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Jacob P. Austin [SBN 290303] ELECTRONICALLY FILED 1 Superior Court of California, The Law Office of Jacob Austin County of San Diego PO BOX 231189 2 05/17/2019 at 03:42:00 PM San Diego, CA 92193 Clerk of the Superior Court 3 Telephone: Facsimile: (619) 357-6850 By E- Filing Deputy Clerk E-mail:JPA@JacobAustinEsq.com 4 Attorney for Defendant/Cross-Complainant DARRYL COTTON 5 6 7 SUPERIOR COURT OF THE STATE OF CALIFORNIA 8 **COUNTY OF SAN DIEGO** 9 10 Case No. 37-2017-00010073-CU-BC-CTL LARRY GERACI, an individual, 11 Plaintiff. DECLARATION OF DARRYL COTTON IN 12 SUPPORT OF REPLY TO PLAINTIFF'S 13 VS. OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT OR, 14 DARRYL COTTON, an individual; and ALTERNATIVELY, SUMMARY DOES 1 through 10, inclusive, ADJUDICATION 15 May 23, 2019 Defendants. Date: 16 9:00 a.m. Time: 17 C - 73Dept: The Hon. Joel R. Wohlfeil AND RELATED CROSS-ACTION. Judge: 18 19 I, DARRYL COTTON, declare: 20 I am over the age of eighteen years, and the Defendant and Cross-Complainant in this 1. 21 action. 22 The facts set forth herein are true and correct as of my own personal knowledge. 2. 23 This declaration is submitted in support of my Motion for Summary Judgment. 3. 24 I hereby incorporate by reference the facts stated in my Memorandum of Points and 4. 25 Authorities in Support of Motion for Summary Judgment, or Alternatively, Summary Adjudication 26 which has previously been filed in the above referenced case. 27

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A true and correct copy of the Real Party in Interest Larry Geraci's Verified Answer to

the Petition for Writ of Mandate, is lodged as Exhibit 1.

- 6. A true and correct copy of all the email communication between myself and Larry Geraci is lodged as **Exhibit 2**, and if called to testify would I authenticate each as such.
- 7. A true and correct copy of all text communication between myself and Larry Geraci is lodged as **Exhibit 3** and if called to testify I would authenticate each as such.
- 8. A true and correct copy of Plaintiff Larry Geraci's Complaint filed March 21, 2017 is lodged as **Exhibit 4**.
- 9. A true and correct copy of Cotton's Verified Petition for Alternative Writ of Mandate is lodged as **Exhibit 5**.
- 10. A true and correct copy of my Cross-Complaint is lodged as **Exhibit 6** and if called to testify would authenticate it as such.
- 11. A true and correct copy of Plaintiff Larry Geraci's Answer to Cotton's Cross-Complaint is lodged as **Exhibit 7**.
- 12. A true and correct copy of Plaintiff Larry Geraci's Responses to Form Interrogatories, Set One is lodged as **Exhibit 8**.
 - 13. A true and correct copy of Email from Michael Weinstein is lodged as Exhibit 9.
- 14. A true and correct copy of Demurrer by Cross-Defendant Larry Geraci to Second Amended Cross-Complaint by Darryl Cotton is lodged as **Exhibit 10**.
- 15. A true and correct copy of my Opposition to Larry Geraci's Demurrer to the Second Amended Cross-Complaint is lodged as **Exhibit 11**.
- 16. A true and correct copy of Reply Memorandum of Points and Authorities in Support of Cross-Defendant Larry Geraci's Demurrer to Second Amended Cross-Complaint By Darryl Cotton is lodged as **Exhibit 12**.
- 17. A true and correct copy of Declaration of Larry Geraci in Support of Motion by Plaintiff/Cross-Defendant Larry Geraci for a Preliminary Injunction or Other Order to Compel Access to the Subject Property For Soil Testing is lodged as **Exhibit 13**.
- 18. A true and correct copy of Declaration of Larry Geraci in Opposition to Defendant Darryl Cotton's Motion to Expunge Lis Pendens is lodged as **Exhibit 14**.

- 19. A true and correct copy of Plaintiff Larry Geraci's Response to Request for Admissions, Set One is lodged as **Exhibit 15**.
- 20. During the course of this litigation, I was contacted by Bianca Martinez, a former employee of Jim Bartell. Ms. Martinez indicated that she was also owed a 10% equity position on my property because she had discovered it and brought it to the attention of Mr. Bartell and Mr. Geraci, and that she was owed that as a finder's fee regardless of who won in this litigation.
- 21. I have reviewed the Plaintiffs additional statement of material facts and supporting evidence and dispute paragraphs 11-14, 17-43.
- 22. I understood, when I agreed to allow Rebecca Berry to act as the agent for the CUP application on my property that she would be an agent of the joint venture between myself and Larry Geraci.

I declare under penalty of perjury according to the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on May 17, 2019 at San Diego, California.

DÁRRYL COTTON