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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
03/08/2019 at 04:54:00 PM
Clerk of the Superior Court
By Vanessa Bahena, Deputy Clerk

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO – HALL OF JUSTICE

10 CHRISTOPHER WILLIAMS,

11 Plaintiff,

12 v.

13 DAVID ARAMBULA; CITY OF LEMON
14 GROVE; and DOES 1 through 1,000,

15 Defendants.
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Case No. 37-2018-00023369-CU-PO-CTL
[Complaint Filed: May 11, 2018]

Judge: Hon. Richard S. Whitney
Dept: C-68

**DECLARATION OF EMILY M.
STRAUB IN SUPPORT OF
DEFENDANT DAVID ARAMBULA'S
MOTION TO COMPEL PLAINTIFF
CHRISTOPHER WILLIAMS TO
ANSWER DEPOSITION QUESTIONS
AND PRODUCE DOCUMENTS, AND
TO REQUEST RELIEF FROM THE
SEVEN-HOUR DEPOSITION RULE**

*(Notice of Motion and Motion,
Memorandum of Points and Authorities,
Separate Statement, Notice of Lodgment,
and [Proposed] Order filed concurrently
herewith)*

Hearing

Date: June 14, 2019
Time: 10:30 a.m.
Dept: C-68

Trial Date: December 13, 2019

1 I, Emily M. Straub, declare:

2 1. I am an attorney at law duly licensed to practice in all courts of the State of
3 California.

4 2. I am counsel of record for Defendant David Arambula (“Mr. Arambula”), and offer
5 this declaration in support of the accompanying motion.

6 3. The following facts are based on my own personal knowledge, and if called upon I
7 could and would testify competently thereto.

8 4. A true and correct copy of Plaintiff Christopher Williams’ (“Plaintiff”) Complaint
9 for Damages, file-stamped May 11, 2018, is attached to the accompanying Notice of Lodgment as
10 **Exhibit 1.**

11 5. A true and correct copy of David Arambula’s Form Interrogatories (Set One), with
12 proof of service dated July 11, 2018, is attached to the accompanying Notice of Lodgment as
13 **Exhibit 2.**

14 6. A true and correct copy of David Arambula’s Special Interrogatories (Set One), with
15 proof of service dated July 11, 2018, is attached to the accompanying Notice of Lodgment as
16 **Exhibit 3.**

17 7. A true and correct copy of Plaintiff’s Responses to Defendant David Arambula’s
18 Form Interrogatories (Set One), with proof of services dated August 14, 2018, is attached to the
19 accompanying Notice of Lodgment as **Exhibit 4.**

20 8. A true and correct copy of Plaintiff’s Responses to Defendant David Arambula’s
21 Special Interrogatories (Set One), with proof of services dated August 14, 2018, is attached to the
22 accompanying Notice of Lodgment as **Exhibit 5.**

23 9. A true and correct copy of Plaintiff’s Supplemental Responses to Defendant David
24 Arambula’s Form Interrogatories (Set One), with proof of services dated September 27, 2018, is
25 attached to the accompanying Notice of Lodgment as **Exhibit 6.**

26 10. A true and correct copy of Defendant David Arambula’s Fourth Amended Notice of
27 Deposition of Plaintiff and Request for Production of Documents, with proof of service dated
28 December 3, 2018, is attached to the accompanying Notice of Lodgment as **Exhibit 7.**

1 11. On January 3, 2019, Plaintiff's counsel e-mailed me Plaintiff's objections to David
2 Arambula's Fourth Amended Notice of Deposition of Plaintiff and Request for Production of
3 Documents, with proof of service by regular mail dated January 3, 2019. I informed Plaintiff his
4 objections were late and therefore waived, and reminded him our office had not agreed to accept
5 service by e-mail. A true a correct copy of Plaintiff's objections and the corresponding e-mail
6 exchange is attached to the accompanying Notice of Lodgment as **Exhibit 8**.

