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Superior Court of California,
County of San Diego
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Clerk of the Superior Court
By Ines Quirarte, Deputy Clerk

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LARRY GERACI

8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

10 LARRY GERACI, an individual,
11 Plaintiff,
12 v.
13 DARRYL COTTON, an individual; and
DOES 1 through 10, inclusive,
14 Defendants.

Case No. 37-2017-00010073-CU-BC-CTL
Judge: Hon. Joel R. Wohlfeil
Dept.: C-73

**NOTICE OF MOTION AND MOTION BY
PLAINTIFF/CROSS-DEFENDANT
LARRY GERACI FOR A PRELIMINARY
INJUNCTION OR OTHER ORDER TO
COMPEL ACCESS TO THE SUBJECT
PROPERTY FOR SOILS TESTING**

15
16 DARRYL COTTON, an individual,
17 Cross-Complainant,
18 v.
19 LARRY GERACI, an individual, REBECCA
BERRY, an individual, and DOES 1
20 THROUGH 10, INCLUSIVE,
21 Cross-Defendants.

[IMAGED FILE]

Hearing Date: March 23, 2018
Hearing Time: 9:00 a.m.
Department: C-73

Filed: March 21, 2017
Trial Date: May 11, 2018

22
23 **TO EACH PARTY AND THE ATTORNEY OF RECORD FOR EACH PARTY TO**
24 **THIS ACTION:**

25 YOU ARE HEREBY NOTIFIED THAT, on March 23, 2018, at 9:00 a.m., or as soon thereafter
26 as the matter may be heard before the Honorable Joel R. Wohlfeil in Department C-73 of this Court,
27 located at 330 West Broadway, San Diego, California, 92101, plaintiff/cross-defendant, LARRY
28 GERACI ("Geraci"), will move this Court for a mandatory injunction requiring Defendant/Cross-

1 Complainant DARRYL COTTON ("Cotton") to Sign the Property Owner Consent Form Allowing
2 Soils Testing on the Subject Property, and to Otherwise Allow SCST Engineering Unhindered Access
3 to the Subject Property to Conduct Said Soils Testing.

4 This Motion is made on grounds that the County of San Diego is requiring as a condition
5 precedent to obtaining a CUP to operate a Medical Marijuana Dispensary, that an engineering company
6 conduct a soils sample analysis. Attorney Weinstein has requested that Mr. Cotton agree to allow
7 SCST Engineering access to the subject property to conduct said soils sampling. Mr. Cotton originally
8 agreed to allow this sampling, but has since gone silent on the matter. Several requests have been made
9 that Mr. Cotton agree and set a convenient time for the soils sampling, but Mr. Cotton has failed to
10 respond to those written requests. Plaintiff has no other means to obtain access to the subject property
11 and no adequate remedy at law or otherwise. Thus, it has become necessary to request the Court to
12 order Mr. Cotton to allow access to the subject property to conduct the necessary tests.

13 NOTICE IS FURTHER GIVEN that a tentative ruling is issued the day before the date set forth
14 for hearing, this court follows rule 3.1308(a)(2) and no notice of intent to appear is required to appear
15 for argument. The tentative ruling shall be made available at 3:30 p.m. on the court day prior to the
16 scheduled hearing. The tentative ruling may direct the parties to appear for oral argument, and may
17 specify the issues on which the court wishes the parties to provide further argument. The tentative
18 ruling may be obtained by calling the court tentative ruling number at (619) 450-7381 or by navigating
19 to the court's website www.sandiego.courts.ca.gov.

20 This Motion will be based upon this Notice, the supporting Memorandum of Points and
21 Authorities, the Declaration of Larry Geraci, the Declaration of Abhay Schweitzer, the Declaration of
22 Michael R. Weinstein, and the Notice of Lodgment, all of which are attached hereto and served and
23 filed.

24 Dated: February 27, 2018

FERRIS & BRITTON,
A Professional Corporation

25
26 By: 

27 Michael R. Weinstein
28 Scott H. Toothacre
Attorneys for Plaintiff/Cross-Defendant
LARRY GERACI