

ROA 636
9 pages
ORIGINAL

FILED
Clerk of the Superior Court

JUL 16 2019

By: A. TAYLOR

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION

LARRY GERACI,

Plaintiff,

v.

DARRYL COTTON,

Defendant.

Case No. 37-2017-00010073-CU-BC-CTL

Judge: Hon. Joel R. Wohlfeil

SPECIAL VERDICT FORM NO. 2

DARRYL COTTON,

Cross-Complainant,

v.

LARRY GERACI,

Cross-Defendant.

We, the Jury, in the above entitled action, find the following special verdict on the questions submitted to us:

Breach of Contract

1 1. Did Cross-Complainant Darryl Cotton and Cross-Defendant Larry Geraci enter into an oral
2 contract to form a joint venture?

3
4 ☐ Yes ☒ No

5
6 If your answer to question 1 is yes, answer question 2. If your answer to question 1 is no, do not
7 answer questions 2 – 7 and answer question 8.

8
9 2. Did Cross-Complainant do all, or substantially all, of the significant things that the contract
10 required him to do?

11
12 ☐ Yes ☐ No

13
14 If your answer to question 2 is yes, do not answer question 3 and answer question 4. If your
15 answer to question 2 is no, answer question 3.

16
17 3. Was Cross-Complainant excused from having to do all, or substantially all, of the significant
18 things that the contract required him to do?

19
20 ☐ Yes ☐ No

21
22 If your answer to question 3 is yes, answer question 4. If your answer to question 3 is no, do not
23 answer questions 4 – 7 and answer question 8.

24
25 4. Did all the condition(s) that were required for Cross-Defendant's performance occur?

26
27 ☐ Yes ☐ No

1 If your answer to question 4 is yes, do not answer question 5 and answer question 6. If your
2 answer to question 4 is no, answer question 5.

3
4 5. Was the required condition(s) that did not occur excused?

5
6 ☐ Yes ☐ No

7
8 If your answer to question 5 is yes, answer question 6. If your answer to question 5 is no, do not
9 answer questions 6 – 7 and answer question 8.

10
11 6. Did Cross-Defendant fail to do something that the contract required him to do?

12
13 ☐ Yes ☐ No

14
15 or

16
17 Did Cross-Defendant do something that the contract prohibited him from doing?

18
19 ☐ Yes ☐ No

20
21 If your answer to either option for question 6 is yes, answer question 7. If your answer to both
22 options is no, do not answer question 7 and answer question 8.

23
24 7. Was Cross-Complainant harmed by Cross-Defendant's breach of contract?

25
26 ☐ Yes ☐ No

27
28 Please answer question 8.

1
2 **Fraud - Intentional Misrepresentation**
3

4 8. Did Cross-Defendant make a false representation of an important fact to Cross-Complainant?

5
6 ☐ Yes ☒ No
7

8 If your answer to question 8 is yes, answer question 9. If your answer to question 8 is no, do not
9 answer questions 9 – 12 and answer question 13.
10

11 9. Did Cross-Defendant know that the representation was false, or did Cross-Defendant make
12 the representation recklessly and without regard for its truth?

13
14 ☐ Yes ☐ No
15

16 If your answer to question 9 is yes, answer question 10. If your answer to question 9 is no, do
17 not answer questions 10 – 12 and answer question 13.
18

19 10. Did Cross-Defendant intend that Cross-Complainant rely on the representation?
20

21 ☐ Yes ☐ No
22

23 If your answer to question 10 is yes, answer question 11. If your answer to question 10 is no, do
24 not answer questions 11 – 12 and answer question 13.
25

26 11. Did Cross-Complainant reasonably rely on the representation?
27

28 ☐ Yes ☐ No

1
2 If your answer to question 11 is yes, answer question 12. If your answer to question 11 is no, do
3 not answer question 12 and answer question 13.
4

5 12. Was Cross-Complainant's reliance on Cross-Defendant's representation a substantial factor
6 in causing harm to Cross-Complainant?
7

8 ☐ Yes ☐ No
9

10 Please answer question 13.
11

12 **Fraud - False Promise**
13

14 13. Did Cross-Defendant make a promise to Cross-Complainant that was important to the
15 transaction?
16

17 ☐ Yes ☒ No
18

19 If your answer to question 13 is yes, answer question 14. If your answer to question 13 is no, do
20 not answer questions 14 – 18 and answer question 19.
21

22 14. Did Cross-Defendant intend to perform this promise when Cross-Defendant made it?
23

