

DARRYL COTTON, *In pro se*
6176 Federal Boulevard
San Diego, CA 92114
Telephone: (619) 954-4447
151DarrylCotton@gmail.com

FILED
Clerk of the Superior Court

MAR 15 2022

By: S. Kials-Trent

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO, CENTRAL DIVISION

DARRYL COTTON,

Plaintiff,

v.

LAWRENCE (A/K/A LARRY) GERACI, an
individual,

Defendant.

Case No.: 37-2022-00000023-CU-MC-CTL

PLAINTIFF'S OPPOSITION TO
DEFENDANT'S EX-PARTE
APPLICATION FOR ORDER
SHORTENING TIME FOR JUDGEMENT
ON THE PLEADINGS; DECLARATION
OF DARRYL COTTON

Hearing Date: March 16, 2022

Hearing Time: 8:30 am

Judge: Hon. James A. Mangione

Courtroom: C-75

Complaint Filed: January 3, 2022

Trial Date: Unassigned

Plaintiff Darryl Cotton hereby opposes defendant Lawrence Geraci's ex parte application for an order shortening time on a motion for judgment on the pleadings.

As proven in the declaration of Darryl Cotton below, good cause exists for the denial of the requested OSC or, alternatively, the granting of an OSC with sufficient time for Cotton to meet the deadlines in his litigation matters. Cotton as a pro se will be severely prejudiced in his self-representation, not being an attorney or having any legal background, attempting to meet a shortened timeline with his current pending submissions in his litigation matters.

///

///

///

1 This opposition is based on this opposition, the declaration of Darryl Cotton hereinbelow, the
2 pleadings and papers on the file in this action, and such and further evidence or argument as may be
3 presented at the hearing.

4
5 DATED: March 15, 2022

6 
7 Darryl Cotton
8 Plaintiff *Pro Se*

9 **DECLARATION OF DARRYL COTTON**

10 I, Darryl Cotton, do hereby declare and state:

11 1. I am over the age of eighteen years, and a Plaintiff in the above-entitled action.

12 2. This action seeks to set aside a judgment entered against me in favor of defendant Lawrence
13 Geraci that was filed in March of 2017 that grants him in excess of \$300,000 in damages against me
14 (*"Cotton I"*).¹

15 3. *Cotton I* sought to enforce an alleged contract with an unlawful object, Geraci's ownership of a
16 cannabis conditional use permit that he cannot own pursuant to California's cannabis licensing statutes
17 because he has been sanctioned for unlicensed commercial cannabis activities.

18 4. It is indisputable that Geraci cannot lawfully own a cannabis conditional use permit or license
19 because he has been sanctioned for unlicensed commercial cannabis activities.

20 5. In January 2017, Judge Wohlfeil, at oral argument in response to Cotton's submission alleging
21 that Geraci and his attorneys Gina Austin and Michael Weinstein had conspired to file a frivolous lawsuit
22 to extort the subject real property from Cotton, responded from the bench that he has known them for
23
24
25
26

27
28 ¹ *"Cotton I"* means *Larry Geraci v. Darryl Cotton*, Case No. 37-2017-00010073-CU-BC-CTL.

1 many years and that he does not believe that they would act unethically by filing a meritless lawsuit.

2 6. I cannot find the exact date at which an oral hearing took place at which I was represented by
3 specially appearing counsel Andrew Flores, but will provide the date and hearing and provide a
4 declaration from attorney Flores authenticating the following. At an oral argument, attorney Flores
5 informed Judge Wohlfeil that a motion to disqualify would be filed, to which Judge Wohlfeil asked for
6 an offer of proof, to which counsel provided the above comments, and Judge Wohlfeil replied that he
7 “may” have made those comments because he has known Michael Weinstein since they were young
8 attorneys, and they first began their practice of law.

10 7. Judge Wohlfeil denied the motion to disqualify stating it was improperly served, not timely, and
11 that Cotton’s allegations that he failed to properly rule on questions of law are not the basis of judicial
12 disqualifications (e.g., failure to adjudicate the issue of illegality). However, he does not deny that he
13 made the statements as to his belief that Weinstein and Austin would not act unethically.

15 8. Subsequently, on February 9, 2018, Cotton filed a Civil Rights action in federal court against
16 Judge Wohlfeil and others seeking to cease Judge Wohlfeil’s presiding over *Cotton I* for judicial bias and
17 violating Cotton’s constitutional rights based on his personal belief that counsel Weinstein would not file
18 a suit seeking to enforce an illegal contract (“*Cotton III*”). That matter is still ongoing.

20 9. Judgement against me in *Cotton I* was entered in July 2019.

