take judicial notice, and any evidence or argument presented at the hearing on this motion.

PETTIT KOHN INGRASSIA LUTZ & DOLIN PC

Dated: May 6, 2020

By: /s/ Julia M. Dalzell
 Douglas A. Pettit, Esq.
 Julia Dalzell, Esq.
 Attorneys for Defendants
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 LEGAL GROUP APC**
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