

DAVID S. DEMIAN, SBN 220626
E-MAIL: ddemian@ftblaw.com
ADAM C. WITT, SBN 271502
E-MAIL: awitt@ftblaw.com
RISHI S. BHATT, SBN 312407
E-MAIL: rbhatt@ftblaw.com

FINCH, THORNTON & BAIRD, LLP

ATTORNEYS AT LAW
4747 EXECUTIVE DRIVE - SUITE 700
SAN DIEGO, CALIFORNIA 92121-3107
TELEPHONE: (858) 737-3100
FACSIMILE: (858) 737-3101

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
10/30/2017 at 08:00:00 AM
Clerk of the Superior Court
By Katelin O'Keefe, Deputy Clerk

Attorneys for Petitioner/Plaintiff Darryl Cotton

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

CENTRAL DIVISION

DARRYL COTTON, an individual,

Petitioner/Plaintiff,

v.

CITY OF SAN DIEGO, a public entity; and
DOES 1 through 25,

Respondents/Defendants,

CASE NO: 37-2017-00037675-CU-WM-CTL

DECLARATION OF DAVID S. DEMIAN IN
SUPPORT OF EX PARTE APPLICATION
FOR (1) ALTERNATIVE WRIT OF
MANDATE AND ORDER TO SHOW
CAUSE WHY PEREMPTORY WRIT
SHOULD NOT ISSUE, AND (2) THE
SCHEDULING OF A HEARING AND
EXPEDITED SCHEDULE FOR VERIFIED
PETITION FOR WRIT OF MANDATE

[IMAGED FILE]

Assigned to:
Hon. Eddie C. Sturgeon, Dept. C-67

Date: October 31, 2017
Time: 8:30 a.m.
Dept.: C-67

Petition Filed: October 6, 2017
Trial Date: Not Set

REBECCA BERRY, an individual;
LARRY GERACI, an individual; and
ROES 1 through 25,

Real Parties In Interest.

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DECLARATION OF DAVID S. DEMIAN IN SUPPORT OF EX PARTE APPLICATION FOR (1)
ALTERNATIVE WRIT OF MANDATE AND ORDER TO SHOW CAUSE WHY PEREMPTORY WRIT
SHOULD NOT ISSUE, AND (2) THE SCHEDULING OF A HEARING AND EXPEDITED SCHEDULE FOR
VERIFIED PETITION FOR WRIT OF MANDATE

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I, David S. Demian, declare as follows:

1. I am an attorney admitted to practice before this Court and all courts in the State of California and a partner in the law firm of Finch, Thornton & Baird, LLP, counsel of record for petitioner/plaintiff Darry Cotton ("Cotton"). I make this declaration in support of Cotton's ex parte application for: (1) alternative writ of mandate and order to show cause why peremptory writ should not issue, and (2) the scheduling of a hearing and expedited schedule for verified petition for writ of mandate.


2. I have personal knowledge of the facts stated herein and, if called as a witness, I could and would competently testify to them.

3. Pursuant to California Rules of Court, rules 3.1203 and 3.1204, I provided timely ex parte notice of this application to all parties, including the date, time, and relief sought. On October 27, 2017, I sent written notice of this ex parte application to Jana Mickova Will, Deputy City Attorney for respondent/defendant City of San Diego. A true and correct copy of the written notice is attached as Exhibit "A" to this declaration. On October 27, 2017, I sent written notice of this ex parte application to Michael R. Weinstein, counsel of record for real parties in interest Rebecca Berry and Larry Geraci. A true and correct copy of the written notice is attached as Exhibit "B" to this declaration.

4. The notice provided stated that Cotton's application would be filed in Department C-67 of the captioned court and would proceed at 8:30 a.m. or as soon thereafter as the Court would hear it. As of this drafting, I have not received response stating whether the City, Berry, or Geraci will oppose.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 27 day of October 2017, in San Diego, California.



DAVID S. DEMIAN

2403.002/3C19009.amq

EXHIBIT A

From: David S. Demian
Sent: Friday, October 27, 2017 4:55 PM
To: Will, Jana
Subject: Ex parte notice Darryl Cotton v. City of San Diego, Real Parties in Ineterest Rebecca Berry and Larry Geraci (Case No. 37-2017-00037675-CU-WM-CTL)

Importance: High

Jana:

This confirms, consistent with you prior email to me, we have set an ex parte hearing in the referenced action before Judge Sturgeon in Department C-67 on Tuesday, October 31, 2017, at 8:30 a.m., at which we will seek (1) an issuance of the writ; and (2) in the alternative an order to shorten time and specially set the hearing on this writ. My apologies for not yet getting my papers out to you. We are preparing moving papers and will serve them on you as soon as they are available.

Regards,

David

David S. Demian *Partner*

Finch, Thornton & Baird, LLP Attorneys At Law
4747 Executive Drive, Suite 700 San Diego, CA 92121
T 858.737.3100 D 858.737.3118 M 858.245.2451 F 858.737.3101

ftblaw.com [Bio](#) [LinkedIn](#)

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EXHIBIT B

From: David S. Demian
Sent: Friday, October 27, 2017 4:59 PM
To: Michael Weinstein
Subject: Ex parte notice Darryl Cotton v. City of San Diego, Real Parties in Interest Rebecca Berry and Larry Geraci (Case No. 37-2017-00037675-CU-WM-CTL)

Importance: High

Michael

This is to provide notice we have set an ex parte hearing in the referenced action before Judge Sturgeon in Department C-67 on Tuesday, October 31, 2017, at 8:30 a.m., at which we will seek (1) an issuance of the writ; and (2) in the alternative an order to shorten time and specially set the hearing on this writ. My apologies for not yet getting my papers out to you. We are preparing moving papers and will serve them on you as soon as they are available.

Regards,

David

David S. Demian *Partner*

Finch, Thornton & Baird, LLP Attorneys At Law
4747 Executive Drive, Suite 700 San Diego, CA 92121
T 858.737.3100 D 858.737.3118 M 858.245.2451 F 858.737.3101

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