7 12. I deposed Plaintiff on January 8, 2019.

8 13. Plaintiff's deposition was noticed to begin at 9:00 a.m., however, the deposition did
9 not begin until 9:42 a.m., because Plaintiff arrived late.

10 14. Plaintiff did not produce any documents in response to the 26 categories of document
11 requests accompanying his deposition notice.

12 15. During the course of Plaintiff's deposition, Plaintiff's counsel instructed Plaintiff not
13 to answer numerous questions, only the most important of which are addressed in Mr. Arambula's
14 accompanying motion.

15 16. During the course of Plaintiff's deposition, I asked Plaintiff's counsel if he would
16 agree to waive the seven-hour deposition rule under Code of Civil Procedure § 2025.290(a) since it
17 was evident I and counsel for the City of Lemon Grove ("the City") would not be able to complete
18 our questioning of Plaintiff within seven hours.

19 17. Plaintiff's counsel ultimately declined my request to waive the seven-hour deposition
20 time limit.

21 18. The deposition concluded at approximately 5:00 p.m., but was not completed.

22 19. Counsel for the City did not begin questioning the witness at that time given the
23 availability of counsel and court reporter personnel going forward that evening.

24 20. Counsel for the City reserved her right to question Plaintiff at a later date.

25 21. I reserved Mr. Arambula's right to also further question the witness at a later date in
26 light of the issues in dispute, indicating would seek court intervention.

27 22. Upon receipt of the court reporter's certified transcript of Plaintiff's deposition, I
28 reviewed all start, stop, and break times taken during the course of Plaintiff's deposition.

1 23. My calculations indicate the deposition questioning time for Plaintiff's deposition on
2 January 8, 2019, spanned six (6) hours and 14 minutes.

3 24. My calculations also indicate it took at least 60 minutes to go over each of the 26
4 categories of document requests with Mr. Williams for purposes of learning whether he has
5 responsive documents in his possession, as he did not produce any documents at deposition.

6 25. I am unable to calculate the amount of total time Plaintiff's counsel spent repeatedly
7 instructing his client not to answer questions and providing associated objections, but believes such
8 time to be significant.

9 26. On February 6, 2019, I commenced the meet and confer process under Code of Civil
10 Procedure §§ 2016.040 and 2025.480(a), which is required prior to filing a motion to compel a
11 deponent to answer deposition questions and produce documents.

12 27. On February 6, 2019, I drafted, and caused to be served upon Plaintiff's counsel via
13 overnight delivery and e-mail, a meet and confer letter concerning Plaintiff's deposition, which:
14 (a) discusses deposition questions I feel Plaintiff's counsel improperly instructed Plaintiff not to
15 answer, (b) addresses Plaintiff's failure to produce documents responsive to the document requests
16 accompanying his deposition notice, (c) renews the request for Plaintiff's counsel to stipulate to
17 waive the seven-hour deposition rule so I and counsel for the City can complete our questioning of
18 Plaintiff, and (d) requests a second volume of Plaintiff's deposition occur by February 27, 2019,
19 providing three-weeks' time to arrange for same to occur. A true and correct copy of this
20 correspondence is attached to the accompanying Notice of Lodgment as **Exhibit 8**.

21 28. On February 18, 2019, counsel for all parties attended and participated in the
22 deposition of third-party witness, Manuel Ortiz. As of that date, almost two weeks following the
23 service of my meet and confer letter to Plaintiff's counsel, I had not yet received a response from
24 Plaintiff's counsel.

25 29. While at the site of the February 18, 2019 deposition, counsel briefly met and
26 conferred regarding the issues in dispute in my letter to Plaintiff's counsel of February 6, 2019, as
27 well as the meet and confer letter from the City's counsel to Plaintiff's counsel, wherein the City's
28 counsel requests Plaintiff's counsel allow additional time necessary for the City to question Plaintiff.

