

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 05/23/2019 TIME: 09:00:00 AM DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil
CLERK: Anthony Shirley
REPORTER/ERM: Teri L. Smith CSR# 7949
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: Summary Judgment / Summary Adjudication (Civil)
MOVING PARTY: Darryl Cotton
CAUSAL DOCUMENT/DATE FILED: Motion for Summary Judgment and/or Adjudication, 03/08/2019

APPEARANCES

Michael Weinstein, specially appearing for counsel Scott H Toothacre, present for Respondent on Appeal, Cross - Defendant, Cross - Complainant, Plaintiff(s).
Joellen Plaskett, specially appearing for counsel Jacob Austin, present for Defendant, Cross - Complainant, Appellant(s).
Larry Geraci, Plaintiff is present.

The Court hears oral argument and MODIFIES AND CONFIRMS the tentative ruling as follows:

The Motion (# 473) of Defendant / Cross-Complainant DARRYL COTTON ("Defendant" or "Cotton") for summary judgment against the Complaint of Plaintiff LARRY GERACI ("Plaintiff" or "Geraci"), is DENIED.

Defendant's Request (# 476) for judicial notice is GRANTED IN PART and DENIED IN PART. The Court takes judicial notice of no. 11 and the dates only on which nos. 1 - 5 were filed with the Court; otherwise, the Request is DENIED.

Plaintiff's evidentiary objections (# 520) are OVERRULED IN PART and SUSTAINED IN PART. The objections are SUSTAINED except nos. 1 - 3, 6 - 9, 12, 18 and 19 which are OVERRULED.

A contract need not be fully integrated in order for it to be binding and enforceable. Instead, whether it is integrated simply controls the degree to which evidence of consistent additional terms may be used to explain or supplement the writing (i.e., "parole evidence"). Code Civ. Proc. 1856 and Kanno v. Marwit Capital Partners II, L.P. (2017) 18 Cal. App. 5th 987, 1000. Thus, disputed material facts exist supporting the existence of an agreement to sell the subject property regardless of whether the November 2, 2016 agreement is fully integrated.

The Court directs plaintiff counsel to provide notice of ruling.

Joel R. Wohlfeil

Judge Joel R. Wohlfeil