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3 pages

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**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego  
**03/08/2019** at 07:15:00 PM  
Clerk of the Superior Court  
By Vanessa Bahena, Deputy Clerk

Attorney for Defendant/Cross-Complainant DARRYL COTTON

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

LARRY GERACI, an individual,  
Plaintiff,  
vs.  
DARRYL COTTON, an individual; and  
DOES 1-10, Inclusive,  
Defendants.

CASE NO. 37-2017-00010073-CU-BC-CTL  
**NOTICE OF MOTION**  
**FOR SUMMARY JUDGMENT OR,**  
**ALTERNATIVELY, SUMMARY**  
**ADJUDICATION BY DEFENDANT/CROSS-**  
**COMPLAINANT DARRYL COTTON**  
**[CCP §437c]**

DARRYL COTTON, an individual,  
Cross-Complainant,  
vs.  
LARRY GERACI, and individual, REBECCA  
BERRY, an individual; and DOES 1 through 10,  
Inclusive,  
Cross-Defendants.

**Hearing Date: May 23, 2019**  
**Hearing Time: 9:00 a.m.**  
**Department: C-73**  
**Judge: The Hon. Joel R. Wohlfeil**

Complaint filed: March 21, 2017  
Trial Date: May 31, 2019

**TO ALL PARTIES AND THEIR RESPECTIVE COUNSEL:**

**PLEASE TAKE NOTICE** that on May 23, 2019, at 9:00 a.m. or as soon thereafter as the matter can be heard by The Honorable Joel R. Wohlfeil in Department C-73 of the above-entitled Court,

1 Defendant/Cross-Complainant DARRYL COTTON ("Cotton") will move this court for summary  
2 judgment against Plaintiff LARRY GERACI'S ("Geraci") Complaint pursuant to Code of Civil  
3 Procedure section 437c. This motion is made on the grounds that Cotton is entitled to summary judgment  
4 against Geraci's Complaint as a matter of law because no genuine dispute exists as to any material fact  
5 in this proceeding.

6 Alternatively, Cotton moves for summary adjudication against Geraci, pursuant to Code of Civil  
7 Procedure section 437c(f), on the basis that no genuine material issue of disputed fact exists, and that  
8 said Cotton is entitled to judgment against Geraci as a matter of law, as to:

- 9 1. Plaintiff's allegation the contract upon which his Complaint is based upon is a fully integrated  
10 agreement on the grounds that Plaintiff's judicial and evidentiary admissions prove that it is not  
11 a fully integrated contract.
- 12 2. Plaintiff's affirmative defense alleging Cotton orally disavowed an interest in real property on the  
13 grounds that it is barred for failure to plead fraud and the statute of frauds.
- 14 3. Plaintiff's First Cause of Action for Breach of Contract on the grounds that Plaintiff cannot prove  
15 the existence of valid written integrated contract.
- 16 4. Plaintiff's Second Cause of Action for breach of the implied covenant of good faith and fair  
17 dealing on the grounds that Plaintiff cannot prove the existence of valid written integrated  
18 contract.
- 19 5. Plaintiff's Third Cause of Action for Specific Performance on the grounds that Plaintiff cannot  
20 prove the existence of valid written integrated contract.
- 21 6. Plaintiff's Fourth Cause of Action for Declaratory Relief on the grounds that Plaintiff cannot  
22 prove the existence of valid written integrated contract.

23 This motion is based upon this notice of motion, the supporting memorandum of points and  
24 authorities, Declaration of Jacob P. Austin, Notice of Lodgment of Exhibits. The Request for Judicial  
25 Notice, and the Separate Statement of Undisputed Material Facts served and filed herewith, the pleadings  
26 and papers on file in this proceeding, and upon such other oral and documentary evidence as may be  
27 presented at hearing on this motion.  
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DATED: March 7, 2019

THE LAW OFFICE OF JACOB AUSTIN

By Jacob P. Austin  
JACOB P. AUSTIN  
Attorney for Defendant/Cross-Complainant  
DARRYL COTTON