

# Justice Lost

## When Judges Protect Judges



**Chief Justice Sidney Thomas**  
Federal Appellate Court  
Ninth Circuit



**Judge Cynthia Bashant**  
Southern District - Federal  
Defendant



**Judge Joel Wohlfeil**  
Superior Court - State  
Defendant

My name is Darryl Cotton and I am a pro se plaintiff litigant who has been battling a SHAM LAWSUIT that was filed against me in state court and has ended up in federal court, all in an effort to deprive me of my property ownership rights. Specifically, where this case begins is with an opportunity to apply for and secure a license that would allow for the operation of a cannabis dispensary in San Diego. Since there are strict land use requirements to qualify that are based upon their property line separation distances from schools, parks and residences, these are highly coveted properties. There are a limited number of commercial properties that meet these stringent separation requirements but even for those that can qualify, the number of licenses being issued is limited to just 4 per council district or 36 across the City of San Diego.

What I am about to share here, in a very abbreviated form, has been thoroughly documented on my website with uploaded court documents @ [151Farmers.org/canna-greed](https://151Farmers.org/canna-greed). There is also a [Personnel Flowchart](#) with hyperlinks at the beginning of Section 11 for state court case documents and Section 12 for federal case documents. This entire presentation may be downloaded @ Section 11.36 of Canna-Greed.

- 1) My legal issues began in March of 2017 when Larry Geraci, a licensed real estate agent and financial advisor sued me for a breach of contract which stemmed from my not selling my property to him. Geraci wanted to own my property so he could apply for and develop a City of San Diego license for a Marijuana Outlet - Conditional Use Permit (MO-CUP). We had orally agreed to the sale and joint venture terms and conditions that would have allowed him to do so but when he refused to put those terms and conditions into writing, and the excuses for why he couldn't do so kept coming, I decided after giving him numerous opportunities to reduce our agreement to writing, to cancel the deal and sell my property to another party.
- 2) On 03/21/17 Superior Court Case No 37-2017-00010073-CU-BC-CTL ([ROA-1](#)) GERACI v COTTON sues for Breach of Contract whereby he claims that a 3-sentence document he gave me that was a receipt for a \$10K earnest money deposit towards the purchase of the property was, based on this lawsuit, a complete and fully integrated contract that contained all the terms and conditions for the sale of my property contingent on Geraci being successful in acquiring the CUP, the costs associated with the CUP, which would include all architecture, engineering and construction costs to develop the property, and the joint venture terms we had orally agreed to it was clear that not only was the 3 sentence document incapable of documenting those myriad conditions, as a real estate agent he was not even offering me a CAR form Purchase and Sale Agreement with Escrow Instructions as would be the normal real estate contract between a buyer and seller.
- 3) On 05/12/17 I countersue Geraci ([ROA-19](#)) under, among other claims, his Breach of an Oral Contract. Judge Joel R. Wohlfeil presides over both complaints.
- 4) There is quite a bit of legal maneuvering that goes on from this point but to encapsulate everything I will state that as SOON as Geraci admits in court pleadings that the original complaint he filed on 03/21/17 was NOT a fully integrated contract, Judge Wohlfeil should have thrown his complaint out. He did not. INSTEAD he let this go to a jury trial whereby they, the jury, were expected to decide what is, as is the JUDGES JOB, **a basic matter of contract law**. A matter where there was no mutual assent between the parties and the [3 sentence document and confirmation e-mail](#) attesting to that as in his email reply Geraci appeared to agree that this was not a complete and fully integrated contract where ALL the terms and conditions were set forth within the 4 corners of that document!

By failing to decide on this basic matter of contract law, Judge Wohlfeil kept me in unnecessary litigation on a matter that did not meet the basic thresholds of what would be legally required to meet Geraci's original claims. When, on numerous occasions, he was asked why he wouldn't dismiss the original Geraci complaint based on these conditions not being met, Judge Wohlfeil avoided answering it by saying ["We've been down this road many times before and we're not going to revisit it again"](#).

Judge Wohlfeil has never once issued his reasoning for how the original Geraci complaint should stand as a fully integrated contract. He is a disgrace to the judiciary and a fraud. I also believe he has been acting in concert with the City of San Diego, complicit in Geraci's attempts to monopolize the cannabis industry in San Diego as well as other outlying communities.

- 5) Over the course of the state court trial, it became obvious to me that not only was I not going to get justice but that Geraci had tied my property up with the City of San Diego Development Services Department (DSD) so that there would be no chance that I, as the property owner, could apply for and be granted that MO-CUP. In fact, it became obvious that DSD was actively involved with Geraci and his team of lobbyists, architects and attorneys to delay the processing of my 6176 MO-CUP. which of course Geraci had complete control over. In [ROA-240](#) Judge Wohlfeil wouldn't even grant me a 3<sup>rd</sup> party administrator that I would have paid for, to assure that even at a modest level, my rights to the MO-CUP were being protected while the property ownership matter with Geraci was being litigated.
- 6) Armed with increasing evidence that DSD, Geraci and his attorney Gina Austin were engaged in a conspiracy to deny me of my rights but were involved in an ever expanding enterprise of pay to play cannabis licensing corruption with the City of San Diego that were, under color of authority, denying me of my constitutional rights (42 USC 1983) I decided to bring these matters into federal court.
- 7) On 02/09/18 I filed a complaint in federal court, case no: 18-CV-0325-GPC-MDD [\(12A-ECF-1\)](#) COTTON v GERACI ET AL which not only charged Geraci with the state court charges but was expanded to include his attorneys and the City of San Diego under among 20 charges that violate: RICO, 42 USC 1983 and CONSPIRACY to name a few. Judge Curiel was assigned the case and he stayed the federal matter until the state court proceedings were completed. THIS WAS THE FIRST FEDERAL JUDICIAL ERROR. Judge Curiel has a Sua Sponte responsibility to examine the claims being made in my complaint and issue a decision on whether or not the 03/21/17 Geraci was a fully integrated contract. Any FIRST YEAR LAW STUDENT can see that it was not. Instead Judge Curiel took the easy way out by issuing a Stay based on The Colorado River Doctrine which is not even relevant to my case. Judge Curiel could have ended the state court matter right then and moved matters into federal court but at the time I was satisfied that at least I was in federal court and as a pro se plaintiff litigant I viewed it as an accomplishment. Besides at this point what choice or options did I have?
- 8) I appealed Judge Wohlfeil's decision to deny me a 3<sup>rd</sup> party court appointed receiver [\(ROA-303\)](#) who would administer the MO-CUP application so that Geraci did not have complete control of that process.
- 9) On 07/26/18 [\(ROA-281\)](#) the state Appellate Court upheld Judge Wohlfeil's decision and denied me that appeal for a 3<sup>rd</sup> party court appointed receiver. Geraci was to remain in complete control of the MO-CUP process on my property.
- 10) On 09/12/18 I filed a Motion to Disqualify [\(ROA 292\)](#) Judge Wohlfeil and included: [Exhibits 1-8](#), [Exhibits 9-12](#), [Exhibit 13](#) and [Exhibits 14-21](#)



