

ROA 256
1 pg

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 07/13/2018

TIME: 09:00:00 AM

DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil

CLERK: Patricia Ashworth

REPORTER/ERM: Darla Kmety CSR# 12956

BAILIFF/COURT ATTENDANT: R. Camberos

CASE NO: **37-2017-00010073-CU-BC-CTL** CASE INIT.DATE: 03/21/2017

CASE TITLE: **Larry Geraci vs Darryl Cotton [Imaged]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Breach of Contract/Warranty

EVENT TYPE: Motion Hearing (Civil)

MOVING PARTY: Darryl Cotton

CAUSAL DOCUMENT/DATE FILED: Motion for Judgment on the Pleadings, 06/20/2018

APPEARANCES

Michael R. Weinstein, specially appearing for counsel Michael R Weinstein, present for Respondent on Appeal, Cross - Defendant, Cross - Complainant, Plaintiff(s).

Michael R. Weinstein, specially appearing for counsel Scott H Toothacre, present for Respondent on Appeal, Cross - Defendant, Cross - Complainant, Plaintiff(s).

Jacob Austin, counsel, present for Defendant, Cross - Complainant, Appellant(s).

The Court hears oral argument and confirms the tentative ruling as follows: 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.

Clerk's note: Counsel for Plaintiff to serve notice.

Joel R. Wohlfeil

Judge Joel R. Wohlfeil