24 ☐ Yes ☐ No
25

26 If your answer to question 14 is no, answer question 15. If your answer to question 14 is yes, do
27 not answer questions 15 – 18 and answer question 19.
28

1 15. Did Cross-Defendant intend that Cross-Complainant rely on this promise?
2

3 ____ Yes ____ No
4

5 If your answer to question 15 is yes, answer question 16. If your answer to question 15 is no, do
6 not answer questions 16 – 18 and answer question 19.
7

8 16. Did Cross-Complainant reasonably rely on this promise?
9

10 ____ Yes ____ No
11

12 If your answer to question 16 is yes, answer question 17. If your answer to question 16 is no, do
13 not answer questions 17 – 18 and answer question 19.
14

15 17. Did Cross-Defendant perform the promised act?
16

17 ____ Yes ____ No
18

19 If your answer to question 17 is no, answer question 18. If your answer to question 17 is yes, do
20 not answer question 18 and answer question 19.
21

22 18. Was Cross-Complainant's reliance on Cross-Defendant's promise a substantial factor in
23 causing harm to Cross-Complainant?
24

25 ____ Yes ____ No
26

27 Please answer question 19.
28

1 **Fraud - Negligent Misrepresentation**

2
3 19. Did Cross-Defendant make a false representation of an important fact to Cross-Complainant?

4
5 ☐ Yes ☒ No

6
7 If your answer to question 19 is yes, answer question 20. If your answer to question 19 is no, do
8 not answer questions 20 – 24 but if your answer to questions 7, 12 or 18 is yes, answer question 25. If
9 your answers to questions 7, 12 and 18 were not yes, answer no further questions, and have the presiding
10 juror sign and date this form.

11
12 20. Did Cross-Defendant honestly believe that the representation was true when Cross-Defendant
13 made it?

14
15 ☐ Yes ☐ No

16
17 If your answer to question 20 is yes, answer question 21. If your answer to question 20 is no, do
18 not answer questions 21 – 24 but if your answer to questions 7, 12 or 18 is yes, answer question 25. If
19 your answers to questions 7, 12 and 18 were not yes, answer no further questions, and have the presiding
20 juror sign and date this form.

21
22 21. Did Cross-Defendant have reasonable grounds for believing the representation was true when
23 Cross-Defendant made it?

24
25 ☐ Yes ☐ No

26
27 If your answer to question 21 is yes, answer question 22. If your answer to question 21 is no, do
28 not answer questions 22 – 24 but if your answer to questions 7, 12 or 18 is yes, answer question 25. If

1 your answers to questions 7, 12 and 18 were not yes, answer no further questions, and have the presiding
2 juror sign and date this form.

3
4 22. Did Cross-Defendant intend that Cross-Complainant rely on the representation?

5
6 ☐ Yes ☐ No
7

8 If your answer to question 22 is yes, answer question 23. If your answer to question 22 is no, do
9 not answer questions 23 – 24 but if your answer to questions 7, 12 or 18 is yes, answer question 25. If
10 your answers to questions 7, 12 and 18 were not yes, answer no further questions, and have the presiding
11 juror sign and date this form.

12
13 23. Did Cross-Complainant reasonably rely on the representation?

14
15 ☐ Yes ☐ No
16

17 If your answer to question 23 is yes, answer question 24. If your answer to question 23 is no, do
18 not answer question 24 but if your answer to questions 7, 12 or 18 is yes, answer question 25. If your
19 answers to questions 7, 12 and 18 were not yes, answer no further questions, and have the presiding juror
20 sign and date this form.

21
22 24. Was Cross-Complainant's reliance on Cross-Defendant's representation a substantial factor
23 in causing harm to Cross-Complainant?

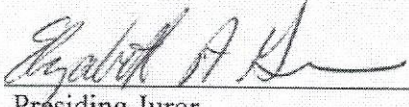
24
25 ☐ Yes ☐ No
26
27
28

1 If your answer to question 24 is yes, answer question 25. If your answer to question 24 is no, but
2 if your answer to questions 7, 12 or 18 is yes, answer question 25. If your answers to questions 7, 12 and
3 18 were not yes, answer no further questions, and have the presiding juror sign and date this form.

4
5 25. What are Cross-Complainant's damages?

6
7 \$ _____
8
9

10
11 Dated: 7/16/19

Signed: 

Presiding Juror

12
13 After all verdict forms have been signed, notify the bailiff that you are ready to present your verdict in
14 the courtroom.
15
16
17
18
19
20
21
22
23
24
25
26
27
28