- 11) On 09/15/18 Geraci and his attorneys filed for, and were granted, 5 Temporary Restraining Orders ([TRO's](#)) against me. This would require that I stay 200 yards away from them. The reason I believed they did this is to prevent me from attending public hearings on a competing MO-CUP @ 6220 Federal Blvd that Geraci was behind so that the 6176 CUP could not be approved while the 6220 CUP would be. The reason for this was simple. The MO-CUP goes with the property. Geraci had no case. He was not going to own my 6176 property and if it were not for the help of DSD and Judge Wohlfeil he HAD to have another CUP within the 1,000 ft radius of my property so that once the state court case was adjudicated and he lost, the other CUP at only 300 ft away would prevent me from getting a CUP on that property.
- 12) On 09/17/18 Judge Wohlfeil denies([ROA-297](#))the Motion to Disqualify. Note the date and his signature on the last page. What is very **very** wrong with this particular order and the timing to the docket can be found in the [docket ROA numbers](#). **It wasn't until Judge Wohlfeil found that he was a defendant in my federal case that he was forced to upload my DQ motion and his order striking it some 16 months later.** That and the procedural reasons he gives for the denial are absolute fabrication. This judge had to hold onto this case or the whole thing would have come tumbling down around him. He knew of the fraud committed upon and by the court then and soon the world will know of it as well.
- 13) On 04/04/19 I filed a Motion([ROA-491](#)) that Geraci's interrogatories be binding. Essentially Geraci was switching his story from his original complaint that was based on the 3 sentence document being a fully integrated contract, then in later responses he acknowledged there were oral assurances that were agreed to outside of that document. Had the judge granted this motion and made all the statements binding it would have been game over for Geraci. He did not.
- 14) On 04/29/19 ([ROA-511](#)) Judge Wohlfeil denies my motion that Geraci's Interrogatories be binding and orders sanctions against me.
- 15) On 06/27/19 ([ROA-590](#)) Judge Wohlfeil issues a Minute Order on attorney Andrew Flores, the actual buyer of my property and who had performed limited representation for me in this case, denying his *ex parte* Motion to Intervene in this case. Flores's interests in the case or my property are of no concern to this state court.
- 16) There are a series of Motions in Limine that we filed with the court to see if we could introduce the evidence we had of the fraud and conspiracy charges we had discovered that would allow the jury to see what were behind Geraci's real motivations with the case. All were denied ([RAO-596](#)) and none of this information was allowed to be heard by the jury. This ultimately led to the jury deciding in favor of Geraci.
- 17) On 08/09/19 ([ROA-648](#)) Cotton's Proposed Judgement for Jury Verdict is denied.
- 18) On 08/20/19 ([ROA-652](#)) Geraci's Notice of Entry of Judgement for \$260K is approved. **See Exhibit 1**
- 19) On 08/21/19 ([RAO-654](#)) in Geraci's Memorandum of Costs. Attorney fees were not requested for recovery. After 3 years of litigation this had to be an amount well in excess of \$500K that Geraci had to have spent over the course of that litigation. **See Exhibit 2**
- 20) On 09/13/19 ([ROA-672](#)) Cotton, with new counsel, files a Motion for New Trial.

- 21) On 10/25/19 ([ROA-697](#)) Judge Wohlfeil denies the Motion for New Trial.
- 22) On 12/23/19 ([12A-ECF-8](#)) Cotton files a Motion to Unstay the case in federal court. It is within this motion that I detail what has gone on at the state court level and provided a flowchart that graphically illustrated the bad actors who had conspired to deprive me of my rights. I have no doubt that this led to Judge Curiel's complete understanding of how bad things had gotten since he issued his Stay Order pending the state course outcome way back on 12A-ECF-7 of 02/28/18. **See Flowcharts Exhibit 3**
- 23) On 01/10/20 ([12A-ECF-9](#)) Judge Curiel recuses himself. Judge Whelan is assigned the case.
- 24) On 01/10/20 ([12A-ECF-10](#)) Judge Whelan recuses himself. Judge Bashant is assigned.
- 25) On 01/15/20 ([12A-ECF-11](#)) Judge Bashant lifts the stay.
- 26) On 04/03/20 ([12C-ECF-1](#)) Case No: 20CV656 Attorney Andrew Flores files FLORES ET AL v AUSTIN ET AL in federal court on behalf of himself and co-plaintiff Amy Sherlock. While there are parallel matters in my case to be decided, Flores and I can not agree on what the end game would be in this matter. I have suffered damages with pain and suffering where I will not settle. I want a jury trial. I want vindication and I want the people who did this to me to be held accountable for their actions so they can't do it to others or continue to engage in these activities in the future. Judge Sammartino is assigned the case.
- 27) On 04/07/20 Judge Sammartino recuses herself ([12C-ECF-5](#)) from the Flores case. Judge Sabraw is assigned.
- 28) On 04/13/20 I file a [Complaint with Exhibits](#) with the Commission on Judicial Performance regarding Judge Wohlfeil's performance on my case. **See Exhibit 4**
- 29) On 04/17/20 Judge Sabraw recuses himself ([12C-ECF-7](#)) from the Flores case. Judge Bashant is assigned.
- 30) On 05/05/20 [I file a complaint](#) with the Judicial Council of the Ninth Circuit regarding Judge Bashant's rulings on my case. She is protecting Judge Wohlfeil. I will not keep going through this. **See Exhibit 5**
- 31) On 05/13/20 I file an Amended Complaint ([12A-ECF-18](#)) naming both Judge Bashant and Judge Wohlfeil as defendants.
- 32) On 05/14/20 ([ROA-724](#)) screenshot showing Judge Wohlfeil's docket whereby the judgement is entered against me for \$0 not the \$260K as shown in ([ROA-652](#)). As can also be seen by this image that ROA 724 is not able to be seen or available to purchase to the shopping cart. **See Exhibit 6**
- 33) On 07/09/20 [The CJP takes no action and dismisses my complaint against Judge Wohlfeil](#). **See Exhibit 7**
- 34) On 08/05/20 ([12A-ECF-37/38](#)) I find that the federal court is now playing games with my motions. In this case Judge Bashant, or someone in her office, removed my signature page (page 27) of my motion for court appointed counsel. In her order to put the signature page back in my motion, she blames the removal on that page being an "Improperly Titled Document and Missing Proof of Service". This is

patently false since the signature page was not titled at all and the proof of service was the previous days email to all parties that INCLUDED the page Judge Bashant TOOK OUT. This action reminded me of the manipulations Judge Wohlfeil did on the DQ Motion I had filed. **There was NO REASON whatsoever that page should have been taken out.** She knows there was no excuse for her actions and because I fortunately followed up the upload and caught that it was missing, so do I. **See Exhibit 8**

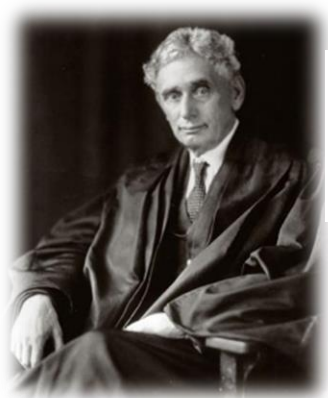
35) On 09/24/20 Judge Bashant recuses herself ([12C-ECF-26](#))(12C-ECF-26) from the Flores case. Judge Robinson is assigned.

36) On 09/24/20 Judge Bashant recuses herself ([12A-ECF-42](#)) from the Cotton case. Judge Robinson is assigned.

