

ROA 253.0
FILED
CIVIL BUSINESS OFFICE
CENTRAL DIVISION

2018 JUL 16 AM 3:32

CLERK-SUPERIOR COURT
SAN DIEGO COUNTY, CA

JUL 16 '18 PM 2:21

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6
7 Attorneys for Plaintiff/Cross-Defendant LARRY GERACI and
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
14 DOES 1 through 10, inclusive,

15 Defendants.

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.

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

Judge: Hon. Joel R. Wohlfeil

**NOTICE OF RULING AFTER HEARING
ON MOTION BY DEFENDANT AND
CROSS-COMPLAINANT, DARRYL
COTTON, FOR JUDGMENT ON THE
PLEADINGS**

[IMAGED FILE]

DATE: July 13, 2018
TIME: 9:00 a.m.
DEPT: C-73

Filed: March 21, 2017
Trial Date: August 17, 2018

22
23 On July 13, 2018 at 9:00 a.m. in Department C-73 of the above-titled court, the Court heard the
24 Motion by Defendant/Cross-Complainant, Darryl Cotton, for Judgment on the Pleadings.
25 Plaintiff/Cross-Defendant, Larry Geraci, and Cross-Defendant, Rebecca Berry, were represented by
26 attorney Michael R. Weinstein of the law firm Ferris & Britton, APC. Defendant/Cross-Complainant,
27 Darryl Cotton, was represented by attorney Jacob Austin.

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1 PLEASE TAKE NOTICE THAT, having reviewed the written pleadings and evidence
2 submitted in connection with the motion and after hearing oral argument, the Court confirmed as the
3 final ruling of the Court its Tentative Ruling of July 12, 2018 (ROA #253), a copy of which is attached
4 as Exhibit A and made a part hereof.

5
6 Dated: July 13, 2018

FERRIS & BRITTON,
A Professional Corporation

7
8 By: Michael R. Weinstein
9 Michael R. Weinstein
10 Scott H. Toothacre
11 Attorneys for Plaintiff/Cross-Defendant LARRY GERACI
12 and Cross-Defendant REBECCA BERRY
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EXHIBIT A

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
HALL OF JUSTICE
TENTATIVE RULINGS - July 12, 2018**

EVENT DATE: 07/13/2018 **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 Judgment on the Pleadings, 06/20/2018

The Motion (ROA # 247) of Defendant / Cross-Complainant DARRYL COTTON ("Defendant") for entry of a judgment in this case on the Complaint of Plaintiff LARRY GERACI ("Plaintiff"), is DENIED.

Defendant's Request (ROA # 246) for judicial notice is GRANTED IN PART and DENIED IN PART. The Court takes judicial notice of Exh's "1 - limited to the date on which Plaintiff's Complaint was filed, 3 and 4," and the Court declines to take judicial notice of the balance of the Request.

Even assuming judicial notice of the facts stated within Plaintiff's previous declaration (ROA # 180) is permissible (see, e.g., Arce v. Kaiser Foundation Health Plan, Inc. (2010) 181 Cal. App. 4th 471, 485), these facts do not necessarily negate all four of the causes of action set forth within the Complain. Resolution of this matter is dependent on extrinsic facts that cannot be determined via this Motion.

Event ID: 1972381

TENTATIVE RULINGS
Page: 1

Calendar No.:

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Cross-Defendant REBECCA BERRY
8

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

11 LARRY GERACI, an individual,

12 Plaintiff,

13 v.

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

15 Defendants.
16

17 DARRYL COTTON, an individual,

18 Cross-Complainant,

19 v.

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

22 Cross-Defendants.
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Case No. 37-2017-00010073-CU-BC-CTL

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

PROOF OF SERVICE VIA EMAIL

[IMAGED FILE]

Complaint Filed: March 21, 2017
Trial Date: August 17, 2018

1 I, DEBRA L. BARKER, declare that: I am over the age of 18 years and not a party to the case;
2 I am employed in the County of San Diego, California; and my business address is: 501 West
3 Broadway, Suite 1450, San Diego, California 92101.

4 On, July 13, 2018, I served the following document:

5 **1. NOTICE OF RULING AFTER HEARING ON MOTION BY DEFENDANT AND**
6 **CROSS-COMPLAINANT DARRYL COTTON FOR JUDGMENT ON THE**
7 **PLEADINGS.**

8 **VIA EMAIL.** Based on an agreement of the parties to accept service by email, I caused the document
9 to be sent to the person on the date above, to the following email addresses:

10 Jacob Austin, Esq. 11 LAW OFFICE OF JACOB AUSTIN 12 1455 Frazee Road. Suite 500 13 San Diego, California 92108 14 Tel: (619) 357-6850 15 Fax: (888)357-8501 16 jpa@jacobaustinesq.com 17 <i>Attorney for Defendant and Cross-Complainant</i> 18 <i>Darryl Cotton</i>	
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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: July 13, 2018

FERRIS & BRITTON,
A Professional Corporation

22
23 _____
24 DEBRA L. BARKER
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