

ROA 609
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SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 07/08/2019

TIME: 09:00:00 AM

DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil

CLERK: Andrea Taylor

REPORTER/ERM: Margaret Smith CSR# 9733

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: Civil Jury Trial

APPEARANCES

Michael R Weinstein, counsel, present for Respondent on Appeal, Cross - Defendant, Cross - Complainant, Plaintiff(s).

Scott H Toothacre, counsel, present for Respondent on Appeal, Cross - Defendant, Cross - Complainant, Plaintiff(s).

Jacob Austin, counsel, present for Defendant, Cross - Complainant, Appellant(s).

Darryl Cotton, Defendant is present.

Larry Geraci, Plaintiff is present.

9:03 a.m. This being the time previously set for further Jury trial in the above entitled cause, having been continued from July 3, 2019, all parties and counsel appear as noted above and court convenes. The jurors are not present.

Outside the presence of the jury, Court and counsel discuss scheduling.

9:04 a.m. Court is in recess.

9:05 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. The jurors are present.

9:06 a.m. **GINA AUSTIN** is sworn and examined by Attorney Weinstein on behalf of Plaintiff/Cross-Defendant, Larry Geraci, et al.

The following Court's exhibit(s) are marked for identification and admitted on behalf of Plaintiff/Cross-Defendant:

24) Email to Rebecca Berry from Abhay Schweitzer, dated 10/26/16

25) Email to Larry Geraci and Rebecca Berry from Abhay Schweitzer, dated 10/26/16 with

attachments

45) Email to Jim Bartell from Abhay Schweitzer, dated 11/14/16

138) Austin Legal Group Expense Summary with supporting documentation

164) San Diego Ordinance no.

9:57 a.m. Cross examination of Gina Austin commences by Attorney Austin on behalf of Defendant/Cross-Complainant, Darryl Cotton.

The following Court's exhibit(s) is marked for identification and identified on behalf of Defendant/Cross-Complainant:

36) Email to Rebecca Berry from Abhay Schweitzer, dated 10/31/16

281) Copy of Business and Professions Code 26057

Court's exhibit 36 is received into evidence.

10:30 a.m. Redirect examination of Gina Austin commences by Attorney Weinstein on behalf of Plaintiff/Cross-Complainant, Larry Geraci, et al.

10:31 a.m. The witness is excused subject to recall.

10:32 a.m. All jurors are admonished and excused for break and Court remains in session.

Outside the presence of the jury, Court and counsel discuss witnesses.

10:34 a.m. Court is in recess.

10:46 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. All jurors are present.

10:47 a.m. **DARRYL COTTON**, called pursuant to Evidence Code 776, is sworn and examined by Attorney Weinstein on behalf of Plaintiff/Cross-Defendant Larry Geraci.

The following Court's exhibit(s) are marked for identification and identified on behalf of Plaintiff/Cross-Defendant:

32) CUP Completeness Review-Photographic Survey submitted 10/31/16

11:20 a.m. An unreported sidebar conference is held. (2 minutes)

11) Draft Memo of Understanding between Cotton and GERI, dated 9/24/16

Court's exhibit 32 is received into evidence.

11:55 a.m. All jurors are admonished and excused for break and Court is in recess.

1:19 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. The jurors are not present.

Outside the presence of the jury, Court and counsel discuss judgments against Plaintiff, witnesses and scheduling.

1:28 p.m. Court is in recess.

1:31 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. The jurors are not present.

Court and counsel discuss scheduling.

1:32 p.m. Darryl Cotton, previously sworn, resumes the stand for further direct under EC776 examination by Attorney Weinstein on behalf of Plaintiff/Cross-Defendant, Larry Geraci, et al.