37) On 10/19/20 Chief Justice S. Thomas of the 9<sup>th</sup> circuit [takes no action](#) and dismisses my complaint against Judge Bashant. **See Exhibit 9**

38) On 11/03/20 I filed an Omnibus Sur-Reply ([12A-ECF- 46](#)) that brings forth new information in which an attorney, Natalie Nguyen who was representing a material fact witness, Corina Young, in the GERACI v COTTON state court matter conspired to have her client avoid a subpoena which was to provide Young's sworn statement that would have dispositively proven that Geraci was intent on sabotaging the MO-CUP at 6176 to avoid damages and to deny me any chance of acquiring that MO-CUP. Part of the exhibits includes confidential emails that went between Young and Nguyen that support that conspiracy.

As of 12/03/20 Judge Robinson has not made any decisions on either the Flores or my case. I realize that there is a lot to consider but to date the delays have done nothing other than to disappoint me in how judges seem to go out of their way to protect other judges even if that means the law is not being followed and citizen's rights are being trampled. This must be stopped. If we don't expose these unholy alliances, there will be no justice for all. It will only be available to those with the right connections and who can afford it. And that is not an America we can live in or we should pass down to future generations.



I think former Associate Judge Louis D. Brandeis put it best when he said:

**"Sunlight Really is the Best Disinfectant"**

To those of you who hold positions of judicial authority, you would be well advised to remember those words!

**Contact Information:**

**Darryl Cotton**

**619.954.4447**

[indagrodarryl@gmail.com](mailto:indagrodarryl@gmail.com)

Visit me @

[151 Urban and Aquaponic Farms](#)

[Facebook/Darryl.Cotton](#) & [Facebook Banned Members Group](#)

Thank you for your interest and support in helping make our legal system work for everyone!

# Exhibits 1 – 9

*The exhibits shown here are best suited to accompany reduced size print versions of the presentation. In some cases they are part of what would be a much larger case exhibit that, should you wish to review it and I strongly encourage you to do so, you would click on the hyperlink wherever the exhibit is shown within the presentation to see the entire exhibit on line.*

Exhibit 1: 08/19/19 Civil Court Judgement against Cotton for \$260,109.28

Exhibit 2: 08/21/19 Memorandum of Costs (Summary) showing no attorney fees requested.

Exhibit 3: [12/01/20 Personnel Flowchart](#)

Exhibit 4: 04/13/20 Cotton's Complaint to the Commission on Judicial Performance re Judge Wohlfeil.

Exhibit 5: 05/05/20 Cotton's Complaint to The Judicial Council of the Ninth Circuit re Judge Bashant.

Exhibit 6: 05/14/20 Judge Wohlfeil's Docket Showing a \$0 Judgement against Cotton.

Exhibit 7: 07/09/20 The Commission on Judicial Performance takes no action and closes the complaint.

Exhibit 8: 08/05/20 Judge Bashant's Order to reinsert the page that had been removed from my motion.

Exhibit 9: 10/19/20 Chief Judge Thomas takes no action and closes the Judge Bashant complaint.

1 A true and correct copy of Special Verdict Form No. 2 is attached hereto as Exhibit "C."

2  
3 **NOW, THEREFORE, IT IS ORDERED, ADJUDGED AND DECREED:**


4 1. That Plaintiff LARRY GERACI have and recover from Defendant DARRYL COTTON  
5 the sum of \$260,109.28, with interest thereon at ten percent (10%) per annum from the date of entry of  
6 this judgment until paid, together with costs of suit in the amount of \$ \_\_\_\_\_;

7 2. That Cross-Complainant DARRYL COTTON take nothing from Cross-Defendant  
8 REBECCA BERRY; and

9 3. That Cross-Complainant DARRYL COTTON take nothing from Cross-Defendant  
10 LARRY GERACI.

11  
12 **IT IS SO ORDERED.**

13  
14 Dated: 8-19, 2019

  
\_\_\_\_\_  
Hon. Joel R. Wohlfeil  
**JUDGE OF THE SUPERIOR COURT**

Judge Joel R. Wohlfeil



MC-010

ATTORNEY OR PARTY WITHOUT ATTORNEY NAME: Michael R. Weinstein FIRM NAME: FERRIS & BRITTON, APC STREET ADDRESS: 501 West Broadway, Suite 1450 CITY: San Diego TELEPHONE NO.: 619-233-3131 E-MAIL ADDRESS: mweinstein@ferrisbritton.com ATTORNEY FOR (name): LARRY GERACI and REBECCA BERRY		STATE BAR NUMBER: 106464 STATE: CA ZIP CODE: 92101 FAX NO.: 619-232-9316		<b>ELECTRONICALLY FILED</b> Superior Court of California, County of San Diego <b>08/21/2019 at 01:44:00 PM</b> Clerk of the Superior Court By E- Filing, Deputy Clerk
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO STREET ADDRESS: 330 West Broadway MAILING ADDRESS: CITY AND ZIP CODE: San Diego, California 92101 BRANCH NAME: HALL OF JUSTICE				
PLAINTIFF: LARRY GERACI DEFENDANT: DARRYL COTTON				
<b>MEMORANDUM OF COSTS (SUMMARY)</b>				CASE NUMBER: 37-2017-00010073-CU-BC-CTL

## The following costs are requested:

	TOTALS
1. Filing and motion fees	\$ 2,340.00
2. Jury fees	\$ 844.30
3. Jury food and lodging	\$
4. Deposition costs	\$ 9,535.44
5. Service of process	\$ 325.03
6. Attachment expenses	\$
7. Surety bond premiums	\$
8. Witness fees	\$ 550.00
9. Court-ordered transcripts	\$
10. Attorney fees <i>(enter here if contractual or statutory fees are fixed without necessity of a court determination; otherwise a noticed motion is required)</i>	\$
11. Court reporter fees as established by statute	\$ 13,132.04
12. Models, enlargements, and photocopies of exhibits	\$ 3,864.45
13. Interpreter fees	\$
14. Fees for electronic filing or service	\$ 395.90
15. Fees for hosting electronic documents	\$
16. Other	\$ 2,625.00
<b>TOTAL COSTS</b>	<b>\$ 33,612.16</b>

I am the attorney, agent, or party who claims these costs. To the best of my knowledge and belief this memorandum of costs is correct and these costs were necessarily incurred in this case.

