

ROA 149

6 pages

**FILED**  
Clerk of the Superior Court  
Clerk of the Superior Court

MAR 26 2018  
MAR 26 2018

By: \_\_\_\_\_, Deputy

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Attorneys for Plaintiff/Cross-Defendant LARRY GERACI and  
Cross-Defendant REBECCA BERRY

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

LARRY GERACI, an individual,

Plaintiff,

v.

DARRYL COTTON, an individual; and  
DOES 1 through 10, inclusive,

Defendants.

DARRYL COTTON, an individual,

Cross-Complainant,

v.

LARRY GERACI, an individual, REBECCA  
BERRY, an individual, and DOES 1  
THROUGH 10, INCLUSIVE,

Cross-Defendants.

Case No. 37-2017-00010073-CU-BC-CTL

Judge: Hon. Joel R. Wohlfeil  
Dept.: C-73

**NOTICE OF RULING AFTER HEARING  
RE MOTION BY PLAINTIFF/CROSS-  
DEFENDANT LARRY GERACI TO  
COMPEL DEFENDANT/CROSS-  
COMPLAINANT DARRYL COTTON  
(1) TO APPEAR AND TESTIFY AT  
DEPOSITION AND (2) TO RESPOND TO  
WRITTEN DISCOVERY REQUESTS,  
AND FOR SANCTIONS**

**[IMAGED FILE]**

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

PLEASE TAKE NOTICE THAT, on March 23, 2018, the Court heard the Motion by Plaintiff/Cross-Defendant Larry Geraci to Compel Defendant/Cross-Complainant Darryl Cotton (1) To Appear and Testify at Deposition and (2) To Respond to Written Discovery Requests, and for Sanctions. Plaintiff/Cross-Defendant, Larry Geraci, was represented by attorney Michael R. Weinstein of the law firm Ferris & Britton, APC. Defendant/Cross-Complainant, Darryl Cotton, was represented by Darryl Cotton, pro se.

1 PLEASE TAKE FURTHER NOTICE THAT, having reviewed the written pleadings submitted  
2 in support of the motions and hearing oral argument, the Court denied the motion in part and granted  
3 the motion in part as follows:

4 The Court confirmed as the final ruling of the court its previously issued tentative ruling but  
5 modified with regard to the issue of monetary sanctions against Darryl Cotton, ruling as follows:

6 1. The Court has already issued an order directing Defendant to submit to a  
7 deposition. ROA #107, 108. Plaintiff's remedy, if any, is not to ask the Court to re-issue an  
8 existing order but to pursue the imposition of escalating sanctions based on Defendant's non-  
9 compliance with the Court's order. For this reason alone, this part of Plaintiff's motion is  
10 DENIED. The Court noted that the prior order requiring Darryl Cotton to submit to noticed  
11 deposition is and remains in effect unless and until complied with or there is a further order of  
12 the court otherwise.

13 2. The Court directed Defendant to serve responses, without objections, to Plaintiff's  
14 Form Interrogatories - General (Set One), Special Interrogatories (Set One), and Requests for  
15 Admission (Set One), within twenty (20) days of the hearing of this Motion.

16 3. The Court modified its tentative ruling with regard to the issue of monetary  
17 sanctions against Darryl Cotton and GRANTED Plaintiff's requests for sanctions as follows:  
18 The court found that Defendant has failed to provide discovery responses without substantial  
19 justification. The Court, having specifically considered the Declaration of Scott H. Toothacre,  
20 found that Mr. Toothacre's hourly rate of \$375.00 was reasonable and that 3 hours of time was  
21 reasonably expended by Mr. Toothacre on the Motion to Compel, thus awarding \$1,125.00 in  
22 sanctions as against Darryl Cotton in favor of Plaintiff.

