

SUPERIOR COURT OF CALIFORNIA,  
COUNTY OF SAN DIEGO  
CENTRAL

MINUTE ORDER

DATE: 04/26/2019

TIME: 09:00:00 AM

DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil

CLERK: Andrea Taylor

REPORTER/ERM: Lois Mason Thompson CSR# 3685

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

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**EVENT TYPE:** Discovery Hearing

**MOVING PARTY:** Darryl Cotton

**CAUSAL DOCUMENT/DATE FILED:** Motion - Other For Order that Initial Answers to Interrogatories Be Deemed Binding, 04/04/2019

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**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).

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The Court after reviewing papers filed and hearing oral argument confirms in part and takes under submission in part as follows:

The Motion (ROA # 491) of Defendant / Cross-Complainant Darryl Cotton ("Defendant" or "Cotton") for an Order that the Initial Answers of Plaintiff / Cross-Defendant Larry Geraci ("Plaintiff" or "Geraci") to Defendant's Interrogatories be Deemed Binding, is DENIED.

Defendant's Request (ROA # 492) for judicial notice is GRANTED IN PART and DENIED IN PART. The Court takes judicial notice of Exh's "1 and 10," and declines to take judicial notice o Exh's "2 - 9."

Plaintiff's evidentiary objections (ROA # 487) are SUSTAINED.

The plain language of the statute relied on by Defendant - CCP 2030.310 - contemplates that "an amended answer" has been served. Here, Plaintiff has not yet served an amended answer.

Plaintiff's request for sanctions is DENIED. Though a close call, the Court finds that Defendant did not file his Motion without substantial justification.

(Clerk's note: The Court takes under submission the limited issue regarding sanctions.)