Date: August 21, 2019

MICHAEL R. WEINSTEIN

(TYPE OR PRINT NAME)

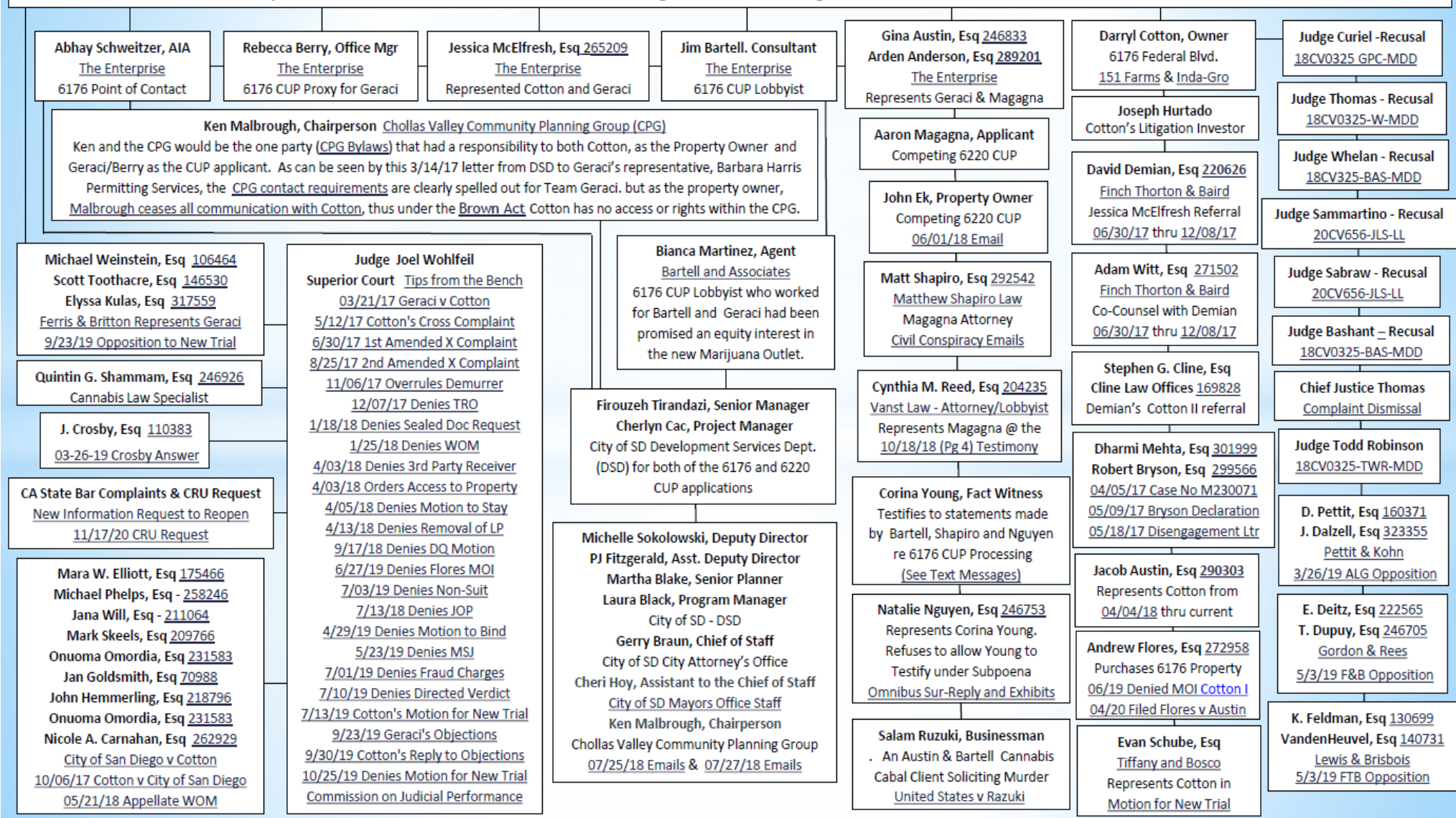
►   
 (SIGNATURE OF DECLARANT)

(Proof of service on reverse)

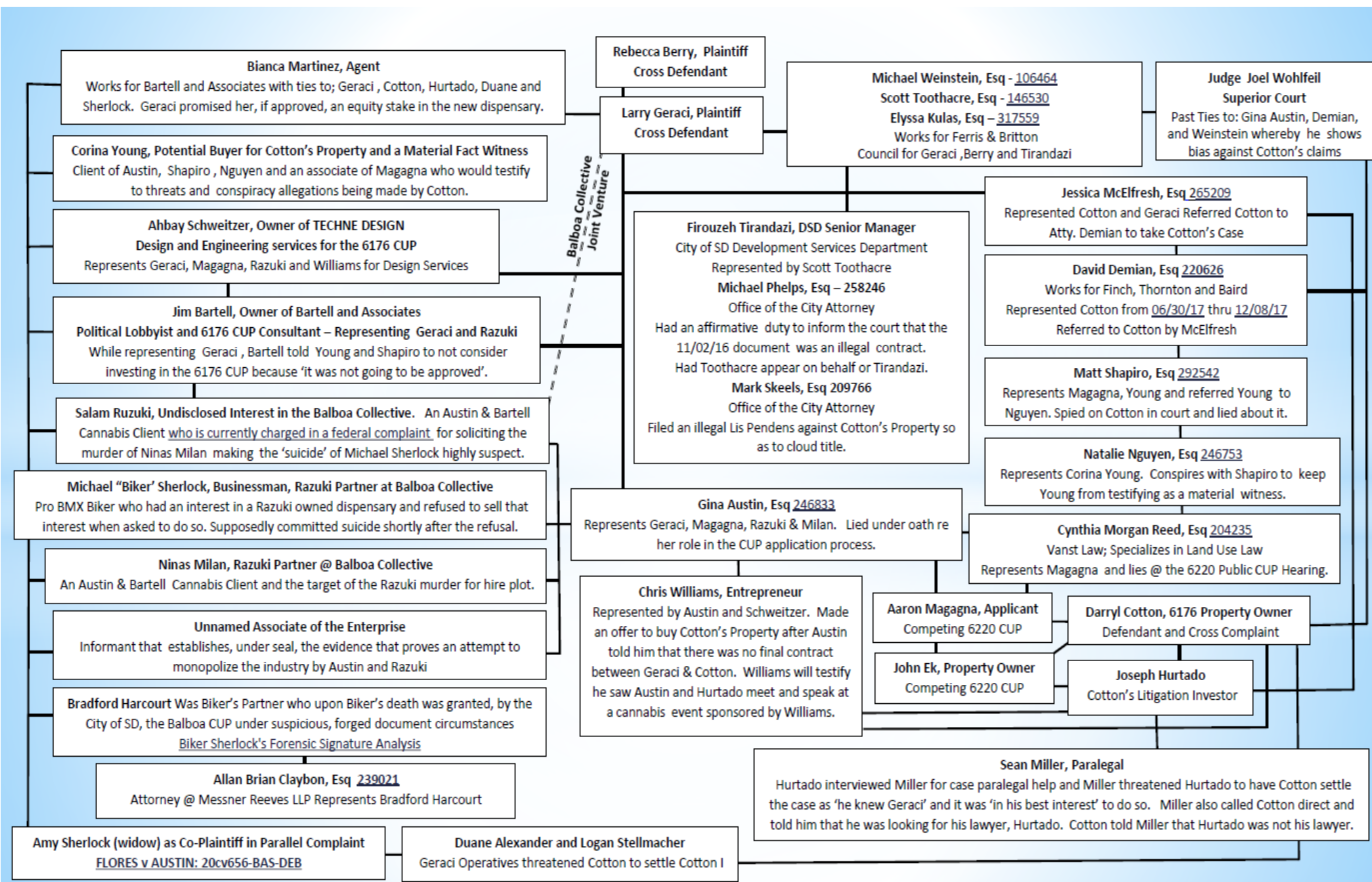
Page 1 of 2

# A Personnel Flowchart for Competing Licensed Marijuana Outlets at 6176 and 6220 Federal Boulevard, San Diego, CA 92114

'Team Geraci' is: Larry Geraci, Tax & Financial Advisor, Enrolled Agent, Real Estate Agent, Owner of Tax and Financial Center – Published Date: 12/01/20









State of California  
**Commission on Judicial Performance**  
455 Golden Gate Avenue, Suite 14400  
San Francisco, CA 94102-3660  
(415) 557-1200  
Fax (415) 557-1266  
Website: <http://cjp.ca.gov>

April 13, 2020

Darryl Cotton  
6176 Federal Blvd.  
San Diego, CA 92114

Dear Mr. Cotton:

This letter is to acknowledge receipt of your recent complaint against a California judge(s). We appreciate your time and effort in bringing this matter to the commission's attention. We are presently reviewing this information and, if further information is needed, you will be contacted. You will be advised in writing, at a later date, of the commission's action in this matter.

