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Superior Court of California,
County of San Diego
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By Treva Cutts, Deputy Clerk

6 Attorneys for Plaintiff/Cross-Defendant LARRY GERACI and
7 Cross-Defendant REBECCA BERRY

8 **SUPERIOR COURT OF CALIFORNIA**
9 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

10 LARRY GERACI, an individual,

11 Plaintiff,

12 v.

13 DARRYL COTTON, an individual; and DOES 1
14 through 10, inclusive,

15 Defendants.

16 DARRYL COTTON, an individual,

17 Cross-Complainant,

18 v.

19 LARRY GERACI, an individual, REBECCA
20 BERRY, an individual, and DOES 1
THROUGH 10, INCLUSIVE,

21 Cross-Defendants.

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

Judge: Hon. Joel R. Wohlfeil
22 Dept.: C-73

**PLAINTIFF/CROSS-DEFENDANTS'
23 NOTICE OF MOTION AND MOTION IN
LIMINE TO EXCLUDE TESTIMONY
24 THAT GERACI WAS SOMEHOW
BEHIND AN ARMED ROBBERY OF MR.
25 COTTON AND HIS EMPLOYEES**

[MIL NO. 6 OF 15]

[IMAGED FILE]

Complaint Filed: March 21, 2017
26 Trial Date: June 28, 2019

27 **TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD HEREIN:**


28 **PLEASE TAKE NOTICE** that on June 28, 2019 at 8:30 a.m. or as soon thereafter as the
matter may be heard in Department C-73 of the San Diego Superior Court, located at 330 West
Broadway, San Diego, California, Plaintiff/Cross-Defendant, LARRY GERACI, and Cross-
Defendant, REBECCA BERRY, will move *in limine* pursuant to Evid. Code §§ 210, 350, 352, 786,
787, 1100 et seq. for orders excluding any and all evidence, examination, argument or other

1 reference to allegations that Mr. Geraci was somehow behind a burglary of his 151 farms on June
2 10, 2017.

3 This motion will be based upon the grounds that the probative value of the evidence is
4 substantially outweighed by the risk of undue prejudice to Mr. Geraci in that there is no
5 competent foundation for the evidence, the evidence is rank speculation and is inadmissible evidence
6 of character. The motion will be based upon this Notice of Motion, the Memorandum of Points and
7 Authorities, and Notice of Lodgment, served and filed herewith, on the records and file herein, and
8 on such evidence as may be presented at the hearing of this motion.

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10 FERRIS & BRITTON
A Professional Corporation

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12 Dated: June 20, 2019

13 By: 
14 Michael R. Weinstein
15 Scott H. Toothacre
16 Attorney for Plaintiff/Cross-Defendant LARRY
17 GERACI and Cross-Defendant REBECCA BERRY
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On June 10, 2017, after Mr. Cotton had opened his 151 Farm he left his employees and
4 volunteers at the farm while he went to Home Depot and to the bank. When Mr. Cotton returned
5 around 10:50 a.m., he was attempting to walk into the office when he found the door was locked
6 and being blocked from the inside. Mr. Cotton thought that was unusual as that door was usually
7 unlocked. Mr. Cotton pushed hard on the door and was able to force it open. The reason the door
8 was being locked and blocked was that there was a hooded African-American male on the other side
9 of the door who had a gun. The gunman began yelling at Mr. Cotton to get into the office. From
10 his vantage point at the door Mr. Cotton could see that his employee had been laid out on the floor
11 and his hands and legs had been tied behind him. Mr. Cotton immediately pulled the door closed
12 and ran to the other end of the yard where he could warn the others and call 911.

13 Within a minute three hooded African-American males came running out of the office, each
14 carrying trash bags full of medical cannabis. One of the robbers confronted volunteer Anna, whom
15 had grabbed a machete for protection and demanded he drop the cannabis he was carrying. The
16 robber was unwilling to do so but did drop one bag as he attempted to run past her. Mr. Cotton was
17 able to grab another bag from one of the other robbers as he ran past Mr. Cotton and ran to a getaway
18 car parked down the street.

19 Mr. Cotton alleges that he saw the driver of the get-away car who was a “white skinned male”
20 and “he looked like someone [Cotton] had briefly seen in Larry Geraci’s (sic) office.” (Cana Greed
21 p. 42 of 46¹). Mr. Cotton jumped into his truck and gave chase. As he did so, he was on the phone
22 with 911 dispatch. He gave the dispatcher the make and color of the car and the license plate and
23 broke off the chase as he was directed to do by the 911 dispatcher. Mr. Cotton concluded “...that
24 this entire episode was put on by Geraci as a way to put pressure on [him] over the sale of [his]
25

26 _____
27 ¹ Canna-Greed is Mr. Cotton’s 46 page on-line blog which is a regularly updated work in progress with links to most, if not
28 all of the filings, transcripts and orders in this case. The blog also contains Mr. Cotton’s commentary on the various
conspiracies that a former renter of his property (Ray), the City of San Diego and the City Attorney’s Office have engaged in
attempting to defraud Mr. Cotton of his property. Commencing in Chapter 8 Mr. Cotton sets forth his current conspiracy
theory with Mr. Geraci, Attorneys Weinstein, Toothacre, Gina Austin etc. to defraud Mr. Cotton of his property.

