

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

ROA 525
1 page

MINUTE ORDER

DATE: 05/10/2019

TIME: 09:00:00 AM

DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil

CLERK: Andrea Taylor

REPORTER/ERM: Leyla Jones CSR# 12750

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 - Other for Partial Adjudication, 04/18/2019

APPEARANCES

No Appearance by all parties

The Court confirms the tentative ruling as follows: The Motion (ROA # 502) of Defendant / Cross-Complainant Darryl Cotton ("Defendant" or "Cotton") FOR PARTIAL ADJUDICATION against Plaintiff / Cross-Defendant Larry Geraci ("Plaintiff" or "Geraci"), is DENIED.

Plaintiff's evidentiary objections (ROA # 509) are SUSTAINED.

The notice of Motion states that this motion is premised on Code of Civil Procedure section 2030.310. Section 2030.310(a) provides that a party may serve an amended answer to any interrogatory that contains information subsequently discovered, inadvertently omitted, or mistakenly stated in the initial interrogatory. "The party who propounded an interrogatory to which an amended answer has been served may move for an order that the initial answer to that interrogatory be deemed binding on the responding party for the purpose of the pending action." *Id.* at (b). The Court must grant this Motion if it determines that all of the following conditions are satisfied: (1) The initial failure of the responding party to answer the interrogatory correctly has substantially prejudiced the party who propounded the interrogatory; (2) The responding party has failed to show substantial justification for the initial answer to that interrogatory; and (3) The prejudice to the propounding party cannot be cured either by a continuance to permit further discovery or by the use of the initial answer at trial. *Id.* at (c). This Motion lacks merit because it is not premised on original and amended responses to one or more interrogatories. Instead, this Motion references statements made in pleadings and telephone records. In the alternative, this is a procedurally improper Motion for summary adjudication.

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