

ROA 613
4 pgs

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 07/09/2019 TIME: 09:00:00 AM DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil
CLERK: Andrea Taylor
REPORTER/ERM: Not Reported
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.
Rebecca Berry, Cross - Defendant, not present.
Larry Geraci, Plaintiff is present.

8:50 a.m. This being the time previously set for further Jury trial in the above entitled cause, having been continued from July 8, 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 jury instructions, witnesses and scheduling.

Counsel waive reporting of jury instruction conference to be held on Wednesday late afternoon or Thursday.

8:58 a.m. Court is in recess.

9:00 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. All jurors are present.

9:01 a.m. Abhay Schweitzer, previously sworn, resumes the stand for further further direct examination by Attorney Toothacre on behalf of Plaintiff/Cross-Defendant, Larry Geraci, et al.

The following Court's exhibit(s) are marked for identification and identified on behalf of

Plaintiff/Cross-Defendant:

- 50) Email to Larry Geraci and Rebecca Berry from Abhay Schweitzer, dated 12/2/16
- 57) CUP Submittal Plans- CUP Submittal, dated 2/22/17
- 58) Cycle Issues Responses for Completeness Review, dated 2/24/17
- 65) Email to Abhay Schwietzer from Firouzeh Tirandazi, dated 3/14/17
- 66) Letter from City of SSD to Barbara Harris, dated 3/14/17
- 67) Email from Kim Bartell to Gina Austin, dated 3/15/17
- 80) Email to Larry Geraci from Abhay Schweitzer, dated 3/22/17
- 86) Email from Tirandazi to Schweitzer, dated 4/3/17
- 88) Picture of Posted Notice of Application on Property fence of 6176 Federal Blvd. with cell phone time screenshot, dated 4/4/17 at 8:58 p.m.
- 91) City of San Diego Verification of Posting Public Notice signed by Firouzeh Tirandazi, dated 4/4/17
- 95) Email to Larry Geraci and Jim Bartell from Abhay Schweitzer, dated 5/10/17 with attached Draft City of San Diego Cycle Issues
- 97) Email from Larry Geraci to Abhay Schweitzer, dted 5/15/17
- 98) Letter from City of SD to Abhay Schweitzer, dated 5/19/17
- 102) Email from Ben Peterson to Abhay Schweitzer, dated 7/10/17
- 104) Email to Larry Geraci, Jim Bartell, and Gina Austin from Abhay Schweitzer, dated 7/17/17
- 105) Email from Jim Bartell to Abhay Schweitzer, dated 7/24/17
- 108) Email from Abhay Schweitzer to Firouzeh Tirandazi, dated 8/15/17-8/17/17
- 110) TECHNE Cycle Issues Responses, dated 9/7/17
- 111) TECHNE Draft Findings, dated 9/7/17
- 112) TECHNE Cycle Issues Responses, dated 9/11/17
- 113) Email to Larry Geraci, Rebecca Berry, Gina Austin, Michael Weinstein, and Jim Bartell from Abhay Schweitzer, dated 9/16/17
- 124) SCST Geotechnical Investigation Report, dated 6/8/18
- 125) TECHNE Draft findings, dated 6/11/18
- 126) TECHNE Cycle Issues Responses, dated 6/12/18
- 136) CUP Submittal Plans- CUP Submittal 3, dated 6/18/18
- 147) TECHNE Expense Summary with supporting documentation
- 149) TECHNE Appeal of Project 598124 TECHNE004933-4964

10:10 a.m. Cross examination of Abhay Schweitzer commences by Attorney Austin on behalf of Defendant/Cross-Complainant, Darryl Cotton.

10:30 a.m. All jurors are admonished and excused for break and Court is in recess.

10:49 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. The jury is not present.

Outside the presence of the jury, counsel is ordered by the Court to be on time in the future. Court is in recess.

10:51 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. All jurors are present.

10:52 a.m. Abhay Schweitzer, previously sworn, resumes the stand for further cross examination by

Attorney Austin on behalf of Defendant/Cross-Complainant, Darryl Cotton.

11:03 a.m. Redirect examination of Abhay Schweitzer commences by Attorney Toothacre on behalf of Plaintiff/Cross-Defendant, Larry Geraci, et al.

11:06 a.m. The witness is excused.

11:07 a.m. **FIROUZEH TIRANDAZI** is sworn and examined by Attorney Toothacre 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:

96) Email to Firouzeh Tirandaz from Darryl Cotton, dated 5/15/17

106) Email to Rodney Bruce from Firouzeh Tirandazi, dated 8/9/17

107) Email to Firouzeh Tirandazi from Abhay Schweitzer, dated 8/10/17

114) Email string, top email to Holly Glavinic from Firouzeh Tirandazi, dated 9/29/17

Court's exhibit 68, previously identified, is now received into evidence.

11:42 a.m. Cross examination of Firouzeh Tirandazi commences by Attorney Austin on behalf of Defendant/Cross-Complainant, Darryl Cotton.

12:00 p.m. All jurors are admonished and excused for lunch and Court is in recess.

1:22 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. The jury is not present.

Outside the presence of the jury, Court and counsel discuss evidentiary issues, jury instructions and the two civil judgments against Plaintiff.

1:29 p.m. Court is in recess.

1:31 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. All jurors are present.

1:32 p.m. Firouzeh Tirandazi, previously sworn, resumes the stand for further further cross examination by Attorney Austin on behalf of Defendant/Cross-Complainant, Darryl Cotton.

1:40 p.m. The witness is excused.

1:41 p.m. To accommodate witness scheduling, the Court allows counsel to call a witness out-of-order. Plaintiff's case will be interrupted at this time and **JOE HURTADO** is sworn and examined by Attorney Austin on behalf of Defendant/Cross-Complainant, Darryl Cotton.

2:04 p.m. An unreported sidebar conference is held. (5 minutes)

2:19 p.m. Cross examination of Joe Hurtado commences by Attorney Toothacre on behalf of Plaintiff/Cross-Complainant, Larry Geraci, et al.

2:20 p.m. The witness is excused.

2:21 p.m. All jurors are admonished and excused for the evening and Court remains in session.

Outside the presence of the jury, Court and counsel discuss sidebar conference and the objections that were made.

Court and counsel confer regarding verdict forms and jury instructions.

Plaintiff offers courts exhibits 11, 139-146 and 148 into evidence. Defense objects to court's exhibits 139-146 and 148. Objection is sustained. **Court exhibit 11 is received into evidence.**

2:29 p.m. Court is adjourned until 07/10/2019 at 09:00AM in Department 73.