

Case No.:

**IN THE COURT OF APPEAL FOR THE STATE OF CALIFORNIA  
FOURTH APPELLATE DISTRICT  
DIVISION ONE**

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DARRYL COTTON  
Defendant and Appellant,

v.

The Superior Court of California, County of San Diego, Respondent.  
LARRY GERACI, an individual, REBECCA BERRY, an individual,  
CITY OF SAN DIEGO, a public entity,  
Real Parties in Interest.

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Appeal from Orders of the Superior Court, County of San Diego

37-2017-00010073-CU-BC-CTL  
37-2017-00037675-CU-WM-CTL

Honorable Joel R. Wohlfeil, Judge Presiding

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**INDEPENDENT PSYCHIATRIC ASSESSMENT OF DARRYL COTTON;  
DECLARATION OF DR. MARKUS PLOESSER  
IN SUPPORT OF DARRYL COTTON'S EMERGENCY PETITION  
FOR EXTRAORDINARY WRIT, WRIT OF MANDATE,  
OR OTHER APPROPRIATE RELIEF**

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Darryl Cotton  
6176 Federal Blvd.  
San Diego, CA 92114  
Telephone: (619) 954-4447  
Appellant, Self-Represented

1 I, Markus Ploesser, MD, LLM, DABPN, FRCP(C), declare:

2 1. On March 4, 2018, I interviewed Mr. Darryl Cotton for an Independent  
3 Psychiatric Assessment. At the beginning of the assessment, I informed Mr. Cotton  
4 that the assessment was being prepared to assist the Court and not to act as an advocate  
5 on his behalf. Mr. Cotton expressed his understanding, agreement and proceeded with  
6 the interview and assessment.  
7

### 8 **DUTY TO COURT**

9  
10 2. I certify that I am aware of my duty as an expert to assist the Court and  
11 not to be an advocate for any party. I have prepared this report in conformity with that  
12 duty. I will provide testimony in conformity with that duty if I am called upon to  
13 provide oral or written testimony.  
14

15 3. I am solely responsible for the opinions provided in this report. I reserve  
16 the right to amend or alter my opinions should additional relevant information become  
17 available after the report completion.  
18

### 19 **QUALIFICATIONS**

20  
21 4. I am a psychiatrist licensed in the State of California, Physician and  
22 Surgeon License No. A101564 and the Province of British Columbia, License No.  
23 31564.  
24

25 5. I am Board certified by the American Board of Psychiatry and Neurology  
26 in the area of Psychiatry (Certificate No. 60630) and the subspecialty of Forensic  
27

1 Psychiatry (Certificate No. 1903).

2 6. I am a Fellow of the Royal College of Physicians and Surgeons of Canada,  
3 with certifications in Psychiatry and Forensic Psychiatry.  
4

5 7. I am on the clinical faculty at the University of British Columbia (UBC)  
6 in the division of Forensic Psychiatry.

7 8. My prior work experience has included forensic psychiatric evaluation  
8 work for the Forensic Psychiatric Hospital and the Forensic Psychiatric Services  
9 Commission in Coquitlam, British Columbia. I have written numerous forensic  
10 psychiatric assessment reports and testified as an expert witness before the British  
11 Columbia Review Board and the Provincial Courts of British Columbia.  
12  
13

14 9. I currently work as a psychiatrist for the Department of Corrections for  
15 the State of California.  
16

17 10. In addition to my medical qualifications, I am also a graduate of Columbia  
18 University School of Law in the LLM program.

19 11. In preparation for my assessment of Mr. Cotton, I consulted with Dr.  
20 Carolyn Candido regarding her medical diagnosis of Mr. Cotton on December 13,  
21 2017. Additionally, I reviewed the declaration previously provided by Dr. Candido  
22 regarding her diagnosis of Mr. Cotton prepared on January 22, 2018. (Attached hereto  
23 as Exhibit 1.)  
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26 12. Prior to my interview with Mr. Cotton, I also discussed the factual  
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1 background regarding Mr. Cotton's need for a psychiatric assessment with his legal  
2 consultant, Mr. Jacob Austin. Mr. Austin, I was told, is representing Mr. Cotton on a  
3 limited basis due to Mr. Cotton's inability to pay for his full legal representation by  
4 Mr. Austin.  
5

#### 6 CLIENT INTERVIEW

7 13. Mr. Cotton related the following: He is 57 years old. He was born and  
8 raised in the Chicago area and has lived in San Diego since 1980. He owns a lighting  
9 manufacturing company but reports that over the past approximately 9-12 months he  
10 has experienced financial hardship, stress and anxiety originating from a lawsuit  
11 against him.  
12  
13