1 30. During the course of the February 18, 2019 meet and confer, Plaintiff's counsel
2 indicated he would allow his client to answer some of the questions at issue in my meet and confer
3 letter and not others, but could not at that time provide any specifics regarding what he would and
4 would not allow other than that he would require a court order before requiring Plaintiff to testify as
5 to the names of Plaintiff's two daughters. Plaintiff's counsel agreed he would provide a written
6 response to my letter of February 6, 2019, detailing the specifics of his position.

7 31. During the course of the February 18, 2019 meet and confer, Plaintiff's counsel
8 indicated he would be willing to allow for additional time for the defendants to complete questioning
9 Plaintiff, but would not agree to another full day of deposition.

10 32. During the course of the February 18, 2019 meet and confer, I indicated we would
11 need to seek Court intervention soon if all matters in dispute could not be resolved, because
12 (a) Plaintiff's counsel would not agree to an extension of time beyond the March 8, 2019 statutory
13 deadline for Mr. Arambula to file a motion to compel Plaintiff to answer deposition questions and
14 produce documents, and (b) Plaintiff's counsel would not otherwise agree to produce his client for
15 a third volume of deposition for those matters (yet to be articulated at that time) he would not
16 compromise on.

17 33. During the course of the February 18, 2019 meet and confer, I informed Plaintiff's
18 counsel Mr. Arambula has a right to discover information and documents concerning the subject
19 marijuana dispensary applications and prospective medical marijuana dispensary businesses,
20 because these topics speak squarely to Plaintiff's damage claims. I further referenced Plaintiff's
21 written discovery responses and deposition testimony where Plaintiff indicates (a) his applications
22 were wrongfully denied due to the incident, and (b) he sustained lost income as a result thereof.

23 34. During the course of the February 18, 2019 meet and confer, Plaintiff's counsel
24 claimed our request for further testimony and documents bearing on the noted economic damages is
25 essentially moot because the Court's ruling on the City's Motion for Summary Judgment "takes care
26 of the damages claim." I disagreed, proposing Plaintiff's counsel stipulate to waive Plaintiff's claim
27 for lost earnings from his prospective medical marijuana dispensaries in order to resolve the matter
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1 and do away with the need for a motion to compel. Plaintiff's counsel would not agree to this
2 stipulation.

3 35. Ten days later, on February 28, 2019, I received an e-mail and letter from the City's
4 counsel to Plaintiff's counsel requesting a response to the City's prior meet and confer letter, and I
5 drafted a responsive e-mail to Plaintiff, copied to all counsel, making a third attempt to meet and
6 confer with Plaintiff's counsel on the topics at issue since I had not yet received Plaintiff counsel's
7 anticipated meet and confer letter. Attached to my e-mail are the City's of Lemon Grove's meet and
8 confer letter of February 28, 2019, as well as the Court's February 11, 2019 Minute Order ruling on
9 the City's Motion for Summary Judgment. A true and correct copy of the February 28, 2019 e-mail
10 and two attachments are collectively attached the accompanying Notice of Lodgment as **Exhibit 9**.

11 36. In my e-mail of February 28, 2019 to Plaintiff's counsel, I again raised the proposed
12 stipulation for Plaintiff to waive his damage claims for lost earnings (past and future) arising out of
13 his prospective medical marijuana dispensary businesses, so as to do away for the need to: (a) compel
14 answers to the deposition questions at issue, (b) compel Plaintiff to produce documents bearing on
15 his claim for lost earnings from the prospective medical marijuana dispensary businesses, Plaintiff's
16 applications for medical marijuana dispensary permits, and Plaintiff's appeals of determinations
17 concerning his applications; and (c) otherwise question Plaintiff about his prospective medical
18 marijuana dispensary businesses and related matters. I added to this proposal my agreement to waive
19 Mr. Arambula's right to compel Plaintiff to testify as to the names of his two daughters if Plaintiff
20 would agree to not call his daughters as witnesses during trial. Lastly, I proposed the stipulation
21 would need to include an agreement to waive the seven-hour deposition rule to ensure counsel for
22 the City could complete her questioning of Plaintiff and I could conduct follow-up questioning if
23 deemed necessary.