23 Dated: March 23, 2018

FERRIS & BRITTON,  
A Professional Corporation

24  
25 By: 

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

# EXHIBIT A



**SUPERIOR COURT OF CALIFORNIA,**

COUNTY OF SAN DIEGO

HALL OF JUSTICE

TENTATIVE RULINGS - March 22, 2018

EVENT DATE: 03/23/2018

EVENT TIME: 09:00:00 AM

DEPT.: C-73

JUDICIAL OFFICER: Joel R. Wohlfeil

CASE NO.: 37-2017-00010073-CU-BC-CTL

CASE TITLE: LARRY GERACI VS DARRYL COTTON [IMAGED]

CASE CATEGORY: Civil - Unlimited

CASE TYPE: Breach of Contract/Warranty

EVENT TYPE: Motion Hearing (Civil)

CAUSAL DOCUMENT/DATE FILED: Motion for Preliminary Injunction, 02/27/2018

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The unopposed Motion (ROA # 115) of Plaintiff / Cross-Defendant LARRY GERACI ("Plaintiff" or "Geraci") for a mandatory injunction requiring Defendant / Cross- Complainant DARRYL COTTON ("Defendant" or "Cotton") to Sign the Property Owner Consent Form Allowing Soils Testing on the Subject Property, and to Otherwise Allow SCST Engineering Unhindered Access to the Subject Property to Conduct Said Soils Testing, is GRANTED.

Defendant is required to immediately sign the property owner consent form allowing soils testing on the subject property, and to otherwise allow SCST Engineering unhindered access to the subject property to conduct soils testing. Sufficient evidence has been presented demonstrating that the County of San Diego is requiring a soils sample analysis as a condition precedent to obtaining a CUP to operate a Medical Marijuana Dispensary. Thus, injunctive relief is necessary to prevent irreparable injury and waste. Also, there is a reasonable probability that Plaintiff will prevail on the merits.

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6 Attorneys for Plaintiff/Cross-Defendant LARRY GERACI and  
7 Cross-Defendant REBECCA BERRY

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.

15  
16 DARRYL COTTON, an individual,

17 Cross-Complainant,

18 v.

19 LARRY GERACI, an individual, REBECCA  
20 BERRY, an individual, and DOES 1  
THROUGH 10, INCLUSIVE,

21 Cross-Defendants.

FILED

MAR 26 2018

By: \_\_\_\_\_ Deputy

Case No. 37-2017-00010073-CU-BC-CTL

Judge: Hon. Joel R. Wohlfeil  
Dept.: C-73

PROOF OF SERVICE BY MAIL

[IMAGED FILE]

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

1 I, Anna K. Lizano, declare that: I am over the age of 18 years and not a party to the case; I am  
2 employed in, or am a resident of, the County of San Diego, California; and my business address is:  
3 501 W. Broadway, Suite 1450, San Diego, California 92101.

4 On, March 23, 2018, I served the following document:

5 1. NOTICE OF RULING AFTER HEARING RE MOTION BY  
6 PLAINTIFF/CROSS-DEFENDANT LARRY GERACI TO COMPEL  
7 DEFENDANT/CROSS-COMPLAINANT DARRYL COTTON (1) TO APPEAR  
AND TESTIFY AT DEPOSITION AND (2) TO RESPOND TO WRITTEN  
DISCOVERY REQUESTS, AND FOR SANCTIONS.

8 [X] MAIL. I placed a true copy of each document in a separate envelope addressed to each addressee,  
9 respectively, and then sealed each envelope and, with postage thereon fully prepaid, I placed each for  
10 deposit in the United States Postal Service, this same day, at my business address shown above,  
11 following ordinary business practices:

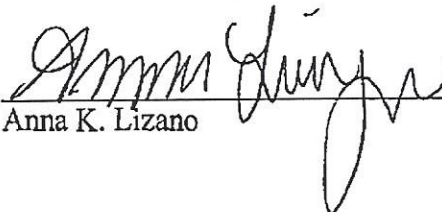
12 Darryl Cotton  
13 6176 Federal Boulevard  
14 San Diego, CA 92114  
15 Tel: (619) 954-4447  
16 Fax: (619) 229-9387

17 *Defendant and Cross-Complainant*  
18 *In Pro Per*

19 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
20 true and correct.

21 Dated: March 23, 2018

FERRIS & BRITTON,  
A Professional Corporation

22   
23 Anna K. Lizano  
24  
25  
26  
27  
28