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9 Attorneys for Defendants
10 LARRY GERACI and REBECCA BERRY

11 **SUPERIOR COURT OF CALIFORNIA**
12 **COUNTY OF SAN DIEGO, HALL OF JUSTICE**

13 AMY SHERLOCK, an individual and on behalf of
her minor children, T.S. and S.S., ANDREW
14 FLORES, an individual,

15 Plaintiffs,

16 vs.

17 GINA M. AUSTIN, an individual; AUSTIN LEGAL
GROUP, a professional corporation, LARRY
18 GERACI, an individual, REBECCA BERRY, an
individual; JESSICA MCELFFRESH, an individual;
19 SALAM RAZUKI, an individual;
NINUS MALAN, an individual; FINCH,
20 THORTON, AND BARID, a limited liability
partnership; ABHAY SCHWEITZER, an individual
and dba TECHNE; JAMES (AKA JIM) BARTELL,
21 an individual; NATALIE TRANG-MY NGUYEN, an
individual; AARON MAGAGNA, an individual;
22 BRADFORD HARCOURT, an individual; SHAWN
MILLER, an individual; LOGAN STELLMACHER,
23 an individual; EULENTHIAS DUANE
ALEXANDER, an individual; STEPHEN LAKE, an
24 individual, ALLIED SPECTRUM, INC., a California
corporation, PRODIGIOUS COLLECTIVES, LLC, a
25 limited liability company, and DOES 1 through 50,
26 inclusive,

27 Defendants.
28

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
07/22/2022 at 01:35:00 PM
Clerk of the Superior Court
By Regina Chanez, Deputy Clerk

Case No. 37-2021-00050889-CU-AT-CTL

Judge: Hon. James A. Mangione

**DECLARATION OF MICHAEL R.
WEINSTEIN IN SUPPORT OF ANTI-
SLAPP MOTION BY DEFENDANTS,
LARRY GERACI AND REBECCA
BERRY, TO PLAINTIFFS' FIRST
AMENDED COMPLAINT**

(Related to ROA #11)

DATE: October 21, 2022

TIME: 9:00 am

DEPT: C-75

[IMAGED FILE]

Action Filed: December 3, 2021

Trial Date: Not Yet Set

1 I, Michael R. Weinstein, declare as follows:

2 1. I am an attorney in good standing with the State Bar and licensed to practice law before
3 all courts in the State of California. I am a partner in the law firm of Ferris & Britton, APC, counsel of
4 record for defendants, Larry Geraci and Rebecca Berry. I have personal knowledge of the facts set
5 forth herein.

6 2. Attorney Scott H. Toothacre and I represented Larry Geraci and Rebecca Berry in *Larry*
7 *Geraci v. Darryl Cotton*, San Diego Superior Court Case No. 37-2017-00010073-CU-BC-CTL. In that
8 case, Mr. Geraci, the plaintiff, alleged various claims against Darryl Cotton, the defendant. Darryl
9 Cotton filed a cross-complaint on or around May 12, 2017, in which he, as cross-complainant, alleged
10 various causes of action against claims against Mr. Geraci and Ms. Berry, defendants in the instant
11 action.

12 3. During that case, Attorney Andrew Flores (plaintiff in the instant action) moved the
13 Court to intervene claiming to be an indispensable party to that action. That motion was denied by
14 Judge Wohlfiel. Thereafter, Attorney Flores filed a Writ to the Fourth District Court of Appeals,
15 Division One, regarding the order denying his motion to intervene; the writ was denied by the Fourth
16 District Court of Appeal.

17 4. The *Cotton I* judgment was entered following a jury verdict. The jury found in favor of
18 Mr. Geraci and against Mr. Cotton on several of his claims and Geraci was awarded monetary damages
19 in excess of \$268K against Mr. Cotton. The jury found in favor of Mr. Geraci and against Mr. Cotton
20 on all of Mr. Cotton's cross-claims and awarded him nothing. Mr. Cotton's cross-claims against Ms.
21 Berry were not decided by the jury; the court granted her motion for judgment at the close of the trial.
22 Judgment was entered August 19, 2019, and Mr. Cotton's appeal from the judgment was dismissed by
23 the Fourth DCA on February 11, 2020, and the remittitur issued May 14, 2020. That judgment has
24 been in force and effect since August 19, 2019 and is now final. (See *Cotton I* Judgment, Ex. 1 to
25 Notice of Lodgment attached hereto (hereinafter "Geraci NOL").

26 5. The *Cotton I* judgment is final. Nevertheless, Mr. Cotton has attempted, unsuccessfully,
27 to collaterally attack that final judgment as void in separate lawsuits filed by him in state and federal
28 courts.