To give you some information about the process, each complaint about a judge is voted upon by the commission. When a complaint states facts which could be misconduct, if the facts are true and there is not another explanation for what happened, the commission typically opens an investigation. The commission's staff will interview witnesses, review documents or files and conduct other investigation. If there is sufficient evidence supporting the complaint, the judge will be contacted and asked to respond to the allegations. The commission then reviews the available evidence, and the judge's response if the judge was contacted, to make a determination whether misconduct has occurred. Misconduct must be established by clear and convincing evidence, a higher standard than is required in civil cases but lower than in criminal cases. If the evidence does not support a finding of misconduct, the commission will close the case. The commission may also close the case if the misconduct was relatively minor and the judge has acknowledged the problem and taken steps to prevent it from happening again. If the evidence supports a finding of misconduct and the commission determines that discipline may be appropriate, the commission may proceed to impose discipline.

It may also be helpful to explain that the Commission on Judicial Performance is not a court. It does not have the authority to reverse a judge's decision, move your case to another department or court, disqualify a judge or otherwise get involved in your case. The commission's role is limited to reviewing allegations of judicial misconduct. A judge's legal rulings and discretionary decision-making, without more, are not a basis for review by the commission. Even if a judge's decision is later determined by an appellate




Darryl Cotton  
April 13, 2020  
Page Two

court to be legally incorrect, that by itself is not a violation of the Code of Ethics and is not misconduct. A judge's legal error might be a basis for investigation by this commission if there is sufficient evidence of bad faith, bias, abuse of authority, disregard for fundamental rights, intentional disregard of the law or any purpose other than the faithful discharge of judicial duty.

Lastly, our office is not able to provide legal advice. If you wish to determine what legal avenues are available to you, you might consider contacting an attorney or legal services provider to see if they can help you.

Very truly yours,

  
Amy Ladine  
Administrative Specialist

OFFICE OF THE CIRCUIT EXECUTIVE  
UNITED STATES COURTS FOR THE NINTH CIRCUIT

JAMES R. BROWNING UNITED STATES COURTHOUSE  
95 SEVENTH STREET  
POST OFFICE BOX 193939  
SAN FRANCISCO, CA 94119-3939

ELIZABETH A. SMITH  
CIRCUIT EXECUTIVE  
PHONE: (415) 355-8900

June 10, 2020

Darryl Cotton  
6176 Federal Boulevard  
San Diego, CA 92114

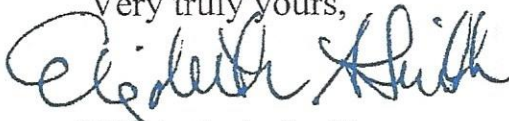
Re: Complaint of Judicial Misconduct No. 20-90056

Dear Mr. Cotton:

We have received the complaint of judicial misconduct filed pursuant to 28 U.S.C. § 351(a) against District Judge Bashant. Docket Number 20-90056 has been assigned to this matter.

Pursuant to the Rules for Judicial-Conduct and Judicial-Disability Proceedings, a copy of the complaint has been forwarded to Chief Judge Thomas and District Judge Bashant.

Very truly yours,



Elizabeth A. Smith

EAS/tc

Judicial Council of the Ninth Circuit

**COMPLAINT OF JUDICIAL MISCONDUCT OR DISABILITY**

To begin the complaint process, complete this form and prepare the brief statement of facts described in item 5 (below). The RULES FOR JUDICIAL-CONDUCT AND JUDICIAL-DISABILITY PROCEEDINGS, adopted by the Judicial Conference of the United States, contain information on what to include in a complaint (Rule 6), where to file a complaint (Rule 7), and other important matters. The Ninth Circuit Judicial Council also adopted local misconduct rules. The rules are available in federal court clerks' offices, on individual federal courts' Web sites, and on [www.uscourts.gov](http://www.uscourts.gov), and [https://www.ca9.uscourts.gov/misconduct/judicial\\_misconduct.php](https://www.ca9.uscourts.gov/misconduct/judicial_misconduct.php).

Your complaint (this form and the statement of facts) should be typewritten and must be legible. Under the Ninth Circuit's local misconduct rules, you are required to file five copies of your misconduct complaint and exhibits, plus one copy for each additional judge if more than one subject judge is named in your complaint. Enclose your complaint in an envelope marked "COMPLAINT OF MISCONDUCT" or "COMPLAINT OF DISABILITY" and submit it to the appropriate clerk of court. **Do not put the name of any judge on the envelope.**

1. Name of Complainant: Darryl Cotton  
Contact Address: 6176 Federal Blvd.  
San Diego, CA 92114  
Daytime telephone: (619) 954-4447
2. Name(s) of Judge(s): Hon. Cynthia Bashant  
Court: US District Court Southern District of California
3. Does this complaint concern the behavior of the judge(s) in a particular lawsuit or lawsuits?  
☒ Yes ☐ No  
If "yes," give the following information about each lawsuit:  
Court: 9th Circuit - San Diego  
Case Number: 18-cv-325-BAS-MDD  
Docket number of any appeal to the NA Circuit: \_\_\_\_\_  
Are (were) you a party or lawyer in the lawsuit?  
☒ Party ☐ Lawyer ☐ Neither



If you are (were) a party and have (had) a lawyer, give the lawyer's name, address, and telephone number:

I am currently a Pro Se litigant in the previously referenced case.

There is a related case that is being presided over by Judge Bashant that was filed by my previous attorney Andrew Flores. That is Case No. 20CV0656 JLS LL

Law Office of Andrew Flores 945 4th Ave., San Diego, CA 92101

Ph: 619.256.1556

4. Have you filed any lawsuits against the judge?

[ X ] Yes [ ] No

If "yes," give the following information about each such lawsuit:

Court: US District Court Southern District of California

Case Number: 18-cv-325-BAS-MDD

Present status of lawsuit: 5%

Name, address, and telephone number of your lawyer for the lawsuit against the judge:

Self Represented Darryl Cotton

6176 Federal Blvd. SD CA 92114

619.954.4447

Court to which any appeal has been taken in the lawsuit against the judge:

Docket number of the appeal:

Present status of the appeal:

5. **Brief Statement of Facts.** Attach a brief statement of the specific facts on which the claim of judicial misconduct or disability is based. Include what happened, when and where it happened, and any information that would help an investigator check the facts. If the complaint alleges judicial disability, also include any additional facts that form the basis of that allegation. Local Rule 6.1(b) provides that your statement of facts must not be longer than five pages (five sides), or 1,200 words, whichever is less.

