

FILED

Nov 03 2020

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

2020 OCT 30 PM 12:01

DARRYL COTTON
6176 Federal Boulevard
San Diego, CA 92114
Telephone: (619) 954-4447

NUNC PRO TUNC

Oct 30 2020

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Plaintiff *Pro Se*

DARRYL COTTON,

Plaintiff,

v.

CYNTHIA BASHANT, an individual, JOEL
WOHLFEIL, an individual, LARRY
GERACI, an individual, REBECCA BERRY,
an individual; GINA AUSTIN, an individual;
MICHAEL WEINSTEIN, an individual;
JESSICA MCELFFRESH, an individual, and
DAVID DEMIAN, an individual

Defendants.

Case No.: 3:18-cv-00325-TWR-DEB

NOTICE OF ERRATA

Related Case: Case No.: 3:20-cv-
00656-TWR-DEB

TO THE COURT AND TO COUNSEL OF RECORD FOR ALL PARTIES:

PLEASE TAKE NOTICE that Plaintiff Darryl Cotton, hereby respectfully submits this Notice of Errata on:

1. PLAINTIFFS NOTICE OF EX PARTE APPLICATION FOR (1) OSC WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE: (2) RECORD LIS PENDEN: MEMORANDUM OF POINTS OF AND AUTHORITIES, DECLARATION OF DARRYL COTTON. (Filed 10/27/2020).

1 2. PLAINTIFFS NOTICE OF EX PARTE APPLICATION AND EX PARTE APPLICATION FOR
2 LEAVE TO FILE ATTACHED OMNIBUS SUR-REPLY and Certificate of Service. (Filed
3 10/29/2020)

4 The undersigned erroneously submitted the above referenced motions and supporting declarations with
5 an erroneous caption naming previously dismissed defendant and excluding certain named defendants.
6 Attached hereto are the amended cover sheets for each motion and declaration contained therein and
7 updated certificate of service.
8

9 Dated: October 30, 2020

Darryl Cotton

10
11 By  _____
12
13

Plaintiff *In Propria Persona*

1 DARRYL COTTON
6176 Federal Boulevard
2 San Diego, CA 92114
3 Telephone: (619) 954-4447

4 Plaintiff *Pro Se*

5
6
7 UNITED STATES DISTRICT COURT
8 SOUTHERN DISTRICT OF CALIFORNIA
9

11 DARRYL COTTON,
12 Plaintiff,
13 vs.

14 CYNTHIA BASHANT, an individual, JOEL
15 WOHLFEIL, an individual, LARRY GERACI, an
16 individual, REBECCA BERRY, an individual;
17 GINA AUSTIN, an individual; MICHAEL
18 WEINSTEIN, an individual; JESSICA
19 MCELFRESH, an individual, and DAVID
20 DEMIAN, an individual
21 Defendants.

Case No. 3:18-cv-TWR (DEB)
Formerly: 3:18-cv-00325-BAS (DEB)

PLAINTIFF'S NOTICE OF EX PARTE
APPLICATION FOR (1) OSC FOR WHY A
PRELIMINARY INJUNCTION SHOULD NOT
ISSUE; TO (2) RECORD LIS PENDENS;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF DARRYL
COTTON

Hearing Date: N/A
Hearing Time: N/A
Judge: Hon. Todd Robinson
Courtroom: 3A

21 PLAINTIFFS' MOTION FOR ORDER TO SHOW CAUSE RE: PRELIMINARY INJUNCTION
22 AND REQUEST FOR PERMISSION TO FILE A LIS PENDENS,
23 RESTRAINING ORDER AND PRELIMINARY INJUNCTION

24 This Order to Show Cause shall be based upon the affidavit of Darryl Cotton, sworn to on
25 October 27, 2020, the complaint filed in this matter, memorandum of points and authorities, the
26 exhibits referred to herein are attached to the Declaration of Darryl Cotton and other evidence that be
27 presented at hearing should the Court order one.
28

DARRYL COTTON
6176 Federal Boulevard
San Diego, CA 92114
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Plaintiff *Pro Se*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DARRYL COTTON,
Plaintiff,

v.

CYNTHIA BASHANT, an individual, JOEL
WOHLFEIL, an individual, LARRY
GERACI, an individual, REBECCA BERRY,
an individual; GINA AUSTIN, an individual;
MICHAEL WEINSTEIN, an individual;
JESSICA MCELFRISH, an individual, and
DAVID DEMIAN, an individual
Defendants.

Defendants.

