

1 Jacob P. Austin [SBN 290303]
2 The Law Office of Jacob Austin
3 P.O. Box 231189
4 San Diego, CA 92193
5 Telephone: (619) 357-6850
6 Facsimile: (888) 357-8501
7 E-mail: JPA@JacobAustinEsq.com

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
06/26/2019 at 04:59:00 PM
Clerk of the Superior Court
By E- Filing, Deputy Clerk

8 Attorney for Defendant/Cross-Complainant DARRYL COTTON

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF SAN DIEGO**

11 LARRY GERACI, an individual,
12 Plaintiff,
13 vs.
14 DARRYL COTTON, an individual; and
15 DOES 1 through 10, inclusive,
16 Defendants.

) Case No. 37-2017-00010073-CU-BC-CTL
) **DEFENDANT/CROSS-COMPLAINANT**
) **DARRYL COTTON'S OPPOSITION TO**
) **PLAINTIFF/CROSS-DEFENDANT'S MOTION**
) **IN LIMINE NO. 6 TO EXCLUDE TESTIMONY**
) **THAT GERACI WAS SOMEHOW BEHIND AN**
) **ARMED ROBBERY OF MR. COTTON AND**
) **HIS EMPLOYEES**

17

18 AND RELATED CROSS-ACTION.
19
20

) Dept: C-73
) Judge: The Hon. Joel R. Wohlfeil
)
)

21
22 Defendant/Cross-complainant Darryl Cotton ("Cotton), submits the following opposition to
23 Plaintiff/Cross-defendant's motion in limine to exclude testimony that Geraci was somehow behind an
24 armed robbery of Mr. Cotton and his employees.

25 **INTRODUCTION**

26 Plaintiff/Cross-defendants seeks to exclude testimony that Geraci was somehow behind an
27 armed robbery of Mr. Cotton and his employees.

28 Plaintiff/Cross-defendant's motion should be denied because it is circumstantial evidence of a

1 conspiracy/anti-trust enterprise.

2
3 **ARGUMENT**

4 **I. COTTON HAS CONSISTENTLY ARGUED THAT ON INFORMATION**
5 **AND BELIEF, THE GET AWAY DRIVER ON THE DAY OF THE ROBBERY**
6 **HE RECOGNIZED AS SOMEONE HE HAD PRVIOUSLY SEEN AT**
7 **GERACI'S OFFICE, THESE FACTS ARE RELEVANT TO COTTON'S A**
8 **CONSPIRACY/ANTI-TRUST DEFENSE.**

9 If Mr. Cotton is correct, that a conspiracy exists, he will only be able to prove such with
10 circumstantial evidence. It is well established that a civil conspiracy can be inferred from evidence
11 showing a course of conduct on the part of the defendants “teeming with fraudulent representations and
12 replete with intrigue, deception and duplicity.” Anderson v. Thacher, 76 Cal. App. 2d 50, 73.

13 Additionally, a plaintiff need not produce evidence showing that the defendants met and actually
14 agreed to undertake the performance of the unlawful act (Black v. Sullivan (1975) 48 Cal. App. 3d 557,
15 567). Because of the inherent difficulty in proving a conspiracy, a conspiracy may sometimes be inferred
16 from the nature of the acts done, the relations of the parties, the interests of the alleged conspirators, and
17 other circumstances (Chicago Title Ins. Co. v. Great W. Fin. Corp. (1968) 69 Cal. 2d 305, 316; Black
18 v. Sullivan (1975) 48 Cal. App. 3d 557, 566–567)

19 A civil conspiracy can be inferred from evidence showing a course of conduct on the part of the
20 defendants “teeming with fraudulent representations and replete with intrigue, deception and
21 duplicity.” Anderson v. Thacher, 76 Cal. App. 2d 50, 73.

22 Here we have highly contentions litigation involving the marijuana industry. Cotton notes that
23 recently a high net worth individual named Salam Razuki attempted to have his partner in a marijuana
24 business, Ninas Malan, murdered because he was losing too much money in a contention legal batter
25 with him over ownership rights in several marijuana dispensaries. Mr. Razuki is currently facing
26 federal charges here in San Diego stemming from his attempt to hire a hit man to deal with his partner,
27 luckily for Mr. Malan the hit man Mr. Razuki was seeking was a undercover agent with the FBI.

28 Geraci now is attempting to exclude all of the circumstantial evidence which proves the
conspiracy. In fact, the vast majority of his motions in limine attempt to do just that, however when
this evidence is taking as a whole the case for an affirmative defense of conspiracy/anti-trust enterprise

1 are proven.

2 **CONCLUSION**

3 For the foregoing reasons, the Court should deny Plaintiff/Cross-defendant's motion in limine
4 to exclude testimony that Geraci had a part to play in an armed robbery of Mr. Cotton and his employees.

5 DATED: June 26, 2019

6 Respectfully submitted,

7
8

Jacob Austin
9 Attorney for Defendant/Cross-
10 Complainant

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: June 26, 2019

Respectfully submitted,

Jacob Austin
Attorney for Defendant/Cross-
Complainant