21 10. In a motion for new trial, Judge Wohlfeil found that I had waived the defense of illegality for
22 failure to raise the issue prior to the motion for new trial. *Cf. City Lincoln-Mercury Co. v. Lindsey*, 52
23 Cal.2d 267, 274 (Cal. 1959) (“A party to an illegal contract cannot ratify it, cannot be estopped from
24 relying on the illegality, and cannot waive his right to urge that defense.”); *Lee On v. Long*, 37 Cal. 2d
25 499, 502 (1951) (“*No principle of law is better settled than that a party to an illegal contract cannot*
26 *come into a court of law and ask to have his illegal objects carried out[.]*”) (emphasis added).

1 11. Cotton reached out to multiple attorneys for an appeal the *Cotton I* judgment, but none of whom
2 would represent him because of his allegations of judicial bias and public criticism of Judge Wohlfeil.

3 12. Cotton located one attorney that would represent him, but for which her services would cost
4 \$200,000, which I did not have and could not raise as a result of defending against the frivolous Cotton
5 I action and the lis pendens on my real property that clouded titled.

6
7 13. On October 22, 2022, the federal court in *Cotton III* issued its latest ruling finding that the
8 *Rooker-Feldman* doctrine barred Cotton's claims against Geraci and his attorneys for perpetrating a fraud
9 on the court by filing a suit seeking to enforce an illegal contract and other unlawful actions during the
10 course of *Cotton I*.

11 14. On January 3, 2022, I filed the instant action seeking to vacate the judgment in *Cotton I* on the
12 grounds that it is void because it enforces an illegal contract and grants relief to defendant Lawrence
13 Geraci in violation of California's cannabis licensing statutes.

14
15 15. The instant complaint described that the entry of judgment against me resulted in part because
16 Judge Wohlfeil would not believe that the Weinstein would file suit against me lacking any probable
17 cause and failed to adjudicate at any point the issue of illegality during the course of *Cotton I*.

18
19 16. However, as the last three years of this case has shown, making allegations of judicial bias is an
20 uphill battle as it antagonizes other judges, and no judge wants to call out a peer. Thus, the Complaint
21 did not seek relief for judicial bias so as to not antagonize this Court and to focus on what I believed to
22 be the single and case dispositive issue of illegality as it grants relief to Geraci that the law declares shall
23 not be granted and I could avoid the issue of judicial bias.

24
25 17. On February 25, 2022, this Court issued its ruling denying Cotton's motion to vacate the Cotton
26 I judgment on the grounds that it is void on its face for enforcing an illegal contract that directly violates
27 California's licensing statutes.

1 18. The Court's order found that:

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

8 19. Cotton respectfully believes that it was legal error for the Court to find that the judgment is not
9 void on its face because controlling precedent by the Court of Appeal's has "define[d] a judgment that is
10 void for excess of jurisdiction to include a judgment that grants relief which the law declares shall not be
11 granted." *311 South Spring Street Co. v. Department of General Services* (2009) 178 Cal.App.4th 1009,
12 1018.

13 20. The relief granted to Geraci in direct violation of California's licensing statutes is on the face of
14 the judgment and thus Cotton believes that the judgment is void on its face. Cotton understands he made
15 these arguments in his motion to vacate, and the Court did not find them persuasive.

16 21. Cotton *respectfully and emphatically* requests that this Court not be antagonized by Cotton's
17 belief that the controlling precedent set forth in *311 South Spring Street Co.* applies and I must do
18 everything in my power to vindicate my rights as this frivolous lawsuit against me has ruined my
19 professional and personal life over the last five years.

20 22. Respectfully, Cotton desires to file a writ and/or appeal based on his belief that as the *Cotton I*
21 judgment is void on its face based on the controlling precedent set forth in *311 South Spring Street Co.*
22 as it grants Geraci relief in direct violation of the law. Thus, it is my belief that the denial of the motion
23 to vacate is void as well. *Rochin v. Pat Johnson Manufacturing Co.* (1998) 67 Cal.App.4th 1228, 1240
24 ("the trial court's subsequent order denying plaintiff's motion to vacate the amended judgment, in that it
25 gives effect to a void judgment, is itself void.").
26
27
28

1 23. Further, as described above, although the Court finds that I had a "fair, adversarial proceeding,"
2 in light of Judge Wohlfeil's comments that he does not believe that Weinstein would act unethically by
3 filing a frivolous lawsuit, when as a matter of law the suit is frivolous as it, *inter alia*, enforces an illegal
4 contract, Cotton did not have a fair and adversarial proceeding.