1 property.” (Canna-Greed. Stay Awake. Stay Aware. My Story. P. 42 of 46, attached as Exhibit 12
2 to NOL.)

3 When Mr. Cotton returned to the scene of the crime he met with San Diego Police
4 Department, Detective Eric Pollom, who took down Mr. Cotton’s statement. Mr. Cotton explained
5 the Geraci lawsuit to Detective Pollom including Cotton’s belief that Geraci was attempting to steal
6 Mr. Cotton’s property. Mr. Cotton even gave Detective Pollom Mr. Geraci’s cell phone number
7 and told him to compare the number to the get-away driver’s phone records to see if the driver had
8 been in contact with Mr. Geraci. Later that day, the driver was arrested, and despite all of this
9 information provided to the Detectives, the driver was released and never charged. No charges have
10 ever been filed against anyone in connection with the burglary. Nevertheless, Mr. Cotton believes
11 this action was part of some grand conspiracy to deprive him of his property, all organized and
12 perpetuated by Mr. Geraci as the head of a vast criminal enterprise. Mr. Cotton’s deposition
13 testimony was consistent with the Canna-Greed blog, in that he believes that Mr. Geraci had some
14 kind of participation or instruction with regard to the robbery. (Cotton Depo. p. 250:16-18, true and
15 correct excerpt are attached as Exhibit 13 to NOL.)

16 Contrary to Mr. Cotton’s irrational theory, Mr. Geraci has not even been interviewed by
17 either the San Diego Police Department or the Chula Vista Police Department, each of whom
18 responded to the 911 call. Mr. Geraci has not been detained, arrested and/or charged with any
19 criminal conduct in relation to this incident.

20 **II. LEGAL ARGUMENT**

21 **A. Authority for Motion in Limine**

22 The court has the inherent power to grant a motion in limine to exclude “any kind of evidence
23 which could be objected to at trial, either as irrelevant or subject to discretionary exclusion as unduly
24 prejudicial.” (*Clemens v. American Warranty Corp.* (1987) 193 Cal.App.3d 444; *Peat, Marwick,*
25 *Mitchell & Co. v. Superior Court* (1988) 200 Cal.App.3d 272, 288).

26 **B. Only Relevant Evidence is Admissible**

27 Evidence Code § 350 states that “(n)o evidence is admissible except relevant evidence.”
28 Relevant evidence is defined by Evidence Code § 210 as “having any tendency in reason to prove


1 or disprove any disputed fact that is of consequence to the determination of the action.” (See *People*
2 *v. Kelly* (1992) 1 Cal.4th 495, 523 – only relevant evidence is admissible; *People v. Haston* (1968)
3 69 Cal.2d 233, 245 - in every case the possibility of severing relevant from irrelevant portions of
4 evidence should be considered to protect against undue prejudice.) To the extent the evidence is
5 claimed to be relevant for impeachment it is inadmissible evidence to attack or support the credibility
6 of a witness. (Cal. Evid. Code § 788.)

7 **III. CONCLUSION**

8 Mr. Cotton’s irrational theory that Mr. Geraci was somehow connected to the armed robbery
9 at 151 Farms is irrelevant, unsubstantiated and inflammatory, and it must be excluded at trial.

10
11 FERRIS & BRITTON
A Professional Corporation

12
13 Dated: June 20, 2019

14 By: 
15 Michael R. Weinstein
16 Scott H. Toothacre
17 Attorney for Plaintiff/Cross-Defendant LARRY
18 GERACI and Cross-Defendant REBECCA BERRY
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**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION**

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DARRYL COTTON, an individual; and DOES 1
through 10, inclusive,
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DARRYL COTTON, an individual,
Cross-Complainant,
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LARRY GERACI, an individual, REBECCA
BERRY, an individual, and DOES 1
THROUGH 10, INCLUSIVE,
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**ORDER [PROPOSED] RE
PLAINTIFF/CROSS-DEFENDANTS'
MOTION IN LIMINE NO. 6 OF 15 TO
EXCLUDE TESTIMONY THAT GERACI
WAS SOMEHOW BEHIND AN ARMED
ROBBERY OF MR. COTTON AND HIS
EMPLOYEES**

**[MIL NO. 6 OF 15]
[IMAGED FILE]**

Complaint Filed: March 21, 2017
Trial Date: June 28, 2019

1 After considering all moving, opposition and reply papers, as well as the oral argument of counsel,
2 **IT IS HEREBY ORDERED THAT** Plaintiff/Cross-Defendants' Motion in Limine No. 6 of 15 is
3 [GRANTED/GRANTED WITHOUT PREJUDICE/DENIED/DENIED WITHOUT PREJUDICE].
4 [Any evidence, examination, argument or other reference to allegations that Mr. Geraci was
5 somehow behind a burglary of his 151 farms on June 10, 2017, is precluded, and all counsel are
6 ordered to advise their clients and witnesses of the Court's Order.]

7
8 Dated: July __, 2019

9 HON. JOEL R. WOHLFEIL
Judge of the San Diego County Superior Court