**You must provide objectively verifiable proof such as the names of witnesses or recorded documents or transcripts to support your allegations.** Adverse rulings do not support misconduct allegations, as the appropriate forum for an argument that a judge erred is the appellate court. Thus, you need not include copies of your filings in the underlying case or the judge's orders because even if a review of those documents is necessary, the documents are accessible via PACER. Excess or irrelevant documentation will be returned to the complainant.



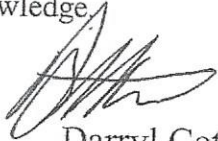
6. Acknowledgment, declaration and signature:

In the space provided below, please write the following statement: "I understand that even if I successfully prove that the judge engaged in misconduct or is disabled, this procedure cannot change the outcome of the underlying case." (If this statement is not written, your complaint will not be processed and will be returned to you.)

*I understand that even if I successfully prove that the judge engaged in misconduct or is disabled, this procedure cannot change the outcome of the underlying case.*

I declare under penalty of perjury that the statements made in this complaint are true and correct to the best of my knowledge.

(Signature) \_



Darryl Cotton

(Date) May 05, 2020

May 5, 2020

Chief Judge Sidney Thomas  
Judicial Council of the Ninth Circuit

**Re: Judicial Misconduct by Judge Cynthia Ann Bashant**

Chief Judge Thomas,

Judge Cynthia Ann Bashant has taken unethical actions either knowingly or with purposeful negligence to cover up the biased/unethical actions of state court judge Joel Wohlfeil. Wohlfeil and Bashant served together for approximately seven years in the San Diego Superior Court.

On November 2, 2016, Lawrence Geraci and I reached an oral joint venture agreement (the "JVA") to develop a cannabis store (the "Business") at my real property ("Property"). Geraci's attorney, Gina Austin, was to reduce the JVA to writing. That same day, Geraci and I executed a three-sentence document (the "November Document"), as my acceptance of \$10,000 in cash towards a total \$50,000 agreed-upon nonrefundable deposit.

Also that same day (i) Geraci emailed me a copy of the November Document; (ii) I replied and requested that Geraci confirm in writing the November Document is not a purchase contract (the "Request for Confirmation"); and (iii) Geraci replied and confirmed the November Document is not a purchase contract (the "Confirmation Email").

"As every first-year law student knows, an agreement or mutual assent is of course essential to a valid contract." *Jacks v. CMH Homes, Inc.*, 856 F.3d 1301, 1304 (10th Cir. 2017). The Request for Confirmation and the Confirmation Email prove that I and Geraci did not mutually assent to the November Document being a purchase agreement for the Property (the "Mutual Assent Issue").

I terminated the JVA with Geraci on March 21, 2017 for failing to reduce the JVA to writing and because I discovered he had applied for a cannabis permit at the Property in the name of his receptionist (the "Berry Application"). On March 22, 2017, Geraci's attorney, Michael Weinstein, served me with a suit alleging the November Document is a fully integrated purchase contract for the Property ("*Cotton I*").<sup>1</sup>

In the Berry Application, Berry certified she is the sole owner of the cannabis application being sought (the "Berry Fraud"). At trial in *Cotton I*, both Geraci and Berry testified that the false statements made in the Berry Application were made knowingly and allegedly because Geraci is an Enrolled Agent with the IRS and not because he is prohibited by law from owning a cannabis business as a result of at least three sanctions by the City for owning/operating illegal marijuana dispensaries (the "Illegality Issue"). See, e.g., *City of San Diego v. CCSquared Wellness Cooperative*, Case No. 37-2015- 00004430-CU-MC-CTL, ROA No. 44 (Stipulated Judgment) at 2:15-16 ("The address where the Defendants were maintaining a marijuana dispensary business at all times relevant to this action is 3505 Fifth Ave, San Diego[.]").

*Cotton I* can be determined to be a malicious prosecution action filed without probable cause for at least three reasons. First, the Mutual Assent Issue is case-dispositive. Second, the November Document has an unlawful object; Geraci's ownership of a cannabis business that he is prohibited from because of the Illegality Issue. Third, Geraci cannot own a cannabis permit via the Berry Application because of the Berry Fraud.

Wohlfeil has stated from the bench that he does not believe Weinstein and Austin are capable of acting unethically. There is an ongoing investigation by the state court against Wohlfeil that I filed.

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<sup>1</sup> *Larry Geraci vs Darryl Cotton*, San Diego County Superior Court, Case No. 37-2017-00010073-CU-BC-CTL.



In February 2018, I filed suit and a TRO in federal court against, *inter alia*, Geraci, Weinstein and Austin alleging, *inter alia*, RICO and § 1983 claims.<sup>2</sup> On February 28, 2019, because of *Cotton I* Judge Curiel stayed the action pursuant to the *Colorado River* doctrine.

In July 2019, Wohlfeil entered judgment against me in *Cotton I* after a jury trial. I filed a motion for new trial ("MNT") arguing, *inter alia*, assuming the November Document is a contract, it is an illegal contract that cannot be enforced. (*Cotton I*, ROA No 672.) Wohlfeil denied the MNT believing his buddy Weinstein's frivolous argument that I had waived the defense of illegality to the enforcement of a contract - Wohlfeil is a biased idiot. *City Lincoln-Mercury Co. v. Lindsey*, 52 Cal.2d 267, 274 (Cal. 1959) ("A party to an illegal contract cannot ratify it, cannot be estopped from relying on the illegality, and cannot waive his right to urge that defense.").

On January 10, 2020, Judge Curiel recused himself. On January 15, 2020, Bashant lifted the *Colorado River* stay, but denied my request for counsel. On April 9, 2020, I filed an ex parte application seeking reconsideration of the Court's denial of my request for counsel premised on, *inter alia*, the argument I needed to prove Judge Wohlfeil is biased. Further, I moved for Judge Bashant to vacate the order denying my request for counsel pursuant to FRCP 60(b) because, *inter alia*, the *Cotton I* judgment enforces an illegal contract.

On April 16, 2020, Judge Bashant denied my ex parte application in pro se fashion conclusory finding I had failed to prove "exceptional circumstances," but without describing why.

On April 3, 2020, my former attorney, Andrew Flores, filed suit in federal court and an ex parte TRO after I told him that some of my supporters who had lent me significant money were planning to shoot one of Geraci's attorneys to bring in law enforcement agencies to investigate what we believe to be a political corruption that includes Wohlfeil. (*Flores, et al. v. Austin, et al.*, Case No.20-cv-656-BAS-MDD.)

On April 20, 2020, Judge Bashant denied Flores' TRO. The opening paragraph states: "Plaintiffs... allege civil rights violations under 42 U.S.C. § 1983, make a '**neglect to perform wrongful act**' cause of action, and seek various forms of declaratory relief. The complaint is almost impossible to summarize due to its length and confusing nature." Also, she alleges that Flores did not comply with FRCP 65(b) for the issuance of a TRO because his reasoning is unclear on the premise that Corina Young is a "defendant."

First, according to Bashant, Flores is an idiot that sued someone for "neglect[ing] to perform wrongful act." Flores did not. Flores filed a § 1986 cause of action for "neglect to **prevent** a wrongful act." Bashant either purposefully is attempting to make Flores appear to be an idiot - what kind of moron sues somebody for *not* committing a crime? - or she did not bother to read the complaint with even the most minimal diligence that presumably is expected of any attorney, much less that of a federal judge.

