

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
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Clerk of the Superior Court  
By Jessica Pascual, Deputy Clerk

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LARRY GERACI

**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

**DECLARATION OF MICHAEL R.  
WEINSTEIN IN SUPPORT OF CROSS-  
DEFENDANT LARRY GERACI'S  
DEMURRER TO CROSS-COMPLAINT  
BY DARRYL COTTON**

**[IMAGED FILE]**

Hearing Date: July 14, 2017  
Hearing Time: 9:00 a.m.

Complaint Filed: March 21, 2017  
Trial Date: Not Yet Set

I, Michael R. Weinstein, declare:

1. I am an adult individual residing in the County of San Diego, State of California, and I am the attorney in this action for Plaintiff and Cross-Defendant, LARRY GERACI. I have personal knowledge of the foregoing facts and if called as a witness could and would so testify.

2. The purpose of this declaration is to satisfy the requirements of Code of Civil Procedure section 430.41(a)(3).

1           3.     On June 9, 2017, I emailed plaintiff, DARRYL COTTON, who is acting as his own  
2 attorney, advising him that Mr. Geraci has objections to the Cross-Complaint and intended to file a  
3 demurrer objecting to some, but not all, of the alleged causes of action asserted in the Cross-Complaint.  
4 I further advised him that section 430.41(a) requires me to meet and confer with him in person or by  
5 telephone for the purpose of determining whether an agreement can be reached that would resolve  
6 Mr. Geraci's objections to be raised in the demurrer. To satisfy the requirements of  
7 section 430.41(a)(1), I attached a draft Memorandum of Points and Authorities in support of the  
8 intended demurrer which set forth the grounds for demurrer and the supporting legal reasons. The draft  
9 Memorandum identified all of the specific causes of action that we believe are subject to demurrer and  
10 identified with legal support the basis of the deficiencies. I further advised him that under section  
11 430.41(a), as the party who filed the Cross-Complaint, he should provide me with his legal support for  
12 his position that his Cross-Complaint was legally sufficient or, in the alternative, how it might be  
13 amended to cure any legal insufficiency. Finally, I advised him that I was available the following week  
14 on most dates/times to meet and confer by telephone or in person to discuss the issues raised by  
15 Geraci's intended demurrer to the Cross-Complaint and asked that he let me know the date/time when  
16 he would be available to do so.

17           4.     Mr. Cotton responded immediately (later that evening) and thereafter we exchanged  
18 emails attempting to set up a time for a meet and confer telephone call on Monday, June 12, 2017.  
19 However, on Saturday, June 10, 2017, I received a further email from Mr. Cotton stating, "After  
20 reading your draft of the Memorandum of Points and Authorities I believe I will retain counsel going  
21 forward. I'll have my attorney contact you next week to discuss these points." On Sunday, June 11,  
22 2017, I emailed back Mr. Cotton thanking him for letting me know and telling him I looked forward to  
23 speaking with this counsel. I have not yet been contacted by his counsel so have not been able to meet  
24 and confer regarding the demurrer.

25           I declare under penalty of perjury under the laws of the State of California, that the foregoing is  
26 true and correct of my personal knowledge.

27     Dated: June 16, 2017

  
MICHAEL R. WEINSTEIN