

ROA 620
4/3/20

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL

MINUTE ORDER

DATE: 07/10/2019

TIME: 09:00:00 AM

DEPT: C-73

JUDICIAL OFFICER PRESIDING: Joel R. Wohlfeil

CLERK: Andrea Taylor

REPORTER/ERM: Margaret Smith CSR# 9733

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

EVENT TYPE: Civil Jury Trial

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).

Darryl Cotton, Defendant is present.

Larry Geraci, Plaintiff is present.

Rebecca Berry, Cross - Defendant, not present.

8:44 a.m. This being the time previously set for further Jury trial in the above entitled cause, having been continued from July 9, 2019, all parties and counsel appear as noted above and court convenes. The jurors are not present.

Outside the presence of the jury, Court and counsel discuss scheduling, witnesses, jury instructions and verdict forms. The Court will defer hearing any motions until after all the evidence has been completed.

8:50 a.m. Court is in recess.

9:11 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. All jurors are present.

9:12 a.m. **JAMES BARTELL** is sworn and examined by Attorney Toothacre on behalf of Plaintiff/Cross-Defendant, Larry Geraci, et al.

9:30 a.m. Cross examination of James Bartell commences by Attorney Austin on behalf of Defendant/Cross-Complainant, Darryl Cotton.

9:42 a.m. The witness is excused.

9:43 a.m. Darryl Cotton, previously sworn, resumes the stand for further direct examination by Attorney Austin on behalf of Defendant/Cross-Complainant, Darryl Cotton.

10:12 a.m. Cross examination of Darryl Cotton commences by Attorney Weinstein on behalf of Plaintiff/Cross-Defendant, Larry Geraci, et al.

The following Court's exhibit(s) is marked for identification and admitted on behalf of Plaintiff/Cross-Defendant:

85) Email to Michael Weinstein from Darryl Cotton, dated 3/28/17

10:22 a.m. Redirect examination of Darryl Cotton commences by Attorney Austin on behalf of Defendant/Cross-Complainant, Darryl Cotton.

10:24 a.m. Recross examination of Darryl Cotton commences by Attorney Weinstein on behalf of Plaintiff/Cross-Defendant, Larry Geraci, et al.

10:25 a.m. The witness is excused.

10:26 a.m. Defendant rests subject to the admission of exhibits.

10:27 a.m. All jurors are admonished and excused for break and Court remains in session.

Outside the presence of the jury, Court and counsel discuss objections.

10:28 a.m. Court is in recess.

10:43 a.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. All jurors are present.

10:44 a.m. Larry Geraci, previously sworn, resumes the stand for further rebuttal examination by Attorney Weinstein on behalf of Plaintiff/Cross-Defendant, Larry Geraci, et al.

10:45 a.m. Plaintiff rests subject to the admission of exhibits.

10:46 a.m. All jurors are admonished and excused for the evening and Court remains in session.

Outside the presence of the jury, Defense counsel offers court's exhibit 281 into evidence, with objection, objection is sustained.

Defense counsel requests the Court take Judicial Notice of case numbers 2014-20897 and 2015-4430 against Plaintiff Larry Geraci. Objection by the Plaintiff. Objection is sustained.

Defense counsel makes a Motion for Non-Suit on the Plaintiff's Complaint. The Court hears argument. The Motion for Non-Suit as to the Plaintiff's Complaint is denied.

Plaintiff's counsel makes a Motion for Directed Verdict on the Cross-Complaint. The Court hears

argument. The Motion for Directed Verdict is denied as to Breach of Contract claim.

11:35 a.m. Court is in recess.

1:25 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. The jury is not present.

Outside the presence of the jury, Court hears further argument as to Motion for Directed Verdict on Cross-Complaint. The Motion for Directed Verdict as to Malice, Oppression and Punitive Damages is granted. The Motion for Directed Verdict as to Negligent Misrepresentation and Intentional Misrepresentation is denied.

Court and counsel go over jury instructions.

2:58 p.m. Court is in recess.

3:12 p.m. Court reconvenes with plaintiff(s), defendant(s) and counsel present as noted above. The jurors are not present.

Outside the presence of the jury, Court and counsel go over jury instructions and the verdict forms.

Per stipulation of counsel, the reporter is waived for tomorrow's hearing.

3:13 p.m. Court is adjourned until 07/11/2019 at 10:30AM in Department 73.