5 24. Cotton did not want to make judicial bias or Geraci's attorneys' actions that constitute a fraud on
6 the court an issue before this Court to avoid the judicial animosity of judicial bias claims and bad faith
7 actions by attorneys. For example, preventing a witness from providing testimony adverse to Geraci after
8 promising to provide her testimony. Witness tampering is, *prima facie*, obstruction of justice that
9 prevented me from a fair and adversarial hearing.
10

11 25. As the court has denied Cotton's motion on the issue of illegality, Cotton is forced to bring these
12 distasteful parallel claims as they are valid and meritorious grounds to have the *Cotton I* judgment set
13 aside which will allow Cotton to proceed with his claims against Geraci and his attorneys based on
14 information that was not known to Cotton until after the trial of *Cotton I*, which are that Geraci and his
15 attorney's actions are in furtherance of an unlawful scheme to acquire cannabis permits and cannabis
16 compliant properties through sham litigation.
17

18 26. Cotton will prepare and file a motion to amend his complaint to include the judicial bias and
19 fraud on the court allegations that are *already* described in the instant complaint, but which were not
20 made a direct cause of action to avoid judicial animosity.
21

22 27. In *Cotton III*,² Cotton must file oppositions to motions to dismiss by March 30, 2022. (ECF
23 Docket No. 111.)
24

25 28. Cotton is not an attorney and only has limited support from a paralegal and these filings require
26
27

28 ² "Cotton III" means Case No. 18-cv-325-JO-DEB.

1 more time than is necessary for an attorney to prepare.

2 29. Cotton anticipates it will require 7-10 days to finalize a writ and/or appeal and he must then turn
3 to the oppositions to the motions to dismiss due in the federal court by March 30, 2022.

4 30. Thereafter, Cotton will prepare and file his motion for an amended complaint that Cotton believes
5 will take him three to four weeks depending on the availability of the help of a part-time paralegal.

6 31. Therefore, Cotton respectfully requests that this Court deny defendants request for an OSC or that
7 it set the time for the filing of the moving papers for the judgment on the pleadings no earlier than May
8 15th so that I can prepare and concurrently file my motion for leave to amend the complaint and this
9 Court can hear the motion for judgment on the pleadings and the motion for leave to amend at the same
10 time.
11

12 32. Lastly, I respectfully and emphatically request that this Court please not be antagonized by my
13 actions. The facts are indisputable that the suit against me in *Cotton I* was filed without probable cause
14 as it enforces an illegal contract, but the fact that Judge Wohlfeil did not address the issue of illegality
15 during the Court of *Cotton I* because of his personal belief that Weinstein would not act unethically by
16 filing a suit enforcing an illegal contract, has led to a situation where I must first prove judicial bias to
17 get to the issue of illegality, a near impossible burden, that has being prejudiced for almost five years.
18

19 33. At no point in any submission in any legal matter has Geraci ever provided a single case or
20 authority that states a judgment entered through error enforcing an illegal contract somehow makes
21 Geraci's illegal actions legal and obligates me to pay him over \$300,000.
22

23 34. I plead with this Court to please exercise its discretion and grant me the time to prepare my
24 motions so that I am not prejudiced by my lack of legal knowledge and wealth as I seek to vindicate my
25 rights and must do so with, although valid and lawful grounds, are distasteful to the courts.
26

27 I declare under the penalty of perjury under the laws of the state of California that the foregoing
28

1 is true and correct and that I executed this declaration on March 15, 2022, at San Diego, California.
2

3 DATED: March 15, 2022
4



5 Darryl Cotton
6 Plaintiff *Pro Se*
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 DARRYL COTTON, *In pro se*
2 6176 Federal Boulevard
3 San Diego, CA 92114
4 Telephone: (619) 954-4447
5 151DarrylCotton@gmail.com

FILED
Clerk of the Superior Court

MAR 15 2022

By: S. Kials-Trent

6 **SUPERIOR COURT OF CALIFORNIA**
7 **COUNTY OF SAN DIEGO, CENTRAL DIVISION**

8 DARRYL COTTON,
9 Plaintiff,

10 v.

11 LAWRENCE (A/K/A LARRY) GERACI, an
12 individual,
13 Defendant.

Case No.: 37-2022-00000023-CU-MC-CTL

PROOF OF SERVICE

Hearing Date: March 16, 2022
Hearing Time: 8:30 am
Judge: Hon. James A. Mangione
Courtroom: C-75
Complaint Filed: January 3, 2022
Trial Date: Unassigned

14
15 On March 15, 2022, I served the documents described as: PLAINTIFF'S OPPOSITION TO
16 DEFENDANT'S EX-PARTE APPLICATION FOR ORDER SHORTENING TIME FOR
17 JUDGEMENT ON THE PLEADINGS on all interested parties in this action as follows:

18 James D. Crosby, Attorney for Defendant Larry Geraci
19 Email: crosby@crosbyattorney.com

20 **BY ELECTRONIC SERVICE** – I submitted an electronic version of the document(s) by
21 e-mail notification at the email address(s) indicated above. I did not receive, within a reasonable time
22 after the transmission, any electronic message or other indication that the transmission was
unsuccessful.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing is
24 true and correct. Executed at San Diego, California, on March 15, 2022.

25
26 DATED: March 15, 2022

27 
28 Darryl Cotton
Plaintiff Pro Se