

COURT OF APPEAL – STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION ONE

DARRYL COTTON,
Plaintiff and Appellant,
v.

LAWRENCE GERACI,
Defendant and Respondent.
D084992

San Diego County Super. Ct. No. 37-2022-00000023-CU-MC-CTL

Plaintiff and Appellant's Supplemental Letter-Brief

To the Court:

In response to your request for answers to the following questions posed in your February 4, 2026, order, I, Darryl Cotton, (“Appellant”) have the following:

(1) *On January 3, 2022, plaintiff/appellant initiated the underlying superior court case (No. 37-2022-00000023-CU-MC-CTL) by filing a “Verified Complaint in Equity to Set Aside Void Judgment.” Please confirm that no document labeled a final judgment has been filed and entered in this case.*

Appellant has no record of any document that has been labeled “final judgment” which could point to in this case. Appellant can only direct the court to the July 12, 2024, Minute Order in which the case was dismissed with prejudice but no “final judgment” language was used. (See the “July 12, 2024, Minute Order” at **Exhibit A**)

On July 23, 2024, Appellant filed a Motion to Reconsider the July 12, 2024, Minute Order. On September 20, 2024, Appellant’s Motion to Reconsider was denied and again there was no “final judgment” language used in that order. However, the September 20, 2024, Minute Order does refer to the July 12, 2024, Minute Order which dismissed the case with prejudice. (See the “September 20, 2024, Minute Order” at **Exhibit B**)

(2) *In April 2022, plaintiff/appellant attempted to appeal from February 25, 2022, minute order denying his motion to set aside a 2019 void judgment in a different case, No. 37-2017-00019973-CU-MC-CTL. This court ultimately dismissed that appeal (D080460) on September 6, 2022 “on the ground that it is taken from a nonappealable order.” The current notice of appeal filed October 9, 2024, purports to appeal from the superior court minute order dated July 12, 2024, which also denied plaintiff/appellant’s motion to set aside the same 2019 judgment. Is this order not appealable for similar reasons?*

While there may have been procedural elements which gave the court a legitimate reason to deny that D080460 appeal, the same cannot be said of case No. D084992. The D089460 appeal relied on the February 25, 2022, Minute Order, plaintiff’s Motion to Set Aside Judgment which

was denied. (See the “ February 25, 2022, Minute Order” at **Exhibit C**) Unlike the current D084992 appeal, there was no permanency to the February 25, 2022, Minute Order as it did not dismiss the case with prejudice or as a “final order.” Thus, the D089460 appeal was an interlocutory appeal, and the underlying case would continue. The July 2024 and September 2024 Minute Orders, by dismissing with prejudice left Appellant with no avenue to present the substantive issues which are being raised in this appeal.

(3) *Alternatively, is the July 12, 2024, order appealable as a final judgment because it disposes of the only “cause[] of action framed by the pleadings, leaving no substantive issue for further determination...”?* (*Griset v. Fair Political Practices Com’n* (2001) 25 CAL.4th 688, 700; see also *Canandaigua Wine Co., Inc. v. county of Madera* (2009) 177 Cal.App.4th 298, 303.)

An order is appealable as a final judgment when it resolves all causes of action framed by the pleadings, leaving no substantive issue for further determination. This determination is guided by the substance of the order rather than its form or label. Cal Code Civ Proc § 577, Cal Code Civ Proc § 904.1, *Griset v. Fair Political Practices Com.*, 25 Cal. 4th 688, 700 (“When, as here, a trial court’s order from which an appeal has been taken disposes of the entire action, the order ‘may be amended so as to convert it into a judgment encompassing actual determinations of all remaining issues by the trial court or, if determinable as a matter of law, by the appellate court, and the notice of appeal may then be treated as a premature but valid appeal from the judgment.’”).)

The relief Appellant seeks is to have the subject judgment declared void. Specifically in this action for enforcing a forged, illegal contract whose performance and object is illegal - the secret, undisclosed, prohibited ownership interest of a regulated cannabis conditional use permit to operate a cannabis dispensary by respondent Lawrence Geraci. A permit Respondent sought to acquire by filing forged and false documents with licensing agencies and the judiciary.