Case No.: 3:18-cv-00325-TWR-DEB

PLAINTIFFS NOTICE OF *EX PARTE*
APPLICATION AND *EX PARTE*
APPLICATION FOR LEAVE TO FILE
ATTACHED OMNIBUS SUR-REPLY

Related Case: Case No.: 3:20-cv-
00656-TWR-DEB

PLEASE TAKE NOTICE: Plaintiff Darryl Cotton pro se, respectfully move for leave to submit the attached omnibus sur-reply (attached as "Exhibit A") in order to prevent an injustice and further fraud upon the court based on newly discovered evidence. Plaintiff requests that this sur-reply be applied to the following motions pending before this Court.

Case No.: 3:18-cv-00325-TWR-DEB (*Cotton v. Geraci et. al.*).

1. Motion to Dismiss for Failure to State a Claim by Gina Austin (Docket No. 24).

DARRYL COTTON
6176 Federal Boulevard
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Plaintiff *Pro Se*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DARRYL COTTON,
Plaintiff,
vs.

CYNTHIA BASHANT, an individual, JOEL
WOHLFEIL, an individual, LARRY GERACI, an
individual, REBECCA BERRY, an individual;
GINA AUSTIN, an individual; MICHAEL
WEINSTEIN, an individual; JESSICA
MCELFRESH, an individual, and DAVID
DEMIAN, an individual
Defendants. Defendants.

Case No. 3:18-cv-00325-TWR (DEB)
Formerly: 3:18-cv-003250-BAS (DEB)

**DECLARATION OF DARRYL COTTON
IN SUPPORT OF HIS *EX PARTE*
APPLICATION FOR LEAVE TO FILE
ATTACHED OMNIBUS SUR-REPLY**

Hearing Date: N/A

Hearing Time: N/A

Judge: Hon. Todd W. Robinson Hon.
Todd W. Robinson

Courtroom: 3A

I, DARRYL COTTON, declare:

1. I am over the age of eighteen years, and the Plaintiff in this action.
2. The facts set forth herein are true and correct as of my own personal knowledge.
3. This declaration is submitted in support and in furtherance of my Ex Parte Application for Leave to file Omnibus Sur-reply and Omnibus Sur-reply.
4. This Declaration is supplemental to the October 27, 2020 Declaration as there has been new information and evidence that has been given to me the following day, today, October 28, 2020.
5. Corina Young (Young) was to be an essential material witness in the state court case Cotton I. Despite multiple pre-trial communications by my attorney Jacob Austin and Young's attorney Natalie Nguyen (Nguyen) that began in or around January 17, 2019 and continued up until trial I/we were never able to secure Young's testimony.

DARRYL COTTON
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Plaintiff *Pro Se*

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DARRYL COTTON,
Plaintiff,

v.

CYNTHIA BASHANT, an individual, JOEL
WOHLFEIL, an individual, LARRY
GERACI, an individual, REBECCA BERRY,
an individual; GINA AUSTIN, an individual;
MICHAEL WEINSTEIN, an individual;
JESSICA MCELFRISH, an individual, and
DAVID DEMIAN, an individual
Defendants.

Defendants.

Case No.: 3:18-cv-00325-TWR-DEB

OMNIBUS SUR-REPLY

Related Case: Case No.: 3:20-cv-
00656-TWR-DEB

Plaintiff hereby files this omnibus sur-reply in reply to:

1. Motion to Dismiss for Failure to State a Claim by Gina Austin (Docket No. 24).
2. MOTION to Dismiss for Failure to State a Claim by Michael Weinstein (Docket No.25).
3. Plaintiff's Notice of Ex Parte Application and Ex Parte Application for Appointment of Counsel by Darryl Cotton (Docket No. 36).
4. Plaintiff's Ex Parte Application for (1) OSC RE: Preliminary Injunction, (2) Record Lis Pendens.

CERTIFICATE OF SERVICE

I, Darryl G. Cotton, hereby certify that a true and correct copy of the forgoing Motion for Leave to File Omnibus Sur-reply was served via Electronic Mail to the following parties:

Defendants

Larry Geraci
Larry@tfcisd.net

Gina Austin
Gaustin@austinlegalgroup.com

Michael Weinstein
Mweinstein@ferrisbritton.com

Cythina Bashant
Efile_bashant@casd.uscourts.gov

David Demian
ddemian@ftblaw.com

Attorney For Defendant Gina Austin and Austin Legal Group

Julia Dalzell
jdalzell@pettikohn.com

Attorney for Michael Weinstein

Gregory Brian Emdee
gemdee@kmslegal.com

Dated: October 30, 2020

Darryl Cotton

By



Plaintiff In Propria Persona