1	Jacob P. Austin [SBN 290303] The Law Office of Jacob Austin	ELECTRONICALLY FILED Superior Court of California, County of San Diego
2	P.O. Box 231189 San Diego, CA 92193	06/26/2019 at 09:52:00 PM
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6	Attorney for Defendant/Cross-Complainant DARRYL COTTON	
7		
8	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
9	COUNTY OF SAN DIEGO	
10		
11	LARRY GERACI, an individual,) Case No. 37-2017-00010073-CU-BC-CTL
12	Plaintiff,	DEFENDANT/CROSS-COMPLAINANT
13	VS.	DARRYL COTTON'S OPPOSITION TO PLAINTIFF/CROSS-DEFENDANT'S MOTION
14	DARRYL COTTON, an individual; and	IN LIMINE NO. 15 TO EXCLUDE EVIDENCE
15	DOES 1 through 10, inclusive,	OF COTTON'S ALLEGATIONS GERACI CONSPIRED WITH MR. MAGAGNA ON A
16	Defendants.	COMPETING CUP APPLICATION AND
		ALLEGATIONS THAT MAGAGNA THREATENED A WITNESS ON BEHALF OF
17 18	AND RELATED CROSS-ACTION.	MR. GERACI
19		
) Dept: C-73
20		Judge: The Hon. Joel R. Wohlfeil
21	Defendant/Cross complainant Darry	d Cotton ("Cotton) submits the following ennesition to
22	Defendant/Cross-complainant Darryl Cotton ("Cotton), submits the following opposition to	
23	Plaintiff/Cross-defendant's motion in limine to exclude evidence of Cotton's allegations Geraci	
24	conspired with Mr. Magagna on a competing CUP application and allegations that Magagna threatened	
25	a witness on behalf of Mr. Geraci.	
26	INTRODUCTION	
27	Plaintiff/Cross-defendants seeks to exclude allegations Geraci conspired with Magagna on a	
28	competing CUP application and allegations that Magagna threatened a witness on behalf of Mr.	
	i I	

Geraci. Mr. Geraci argues with conjecture and rhetoric however what he fails to address is the fact that the Magana CUP has multiple nexus to Geraci despite the fact that he vehemently denies it. First Gina Austin the attorney from Mr. Geraci's application has Mr. Magagna as a long time client. Additional upon monitoring of the DSD website regarding the processing of that CUP Techne and Abhay Schweitzer were listed as "point of contact" or "agent" and when confronted with this information during his deposition Mr. Schweitzer had no explanation of this and admitted that if he did in fact work on that project it would be a conflict of interest as he was simultaneously engaged in perusing the CUP on Cottons property.

ARGUMENT

I. THE **ALLEGATIONS INFORMATION** IS AND RELEVANT.

There has been evidence in this case of witness tampering by Mr. Magagna. So much so that the witness in question has absconded despite her attorney confirming the underlying facts related in a text messages and evidencing her fear of Magagna Gina Austin and others. It is Cotton's intention to call Ms. Natalie Nguyen to testify, she represents the witness who has absconded, Corina Young. Additionally, Mr. Hurtado can authenticate the text messages sent to him which read Cotton concedes that he will not be able to testify as to hearsay the other circumstantial evidence of Mr. Magagna's connection to Geraci. Additionally Cotton is still hopeful that Ms. Young will come forward and do that right thing.

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CONCLUSION

For the foregoing reasons, the Court should deny Plaintiff/Cross-defendant's motion in limine to exclude evidence of allegations Geraci conspired with Mr. Magagna on a competing CUP application and allegations that Magagna threatened a witness on behalf of Mr. Geraci.

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DATED: June 26, 2019 Respectfully submitted,

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Jacob P. Austin

Jacob Austin Attorney for Defendant/Cross-Complainant