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Superior Court of California,  
County of San Diego  
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Clerk of the Superior Court  
By Richard Day, Deputy Clerk

1 FERRIS & BRITTON  
A Professional Corporation  
2 Michael R. Weinstein (SBN 106464)  
Scott H. Toothacre (SBN 146530)  
3 501 West Broadway, Suite 1450  
San Diego, California 92101  
4 Telephone: (619) 233-3131  
Fax: (619) 232-9316  
5 mweinstein@ferrisbritton.com  
stoothacre@ferrisbritton.com

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

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  
15 DOES 1 through 10, inclusive,  
16 Defendants.

17 DARRYL COTTON, an individual,  
18 Cross-Complainant,

19 v.

20 LARRY GERACI, an individual, REBECCA  
21 BERRY, an individual, and DOES 1  
THROUGH 10, INCLUSIVE,  
22 Cross-Defendants.

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

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

**CROSS-DEFENDANT REBECCA BERRY'S  
ANSWER TO CROSS-COMPLAINANT  
DARRYL COTTON'S UNVERIFIED  
SECOND AMENDED CROSS-COMPLAINT**

**[IMAGED FILE]**

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

24 Cross-Defendant REBECCA BERRY answers Cross-Complainant DARRYL COTTON's  
25 unverified Second Amended Cross-Complaint, dated August 25, 2017, as follows:

26 **GENERAL DENIAL**

27 Under the provisions of section 431.30 of the California Code of Civil Procedure, this  
28 answering Cross-Defendant denies, generally and specifically, each and every and all allegations in

1 the Second Amended Cross-Complaint, and the whole thereof, including each and every purported  
2 cause of action contained therein, and denies that Cross-Complainant has sustained damages as  
3 alleged by reason of any alleged act, breach, or omission on the party of this answering Cross-  
4 Defendant.

5 **AFFIRMATIVE DEFENSES**

6 For a further and separate answer to the Second Amended Cross-Complaint, and by way of  
7 affirmative defenses, this answering Cross-Defendant alleges as follows:

8 **FIRST AFFIRMATIVE DEFENSE**

9 **(Failure to State a Cause of Action)**

10 Cross-Complainant's sole purported cause of action against this answering Cross-Defendant –  
11 the fifth cause of action for declaratory relief— fails to state facts sufficient to constitute a cause of  
12 action against this answering Cross-Defendant.

13 **SECOND AFFIRMATIVE DEFENSE**

14 **(Lack of Contractual Privity)**

15 Cross-Complainant lacks contractual privity with this answering Cross-Defendant and,  
16 therefore, is not entitled to an order of declaratory relief as it relates to any contract alleged in the  
17 Second Amended Cross-Complaint.

18 **THIRD AFFIRMATIVE DEFENSE**

19 **(Reservation of Right to Assert Further Defense)**

20 This answering Cross-Defendant currently has insufficient information upon which to form a  
21 belief as to the existence of additional and as yet unstated affirmative defenses. This answering  
22 Cross-Defendant reserves the right to assert additional affirmative defenses in the event discovery  
23 discloses the existence of said affirmative defenses.

24 **WHEREFORE**, Cross- Defendant REBECCA BERRY prays as follows:

25 1. That the Second Amended Cross-Complaint be dismissed and Cross-Complainant take  
26 nothing against this answering Cross-Defendant; and

27 ///  
28 ///

1           2.       Such other and further relief as the Court may deem just and proper.  
2

3 Dated: September 25, 2017

FERRIS & BRITTON,  
A Professional Corporation

4  
5 By: Michael R. Weinstein  
6       Michael R. Weinstein  
7       Scott H. Toothacre

8           Attorneys for Plaintiff and Cross-Defendant  
9           LARRY GERACI and Cross-Defendant  
10          REBECCA BERRY