24 37. In my e-mail of Thursday, February 28, 2019, I also notified Plaintiff's counsel to we
25 would need to file a stipulation and proposed order (if at all), by that coming Monday, March 4,
26 2019, as our statutory deadline to file the instant motion to compel is that week. I also notified
27 Plaintiff's counsel we would seek sanctions if forced to file the motion to compel. As of the date of
28 this declaration, Plaintiff's counsel has not responded to my e-mail of February 28, 2019.

1 38. On Friday, March 1, 2019, counsel for all parties exchanged several meet and confer
2 e-mails on the topics at issue, however, no issues were ultimately resolved and Plaintiff's counsel
3 did not otherwise provide any position or comment on the stipulation proposal. A true and correct
4 copy of this e-mail chain is attached to the accompanying Notice of Lodgment as **Exhibit 10**.

5 39. In the e-mail exchange of March 1, 2019, I reminded Plaintiff's counsel (a) we
6 needed Plaintiff's position on the stipulation proposal, and (b) the stipulation, if any, would need to
7 be finalized for filing on Monday, March 4, 2019. As of the date of this declaration, Plaintiff's
8 counsel has not responded to this e-mail chain with any position or comment on the stipulation
9 proposal.

10 40. At 9:12 a.m. on Monday, March 4, 2019, I e-mailed counsel for Plaintiff with a final
11 request for his position on the stipulation, as well as a two-week extension of time to file the instant
12 motion in order to allow for sufficient time to prepare, meet-and-confer about, and finalize a
13 stipulation in lieu of the motion. As of the date of this declaration, Plaintiff's counsel has not
14 responded to this e-mail. A true and correct copy of the March 4, 2019 e-mail is attached to the
15 accompanying Notice of Lodgment as **Exhibit 11**.

16 41. On March 7, 2019, counsel for the City e-mailed a proposed stipulation with many
17 similar terms to the abbreviated stipulation terms I previously proposed to counsel for Plaintiff and
18 the City. Plaintiff's counsel responded he would not agree to waive damage claims arising out of the
19 alleged delayed operation of his prospective medical marijuana dispensaries. I otherwise indicated
20 there could be no stipulation because it would not resolve all issues in dispute which must be
21 addressed, if at all, in instant motion. A true and correct copy of this e-mail exchange and the City's
22 proposed stipulation is attached to the accompanying Notice of Lodgment as **Exhibit 12**.

23 42. A true and correct copy of select excerpts from the certified transcript of the January
24 8, 2019 deposition of Plaintiff Christopher Williams, are attached to the accompanying Notice of
25 Lodgment as **Exhibit 13**.

26 43. As of the date of this declaration, Plaintiff's counsel has not provided any position or
27 comment on my proposed stipulation.

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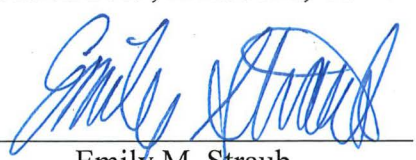
44. As of the date of this declaration, the issues in dispute have not otherwise been resolved.

45. My hourly rate for this case is \$200.00.

46. As of the date of this declaration, I have spent at total of 10 hours researching and preparing this motion and all supportive filings, and I anticipate spending an additional 2.5 hours reviewing Plaintiff's opposition, preparing a reply, traveling to and from the motion hearing, and attending the motion hearing.

47. In light of the incurred and estimated legal fees indicated above, Mr. Arambula is requesting \$2,500 in sanctions from Plaintiff and/or its counsel of record, Briggs Law Corporation.

I declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct. Executed this 8th day of March 2019, in La Jolla, California.



Emily M. Straub