14 14. Mr. Cotton denies any history of mental health symptoms predating the  
15 current lawsuit. He is taking Keppra 500mg twice daily for a seizure disorder, which  
16 he started suffering from around the age of 26. He usually suffers from approximately  
17 3 Grand Mal seizures per year. He used to take Dilantin, another anticonvulsant  
18 medication. He reports having obtained significant medical benefit from the use of  
19 medical cannabis, particularly a high CBD strain which he says has helped to reduce  
20 the frequency of his seizures.  
21  
22

23 15. Mr. Cotton represents he owns a property meeting certain requirements  
24 by the City of San Diego and the State of California that would allow the creation and  
25 operation of a Medical Marijuana Consumer Collective.  
26  
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1           16. Mr. Cotton reports that he has and is being subjected to a variety of threats  
2 and harassing behaviors that he believes have been directed against him by the plaintiff  
3 in the lawsuit.

4  
5           17. Mr. Cotton believes that an armed robbery on June 10<sup>th</sup>, 2017 on his  
6 property may have been directed by the plaintiff. He was present at his property at the  
7 time of the armed robbery, slamming the door and thereby escaping the robbers inside  
8 a building on his property while he called 911. The armed individuals who committed  
9 the robbery threatened Mr. Cotton at gun-point before fleeing from the premises. (Mr.  
10 Cotton stated the armed-robbery is still unresolved by the police and it was the subject  
11 of local news coverage that is still available online.)  
12

13  
14           18. Mr. Cotton states he followed the armed individuals in his vehicle as they  
15 fled from the scene while he was on the phone with 911. He was told by 911 to cease  
16 his pursuit due to safety reasons as Mr. Cotton was chasing the armed robbers at high-  
17 speed. Mr. Cotton believes he recognized the driver of the getaway vehicle as an  
18 employee of the plaintiff.  
19  
20

21           19. Mr. Cotton appeared particularly intense during his narration regarding  
22 one of his employees who was duct-taped and laying face down at gun-point on the  
23 ground. Mr. Cotton states that this long-time employee, an electrical-engineer who Mr.  
24 Cotton relied upon heavily, quit the next day because of this incident.  
25

26           20. Mr. Cotton describes starting to experience increased symptoms of stress  
27  
28

and anxiety since the robbery, above that which was caused by the litigation. He had been in his usual state of health prior. He reports that he is now unable to sleep at night, experiences "mood swings" and episodes of explosive rage without apparent triggers. He experiences nightmares around themes of feeling powerless. The nightmares occur in slight variations, and at times he "sees the robbers in his dreams."

21. Furthermore, his description of his nightmares include vivid scenes of violence towards the attorneys for plaintiff that he believes are not acting in a professional manner. Mr. Cotton believes that the attorneys representing plaintiff are “in it together” with the plaintiff to use the lawsuit to “defraud” him of his property. This point is one of the main foci of his expressed mental distress.

22. Mr. Cotton's distress due to his perception of a conspiracy against him by attorneys is amplified by what he believes is the Court's disregard for the evidence and arguments he has presented. He states he has never been provided the reasoning for the denial of any relief he sought. Mr. Cotton expressed that at certain points during the course of the litigation he believed the trial court judge was part of the perceived conspiracy against him.

23. Mr. Cotton is also under the belief that his former law firm could have resolved this matter at an early stage in the proceedings but chose not to in order to continue billing legal fees.

24. Mr. Cotton reports no improvement in his mental health symptoms since



1 the robbery. He describes that since the robbery there have been additional threats made  
2 against him by "agents" of the plaintiff. Specifically, he describes that two associates  
3 of plaintiff went to his property on February 3, 2017 under the pretense of discussing  
4 potential business opportunities, but when they arrived they were there to indirectly  
5 threaten him by informing him that it would be "good" for him to "settle with Geraci."

7  
8 25. Mr. Cotton now feels hopeless, helpless, unable to sleep, with decreased  
9 appetite, but either no or only minimal changes in weight.