Second, Corina Young is a witness who has been threatened from providing her testimony. She is not a "defendant." Bashant simply made that up.

Third, Flores *did* provide notice, case law and argument for why notice is not required pursuant to FRCP 65.

Fourth, given the preceding, her allegation that the Flores' complaint is "confusing" is denigrating as she clearly does not understand even the most basic facts she was presented with.

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<sup>2</sup> *Cotton v. Geraci*, Case No.: 18cv325-GPC(MDD).

Bashant's actions reflect she would rather ratify and enforce an illegal contract rather than expose Wohlfeil as a biased judge. How can justice ever be achieved when judges like Bashant fabricate and attribute statements to parties that prevent them from exposing judge's unethical actions?



Darryl Cotton



Screen shot taken on 12/02/20. ROA No 724 does not reflect the \$260K judgement (ROA-652) Geraci won at trial.

There are other anomalies with the financial side of this case. Neither Geraci nor his attorneys have ever sought the \$260K payment from me. They have not clouded title on my property, they never sought attorney's fees and ROA 724 cannot be added to the shopping cart so it can be seen.

NAME	ADDRESS	PHONE NUMBER
AUSTIN, JACOB	P O Box 231189 San Diego CA 92193	(619) 357-6850
COTTON, DARRYL	6176 Federal Boulevard San Diego CA 92114	(619) 634-1561
GERACI, LARRY	Not Available	
LEES, MEGAN E	Not Available	
TOOTHACRE, SCOTT H	Not Available	
WEINSTEIN, MICHAEL R	FERRIS & BRITTON APC 501 W Broadway 1450 San Diego CA 92101	(619) 233-3131, (619) 232-9316

1

**Register of Actions**

[All Entries](#) [Filing Entries](#) [Minutes Entries](#) [Scheduling Entries](#)

Enter text to search

1 2 3 4 5 6 7 8 9 10

ROA#	Entry Date	Short/Long Entry	Filed By	Document	
727	07/29/2020	E-mail (re: M Gmail: Meet & Confer re: Ex Parte motion for Appointment of Counsel) submitted by Cotton, Darryl; Geraci, Larry rejected on 07/29/2020.	Cotton, Darryl (Defendant); Geraci, Larry (Plaintiff)		
727	07/29/2020	[A document for ROA# 727]		Notice to Filing Party SD	<a href="#">Add to Cart</a>
726	05/27/2020	Disbursement of Clerk's Trust Fund (D077081) filed by The Superior Court of San Diego.		Disbursement of Clerk's Trust Fund	<a href="#">Add to Cart</a>
725	05/26/2020	Miscellaneous Minute Order Finalized.		Minute Order	<a href="#">Add to Cart</a>
724	05/14/2020	Judgment was entered as follows: Judgment entered for Geraci, Larry and against Cotton, Darryl for \$ 0.00, punitive damages: \$ 0.00, attorney fees: \$ 0.00, interest: \$ 0.00, prejudgment costs: \$ 0.00, other costs: \$ 0.00, amount payable to court: \$ .00, for a grand total of \$ 0.00.			
723	05/14/2020	Notice of Appeal dismissed without prejudice as to Cotton, Darryl .			
722	05/14/2020	Notice of Appeal dismissed without prejudice as to Geraci, Larry .			
721	05/14/2020	Remittitur filed by The Superior Court of San Diego.		Remittitur	<a href="#">Add to Cart</a>



State of California  
**Commission on Judicial Performance**  
455 Golden Gate Avenue, Suite 14400  
San Francisco, CA 94102-3660  
(415) 557-1200  
Fax (415) 557-1266  
Website: <http://cjp.ca.gov>

July 9, 2020

Darryl Cotton  
6176 Federal Boulevard  
San Diego, CA 92114

Dear Mr. Cotton:

At its July 2020 meeting, the Commission on Judicial Performance voted to close your complaint received April 13, 2020.

Your complaint concerns, in part, discretionary decision-making by a judge. Some decisions that judges make require them to use their discretion within the limits set by law. It is each judge's responsibility to exercise his or her best judgment after proper consideration; judges are deliberately given decision-making independence under our system of government. Others are free to disagree, voice objections, and, in appropriate circumstances, appeal. This commission is not a court and does not have the authority to reverse judicial decisions. Even if a judge's discretionary judicial decision is later determined to be legally incorrect by an appellate court, that by itself is not a violation of the Code of Judicial Ethics and is not misconduct. A judge's legal error might be a basis for investigation by this commission if there is sufficient evidence of bad faith, bias, abuse of authority, disregard for fundamental rights, intentional disregard of the law or any purpose other than the faithful discharge of judicial duty. The information you have provided is not sufficient to establish any of those factors.

If you wish to provide additional information regarding your complaint, it will be considered. You should provide specific information that fully describes what the judge said or did that you believe was misconduct. You may wish to consult the "Filing a Complaint" and "FAQ's" tabs on the commission's website (<http://cjp.ca.gov>) for further information about what a complaint should contain.

Darryl Cotton  
July 9, 2020  
Page 2

We appreciate your time and effort in bringing this matter to the commission's attention.

Very truly yours,

A handwritten signature in blue ink, appearing to read "A 2 for GC".

Gregory Cleaver  
Staff Counsel

GC:aap/L070920Cotton



# United States District Court

SOUTHERN DISTRICT OF CALIFORNIA

## NOTICE OF DOCUMENT DISCREPANCY

TO: ☒ U.S. DISTRICT JUDGE / ☐ U.S. MAGISTRATE JUDGE: The Hon. Cynthia Bashant

FROM: S. Dunbar, Deputy Clerk	RECEIVED DATE: August 5, 2020
CASE NO. 18-cv-00325-BAS-DEB	DOC FILED BY: Darryl Cotton
CASE TITLE: Cotton v. Geraci et al	
DOCUMENT ENTITLED: Motion to add page to Ex Parte	

Upon the submission of the attached document(s), the following discrepancies are noted:

LR 5.1 - Improperly Titled Document
LR 5.2 - Missing Proof of Service

Date Forwarded: August 5, 2020

## ORDER OF THE JUDGE / MAGISTRATE JUDGE

### IT IS HEREBY ORDERED:

<input checked="" type="checkbox"/>	The document is to be filed nunc pro tunc to date received.
<input type="checkbox"/>	The document is NOT to be filed. But instead REJECTED, and it is ORDERED that the Clerk serve a copy of this order on all parties.

Rejected documents to be returned to pro se or inmate? ☐ Yes. Court copy retained by chambers ☐

Any further failure to comply with the Local Rules may lead to penalties pursuant to Civil Local Rule 83.1 or Criminal Local Rule 57.1.

