

No. 22-56077

**In the United States Court of
Appeals for the Ninth Circuit**

DARRYL COTTON, individually,
Plaintiff and Appellant,

v.

GINA M. AUSTIN, individually, JESSICA CLAIRE McELFRESH,
individually, and DAVID S. DEMIAN, individually,
Defendants and Appellees.

Appeal from the United States District Court
for the Southern District of California
Case No. 3:18-cv-00325-JO-DEB
The Honorable District Judge Jinsook Ohta

**DECLARATION OF DARRYL COTTON IN SUPPORT OF
APPELLANTS OPPOSITION TO MOTIONS TO DISMISS
APPEAL FOR LACK OF JURISDICTION BY REPONDENTS
GINA M. AUSTIN AND DAVID S. DEMIAN**

Darryl Cotton, Appellant, *Pro Se*
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I, Darryl Cotton, declare and state as follows:

1. This declaration is limited to the sole facts and beliefs set forth herein. There are related and material facts that are not being set forth and their omission cannot be deemed an admission of their non-existence.
2. On November 2, 2016, Lawrence Geraci and I reached an oral joint venture agreement that included the sale of my real property to Geraci and, inter alia, a 10% equity position for me at the dispensary contemplated to be operated at the property. The agreement was subject to the approval of a cannabis permit by the City of San Diego issued to Geraci.
3. David Demian of Finch, Thornton & Baird (FTB), among others, represented me in *Larry Geraci v. Darryl Cotton*, Superior Court of California, County of San Diego 37-2017-00010073-CU-BC-CTL (“Cotton I”) and *Cotton v. City of San Diego*, Superior Court of California, County of San Diego, 37-2017-00037675-CU-WM-CTL (“Cotton II”).
4. Demian never disclosed that FTB had shared clients with Geraci’s business, Tax & Financial Center, Inc. Cotton discovered this when a junior associate of FTB, Adam Witt, told Cotton this at a meeting while waiting for Demian and told Cotton he had just overheard Demian and another partner at FTB discussing it.

5. Demian amended Cotton's complaint and removed the allegations and causes of action that Geraci and Rebecca Berry conspired to unlawfully acquire a cannabis permit from the City of San Diego in the name of Berry.
6. Demian repeatedly attempted to have me declare that I had a principal-agent relationship with Berry and was responsible for having Austin submit the Berry Application in the name of Berry via the Strawman Practice.
7. During the course of this matter I have been represented by attorneys Jacob Austin, Andrew Flores, JoEllen Plaskett, and the law firm of Tiffany & Bosco. Cotton cannot acquire counsel to represent him and has been turned down NOT because of the merits of his case, but because of the judicial bias aspect of his case and the how many defendant attorneys are liable. As has been repeatedly stated to Cotton, it is not "good business" to expose judicial bias or sue other attorneys. Most recently, the law firms of Sheppard Mullin, Latham & Watkins refused to represent Cotton and did not deny their representation on the merits.
8. Cotton has made the judicial bias and illegality arguments for years before the state and federal courts. No state or federal court has ever explained by Judge Wohlfeil's bias statements are not bias or why Geraci can own a cannabis

business in the name Berry in violation of California's cannabis licensing policies and statutes.

9. Once Cotton is successful in having the judgments declared void and allegations of judicial bias do not need to be made, the law firm of Tiffany & Bosco will represent him in his cases.

I declare under penalty of perjury under the laws of the States of California that the foregoing is true and correct, and that this declaration was executed on December 21, 2022.

Respectfully submitted,

By: /s/ Darryl Cotton

Darryl Cotton, Appellant, Pro Se