Appellate courts have allowed claims of judicial bias to be made for the first time on appeal. (*Hall v. Harker* (1999) 69 Cal.App.4th 836, 841.) Judge Joel’s Wohlfeil’s statements, which he does not deny and therefore admits, that he does not believe that attorneys for Respondent Geraci are not capable of acting unethically by filing a sham action, based on his years of personal interactions with him, is not the appearance of bias, it is *actual* bias that requires the judgment be declared void. (*People v. Freeman* (2010) 47 Cal.4th 993, 1006 (“In short, the circumstances of this case, as we view them, simply do not rise to a due process violation under the standard set forth by *Caperton* because, objectively considered, they do not pose “ ‘such a risk of actual bias or prejudgment’ ” (*Caperton*, *supra*, 556 U.S. at p. ____ [129 S. Ct. at p. 2263]) as to **require disqualification.**”) (emphasis added).) Judge Wohlfeil’s bias is clear, manifest, undisputed. His disqualification was **required**. The judgment rendered by him is void.

In *Lewis & Queen v. N.M. Ball Sons*, the California Supreme Court held that the defense of illegality may be raised for the first time on appeal when the evidence at trial reveals the illegality. (*Lewis & Queen v. N.M. Ball Sons* (1957) 48 Cal. 2d 141, 147–148.) A party to an illegal contract cannot ratify it, be estopped from relying on the illegality, or waive the right to assert the defense. (*City Lincoln—Mercury Co. v. Lindsey* (1959) 52 Cal. 2d 267, 274.) The court may raise the issue of illegality on its own motion when the evidence shows illegality, even if the parties did not raise issue at trial. (*Bovard v. American Horse Enterprises, Inc.* (1988) 201 Cal. App. 3d 832, 838.)

Therefore, if the Court determines the judgment is void for being rendered by disqualified judge and reached the merits, that the subject contract is void for being forged and illegal, the judgment must be vacated. Thus, the relief Appellant seeks will be provided and a decision by this Court will address the entire complaint

February 13, 2026



Darryl Cotton,
In Propria Persona

Attached:

- EX-A July 12, 2024, Minute Order
- EX-B September 20, 2024, Minute Order
- EX-C February 25, 2022, Minute Order

Exhibit A

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 07/12/2024

TIME: 9:00 AM

DEPT: C-75

JUDICIAL OFFICER: JAMES MANGIONE
CLERK: Natalie Calantoc
REPORTER/ERM: Suzanne Onuki #13734
BAILIFF/COURT ATTENDANT: M. Palafox

CASE NO: **37-2022-00000023-CU-MC-CTL** CASE INIT.DATE: 01/03/2022
CASE TITLE: **Cotton vs. Geraci [IMAGED]**
CASE CATEGORY: Civil CASE TYPE: (U)Other Complaint (Not Specified): Other Complaint

HEARING TYPE: Motion Hearing

MOVING PARTY:

APPEARANCES

Darryl Cotton, self-represented Plaintiff and Appellant, present in person.

Tereza L. Callender, attorney for Lawrence Geraci, AKA Larry Geraci, Defendant and Respondent on Appeal, present in person.

The Court hears argument of counsel and confirms the tentative ruling as follows:

Plaintiff Darryl Cotton's Motion to Set Aside Judgment is denied.

"Equity's jurisdiction to interfere with final judgments is based upon the absence of a fair, adversary trial in the original action." (*Olivera v. Grace* (1942) 19 Cal.2d 570, 575.) "A direct attack on an otherwise final, valid judgment by way of an independent action to set it aside is permitted where it appears that the complaining party was fraudulently prevented from presenting his claim or defense in the prior action. This rule is based upon the important public policy that litigants be afforded a fair adversary proceeding in which fully to present their case. Such relief will be denied, however, where it appears that the complaining party has had an opportunity to present his case to the court and to protect himself from any fraud attempted by his adversary." (*Kachig v. Boothe* (1971) 22 Cal.App.3d 626, 632 (internal citations, alterations and quotation marks omitted).)

Here, Plaintiff was not precluded from presenting his illegality argument to the court. Plaintiff argues that the judgment is void because it is based on an illegal contract. However, he received the opportunity to present this argument in a fair, adversarial proceeding. Consequently, relief is not available pursuant to a direct attack against the judgment via independent action. Furthermore, the judgment is not void on its face such that it should be set aside pursuant to Code of Civil Procedure § 473(d).

All requests for judicial notice are granted.

All evidentiary objections are overruled.

This case is dismissed with prejudice.

The minute order is the order of the Court.