The following Court's exhibit(s) are marked for identification and admitted on behalf of Plaintiff/Cross-Defendant:

- 70) Email to Larry Geraci from Darryl Cotton, dated 3/19/17; 9:02 a.m.
- 71) Email to Darryl Cotton from Larry Geraci, dated 3/19/17; 3:11 p.m.
- 73) Email to Darryl Cotton from Firouzeh Tirandazi, dated 3/21/17; 8:54 a.m.
- 74) Email to Larry Geraci from Darryl Cotton, dated 3/21/17; 3:18 p.m.
- 75) Email to Firozeh Tirandazi from Darryl Cotton, dated 3/21/17; 3:25 p.m. with attached Addendum
- 76) CAR Commercial Property Purchase Agreement and Joint Escrow Instructions, dated 3/21/17
- 77) Addendum No. 2- MOU re: Martin and Cotton, dated 4/15/17
- 84) Email to Darryl Cotton from Michael Weinstein, dated 3/28/17
- 87) Picture of Posted Notice of Application on property fence of 6176 Federal Blvd, dated 4/4/17
- 94) Email to Darryl Cotton from Firouzeh Tirandazi, dated 5/8/17; 8:30 a.m.
- 118) Notice of Ruling after hearing re: Motion by Pltf for Preliminary injunction, 3/26/18
- 119) Order granting Ex parte Application to appoint Court clerk as Elisor, 4/3/18

2:21 p.m. The witness is excused subject to recall by the Defense for it's case in chief.

2:22 p.m. **ABHAY SCHWEITZER** is sworn and examined by Attorney Toothacre on behalf of Plaintiff/Cross-Defendant, Larry Geraci.

The following Court's exhibit(s) are marked for identification and admitted on behalf of Plaintiff/Cross-Defendant:

- 12) Agreement between Techne and Larry Geraci, dated 10/4/16
- 16) Executed Letter Agreement between Rebecca Berry and Lundstrom Engineering and Surveying, Inc., dated 10/6/16

2:54 p.m. All jurors are admonished and excused for break and Court is in recess.

3:12 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. The jurors are not present.

Outside the presence of the jury, Court and counsel discuss scheduling.

3:14 p.m. Court is in recess.

3:15 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. All jurors are present.

3:16 p.m. Abhay Schweitzer, previously sworn, resumes the stand for further direct examination by Attorney Toothacre on behalf of Plaintiff/Cross-Defendant, Larry Geraci.

The following Court's exhibit(s) are marked for identification and admitted on behalf of Plaintiff/Cross-Defendant:

- 19) Email to Larry Geraci and Neil Dutta from Abhay Schweitzer, dated 10/20/16 with 2 attachments
- 20) Email to Larry Geraci from Abhay Schweitzer, dated 10/24/16
- 22) Email to Becky Berry from Abhay Schweitzer, dated 10/26/16 with attachment
- 23) Email to Becky Berry from Abhay Schweitzer, dated 10/26/16 re: invoice #339
- 26) CUP Submittal Plans-CUP Completeness Review, dated 10/28/16
- 28) Land development Manual Vol 1, Ch 1 Project Submittal Reqs, Sec 4 Development Permits/Approvals June 2015
- 29) Information Bulletin 515 Geotechnical Study Requirements October 2016
- 31) Form DS-3242 Deposit Account/Financially Responsible Party, dated 10/31/16
- 33) CUP Completeness Review-City of SD Receipt for \$8,800 payment, dated 10/31/16
- 35) Email to Larry Geraci from Abhay Schweitzer, dated 10/31/16
- 47) CUP Completeness Review- Remaining Cycle Issues, dated 11/15/16
- 48) Email to Jim Bartell from Abhay Schweitzer re: update, dated 11/29/16

4:25 p.m. All jurors are admonished and excused for the evening and Court remains in session.

Outside the presence of the jury, Court directs counsel to be in Court by 8:45 a.m. tomorrow. Court and counsel confer regarding verdict forms, jury instructions, closing arguments and scheduling.

4:30 p.m. Court is adjourned until 07/09/2019 at 09:00AM in Department 73.