Date: August 6, 2020

CHAMBERS OF: The Honorable Cynthia Bashant

cc: All Parties

By: /s law clerk



**FILED**  
AUG 03 2020  
CLERK U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
DEPUTY  
BY: *[Signature]*

DARRYL COTTON  
6176 Federal Boulevard  
San Diego, CA 92104  
Telephone: (619) 954-4447  
Facsimile: (619) 229-9387

NUNC PRO TUNC

8/5/20

Plaintiff *Pro Se*

**FILED**  
Aug 06 2020  
CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
BY: *[Signature]* s/ Julie DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

DARRYL COTTON,

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. TOOTACRE, 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-00325-BAS (DEB)

**PLAINTIFF'S NOTICE OF EX PARTE APPLICATION AND EX PARTE APPLICATION FOR APPOINTMENT OF COUNSEL PURSUANT TO 28 U.S.C. §1915(e)(1); MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION OF DARRYL COTTON**

Hearing Date: N/A

Hearing Time: N/A

Judge: Hon. Cynthia A. Bashant

Courtroom: 4B

**TO ALL PARTIES AND THEIR COUNSEL OF RECORD:**

**PLEASE TAKE NOTICE** that on ~~July~~ <sup>AUGUST</sup> 31, 2020, Plaintiff DARRYL COTTON will move this

Court *ex parte* for an order appointing him counsel for representation in this action pursuant to 28 U.S.C.

§1915(e)(1). 8/6/20 TO THE COURT:

///

/// Please add page 27, as attached here to the  
/// motion. IT was provided in my submission  
/// as can be seen by Email Service but for  
/// whatever reason was NOT uploaded to the  
/// Court Packet. Thankyou!  
Darryl Cotton

Hannibal on Netflix, the fictional character made famous in Silence of the Lambs. In season 1, episode 3, the daughter of an individual she just learned is a serial killer asks "Can you catch somebody's crazy?" To which Hannibal responds: *"One cannot be delusional if the belief in question is accepted as ordinary by others in that person's culture or subculture. Or family."* There are state and federal judges at the trial and appellate level who have directly or indirectly stated I am crazy without explaining why. On the other hand I have had over a dozen attorneys and half a dozen paralegals work or consult on my case over the course of the last three plus years and with facts, law, reason and logic explain to me that Austin, Weinstein, Demian, Phelps, Feldman and every other attorney at issue here are, in so many words, criminal pieces of shit that are knowingly aiding and abetting other criminal pieces of shit to defraud me of the Property and the cannabis CUP or avoid to avoid liability for having done so.

How can I be crazy when an attorney, Flores, is livid with rage at having his TRO denied on the alleged grounds that he filed suit against the defendants in Cotton V because they did not commit a crime? I can read. Flores did not file suit on those grounds. So how can I be the crazy one when even this Court's order could lead a reasonable person to believe that this Court is trying to distract from the walking disgrace of all judges known as Wohlfeil? I have been driven insane by everything that has taken place. Attached hereto as Exhibit 2 is a psychiatrist assessment describing how I have been obsessed with the factual and legal import of the Confirmation Email since this litigation has begun. And yet not one judge has ever addressed the Confirmation Email and the Mutual Assent Issue.

If I am crazy, if nothing else, please explain why the Request for Confirmation and the Confirmation Email are not evidence that I did not consent to the November Document being a sales contract? I fucking loathe Wohlfeil for never addressing this question in over three years. I have repeatedly and literally begged him in person and in my submission to him to please answer this question. He is a worse criminal than Geraci. For the 100<sup>th</sup> time, it is appalling to think about how many people have lost their life, liberty or property because he is a biased imbecile.

DATED:

*August 3, 2020*  
~~July 30, 2020~~

By



Darryl Cotton



## OFFICE OF THE CIRCUIT EXECUTIVE

## UNITED STATES COURTS FOR THE NINTH CIRCUIT

JAMES R. BROWNING UNITED STATES COURTHOUSE  
95 SEVENTH STREET  
POST OFFICE BOX 193939  
SAN FRANCISCO, CA 94119-3939

ELIZABETH A. SMITH  
CIRCUIT EXECUTIVE  
PHONE: (415) 355-8900

October 19, 2020

Darryl Cotton  
6176 Federal Boulevard  
San Diego, CA 92114

Re: Complaint of Judicial Misconduct No. 20-90056

Dear Mr. Cotton:

Chief Judge Thomas has issued an order in your complaint of judicial misconduct. A copy is enclosed.

A complainant or judge aggrieved by an order of the chief judge may petition the judicial council for review thereof by filing such petition in the office of the clerk of the court of appeals within 42 days of the date of the clerk's letter to the complainant transmitting the chief judge's order. 28 U.S.C. § 352(c); Judicial-Conduct Rule 18(b).

Very truly yours,



Elizabeth A. Smith

EAS/tc



**FILED**

OCT 19 2020

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**JUDICIAL COUNCIL  
OF THE NINTH CIRCUIT**

**IN RE COMPLAINT OF  
JUDICIAL MISCONDUCT**

No. 20-90056

**ORDER**

**THOMAS**, Chief Judge:

Complainant, a pro se litigant, has filed a complaint of judicial misconduct against a district judge. Review of this complaint is governed by the Rules for Judicial Conduct and Judicial-Disability Proceedings (“Judicial-Conduct Rules”), the federal statutes addressing judicial conduct and disability, 28 U.S.C. § 351 et seq., and relevant prior decisions of the Ninth Circuit Judicial Council. In accordance with these authorities, the names of complainant and the subject judge shall not be disclosed in this order. See Judicial-Conduct Rule 11(g)(2).

The Judicial Conduct and Disability Act provides a remedy if a federal judge “has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts.” 28 U.S.C. § 351(a). A chief judge may dismiss a complaint if, following review, he or she finds it is not cognizable under the statute, is directly related to the merits of a decision or procedural ruling, or is frivolous or lacks sufficient evidence to raise an inference of misconduct.



See 28 U.S.C. § 352(b)(1)(A)(i)-(iii). Judicial misconduct proceedings are not a substitute for the normal appellate review process, and may not be used to seek reversal of a judge's decision, to obtain a new trial, or to request reassignment to a different judge.

Complainant alleges that the district judge is covering up the biased and unethical actions of a Superior Court judge who presided over complainant's civil case regarding a joint venture agreement. To support his allegation, complainant points to the fact that the district judge denied a motion for a temporary restraining order. In denying that motion, complainant alleges the district judge also improperly stated that defendants were not given proper notice. These issues directly relate to the merits of the case and must be dismissed. See 28 U.S.C. § 352(b)(1)(A)(ii); Judicial-Conduct Rule 11(c)(1)(B); In re Complaint of Judicial Misconduct, 579 F.3d 1062, 1064 (9th Cir. Jud. Council 2009).

Complainant further supports his allegation of bias with his belief that the district judge failed to read the civil complaint. To support his belief, he points to one of the district judge's orders, in which she stated that the complaint was difficult to summarize because of its length and confusing nature. To the extent the district judge found the complaint difficult to decipher, that does not constitute misconduct. Beyond a reference to the above statement, complainant submits no



evidence to support his allegation that the district judge failed to read the civil complaint, which is dismissed as unfounded. See 28 U.S.C. § 352(b)(1)(A)(iii); In re Complaint of Judicial Misconduct, 569 F.3d 1093 (9th Cir. Jud. Council 2009) (“claimant’s vague insinuations do not provide the kind of objectively verifiable proof that we require”); Judicial-Conduct Rule 11(c)(1)(D).

Finally, complainant alleges that the district judge lied by stating that a witness was a defendant. A review of the docket shows that the district judge was merely quoting a motion filed by the plaintiff, which stated that the witness was a defendant. This allegation is therefore “conclusively refuted by objective evidence” and must be dismissed. 28 U.S.C. § 352(b)(1)(B).

**DISMISSED.**