James Mangione

Judge James Mangione

Exhibit B

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 09/20/2024

TIME: 9:00 AM

DEPT: C-75

JUDICIAL OFFICER: JAMES MANGIONE

CLERK: Natalie Calantoc

REPORTER/ERM: Not Reported

BAILIFF/COURT ATTENDANT: M. Palafox

CASE NO: **37-2022-00000023-CU-MC-CTL** CASE INIT.DATE: 01/03/2022

CASE TITLE: **Cotton vs. Geraci [IMAGED]**

CASE CATEGORY: Civil CASE TYPE: (U)Other Complaint (Not Specified): Other Complaint

HEARING TYPE: Motion Hearing

MOVING PARTY:

APPEARANCES

Darryl Cotton, self-represented Plaintiff and Appellant, present in person.

James D Crosby, Attorney for Defendant and Respondent on Appeal Lawrence Geraci, present in person.

The Court hears argument of parties confirms the tentative ruling as follows:

Plaintiff Darryl Cotton's Motion for Reconsideration is denied.

"When an application for an order has been made to a judge, or to a court, and refused . . . , any party affected by the order may, within 10 days after service upon the party of written notice of entry of the order and based upon new or different facts, circumstances, or law, make application to the same judge or court that made the order, to reconsider the matter and modify, amend, or revoke the prior order." (CCP § 1008(a).)

As an initial matter, Plaintiff's application for reconsideration was filed on August 22, 2024, but was rejected because "Multiple Document PDFs may not be uploaded to a single Filing Type." (ROA 125). As such, the Court cannot consider the substance of the application. However, the record before the Court provides the following facts: (1) Plaintiff's Motion to Vacate Judgment was denied on July 12, 2024 (ROA 113); (2) Notice of the Court's ruling was served on Plaintiff on July 17, 2024 (NOL Ex. 1); and (3) Plaintiff

filed the instant motion on August 22, 2024 (ROA 125). Under these facts, the Court denies Plaintiff's request for reconsideration as untimely.

All requests for judicial notice are granted. Additionally, upon its own motion, the Court takes judicial notice of ROA 125.

The minute order is the order of the Court.

James Mangione

Judge James Mangione

Exhibit C

**SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SAN DIEGO
CENTRAL**

MINUTE ORDER

DATE: 02/25/2022

TIME: 09:00:00 AM

DEPT: C-75

JUDICIAL OFFICER PRESIDING: James A Mangione

CLERK: Meaghan Abosamra

REPORTER/ERM: Bridget Mastrobattista CSR# 7715

BAILIFF/COURT ATTENDANT:

CASE NO: **37-2022-00000023-CU-MC-CTL** CASE INIT.DATE: 01/03/2022

CASE TITLE: **Cotton vs. Geraci [IMAGED]**

CASE CATEGORY: Civil - Unlimited CASE TYPE: Misc Complaints - Other

EVENT TYPE: Motion Hearing (Civil)

EVENT TYPE: Ex Parte

APPEARANCES

Brandon Mika, counsel, present for Plaintiff(s).

James D Crosby, counsel, present for Defendant(s).

Evan Shuby - Counsel for Plaintiff specially appearing via Remote Video Appearance (Pro Hac Vice)

MOTION HEARING:

Defendant waives any defect in service and has no objection to Mr. Shuby appearing in this matter.

The Court grants to oral motion and request for appointment of Evan Shuby (BAR #028849) to appear Pro Hac Vice.)

The Court hears oral argument and confirms the tentative ruling as follows: Plaintiff Darryl Cotton's Motion to Set Aside Judgment is denied.

"Equity's jurisdiction to interfere with final judgments is based upon the absence of a fair, adversary trial in the original action." (Olivera v. Grace (1942) 19 Cal.2d 570, 575.) "A direct attack on an otherwise final, valid judgment by way of an independent action to set it aside is permitted where it appears that the complaining party was fraudulently prevented from presenting his claim or defense in the prior action. This rule is based upon the important public policy that litigants be afforded a fair adversary proceeding in which fully to present their case. Such relief will be denied, however, where it appears that the complaining party has had an opportunity to present his case to the court and to protect himself from any fraud attempted by his adversary." (Kachig v. Boothe (1971) 22 Cal.App.3d 626, 632 (internal citations, alterations and quotation marks omitted).)

Here, Plaintiff was not precluded from presenting his illegality argument to the court. Plaintiff argues that the judgment is void because it is based on an illegal contract. However, he received the opportunity to present this argument in a fair, adversarial proceeding. Consequently, relief is not available pursuant to a direct attack against the judgment via independent action. Furthermore, the judgment is not void on its face such that it should be set aside pursuant to Code of Civil Procedure § 473(d).

All requests for judicial notice are granted.

All evidentiary objections are overruled.

Renewal fee for Application to Appear as Counsel Pro Hac Vice is due on the anniversary date of this order each year the case continues.



Judge James A Mangione