10 26. Mr. Cotton states that on December 12, 2017, immediately after a court  
11 hearing, he was evaluated in the emergency department of a hospital for a TIA  
12 (transitory ischemic attack, a frequent precursor of a stroke).  
13

14 27. The day after his emergency department discharge, Mr. Cotton states he  
15 assaulted a third-party and that is also the day he was diagnosed with Acute Stress  
16 Disorder by Dr. Candido.  
17

18 28. Mr. Cotton expressed having experienced suicidal ideation, most recently  
19 on December 13th, 2017. He denied symptoms of psychosis, specifically  
20 hallucinations.  
21

## 22 **OPINIONS AND RECOMMENDATIONS**

23  
24 29. It is my professional opinion that Mr. Cotton currently meets criteria of  
25 Post-Traumatic Stress Disorder (F43.10), Intermittent Explosive Disorder (F63.81) and  
26 Major Depression (F32.2). He does not present with any objective, observable signs  
27

1 and symptoms of psychosis.

2 30. Given the absence of a prior mental health history of psychotic disorder  
3 (and the physical symptoms that led to a diagnosis of a TIA and Acute Stress Disorder  
4 by separate medical doctors), I have no reason to believe that Mr. Cotton's reports of  
5 harassment by the plaintiff would be of delusional quality. It is my professional opinion  
6 that Mr. Cotton sincerely believes that the plaintiff and his counsel are in a conspiracy  
7 against him and that they represent a threat to his life.  
8  
9

10 31. It is my medical opinion that Mr. Cotton's symptoms are unlikely to  
11 improve as long as current stressors (pending litigation, and what Mr. Cotton believes  
12 to be threatening behaviors by plaintiff or his "agents") persist. His symptoms are also  
13 likely to be significantly reduced if he believes the Court was not ignoring and  
14 disregarding him.  
15  
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17 32. It is my medical opinion that Mr. Cotton's mental health condition would  
18 likely benefit from a rapid resolution of current legal proceedings. In my professional  
19 opinion, the level of emotional and physical distress faced by Mr. Cotton at this time  
20 is above and beyond the usual stress on any defendant being exposed to litigation. If  
21 causative triggers and threats against Mr. Cotton persist, there is a substantial  
22 likelihood that Mr. Cotton may suffer irreparable harm with regards to his mental  
23 health.  
24  
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26 ///




1           33.    Besides a removal of current stressors, his mental health condition would  
2 likely benefit from Cognitive Behavioral Therapy for PTSD and depression, as well as  
3 a trial of antidepressant medication.  
4

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

7  
8 DATED:

9           3/4/2018

  
Markus Ploesser, MD, LLM, DABPN, FRCP(C)

11                   M. PLOESSER, M.D.  
12                   PSYCHIATRIST

# Exhibit 1

1 I, Dr. Carolyn Candido, declare:

- 2 1. I am a licensed physician in the State of California.
- 3 2. On December 13, 2017, I was contacted by Mr. Joe Hurtado who requested I examine a  
4 friend of his, Mr. Darryl Cotton, who was speaking incoherently. Mr. Hurtado stated he was  
5 concerned that Mr. Cotton may require medical attention but that Mr. Cotton did not want to  
6 go to the Emergency Room.
- 7 3. I traveled to Mr. Hurtado's residence and met with Mr. Hurtado and Mr. Cotton.
- 8 4. Mr. Cotton was in a room by himself and initially did not allow me to examine him. After  
9 approximately thirty minutes, Mr. Hurtado spoke with Mr. Cotton who then allowed me to  
10 perform a physical examination.
- 11 5. Mr. Cotton had an elevated pulse, was speaking incoherently and exhibited signs of anxiety,  
12 panic and was expressing suicidal thoughts. His language vacillated from being clear to  
13 incoherent. I am unclear as to what he was attempting to express, but from what I could  
14 make out, he was in an emotional state due to matters related to some legal matter regarding  
15 his property.
- 16 6. It is my diagnosis that he was suffering from Acute Stress Disorder and that at that moment  
17 in time represented a danger to himself and others. Because of his express statements  
18 regarding suicide and other expressions of violence as to unidentified third-parties, I  
19 repeatedly requested that Mr. Cotton go to the Emergency Room, which he refused.
- 20 7. I communicated with Mr. Hurtado my diagnosis and expressed my concern for Mr. Cotton  
21 regarding his statements, to the extent that they were clear, as they reflected an intent to  
22 harm himself and others. It was my recommendation that Mr. Cotton not be by himself.
- 23 8. After speaking with Mr. Hurtado regarding Mr. Cotton, Mr. Hurtado promised to allow Mr.  
24 Cotton to remain at that residence until such time as Mr. Cotton was calm.
- 25
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1 9. Since that evening I have not met or spoken with Mr. Cotton.

2 I declare under penalty of perjury under the laws of the State of California that the foregoing is  
3 true and correct.  
4

5  
6 January 22, 2018



7 Dr. Carolyn Candido  
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