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Attorney for the Defendant
Jaime DeJesus Gonzalez

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF VENTURA

COUNTY LINE HOLDINGS, LLC

Plaintiff,

v.

JAIME DEJESUS GONZALEZ, an individual; JANICE M. McCLANAHAN, an individual; BEAU-MAISON, INC., a California corporation; MALIBU HILLS RANCH, a Nevada corporation; MALIBU HILLS RANCH CORP., a Nevada corporation; MALIBU HILLS RANCH INC., a corporation of unknown origin and/or fictitious business entity; COUNTY OF ORANGE (CALIFORNIA); CAPITAL ONE N.A., a national banking association; GERALD H. LUSHING, an individual; RONALD S. LUSHING, an individual; and DOES 1 through 10, inclusive;

Defendant.

NO. 56-2013-00444799-CU-OR-VTA

REQUEST FOR JUDICIAL NOTICE IN
SUPPORT OF DEFENDANT JAIME
GONZALEZ'S MOTION TO QUASH
SERVICE OF SUMMONS AND
COMPLAINT

[Filed Concurrently with Notice of
Special Appearance and Motion to
Quash]

Complaint Filed: November 15, 2013
Complaint Served: December 10, 2013
Trial Date: None Set

REQUEST FOR JUDICIAL NOTICE

Defendant Jaime Gonzalez, appearing by and through his attorney of record, Paul Orloff, SBN 216791, (hereinafter, "Gonzalez"), hereby requests that the Court take judicial notice of the following documents attached as Exhibits 1 through 9. This request is made pursuant to

California Evidence Code, (“Evid. Code”) § 451-454, subdivision (d) and the authorities cited below. This request is made in connection with Movant’s Motion to Quash, Motion to Strike and Demurrer, and includes the following:

EXHIBIT	DESCRIPTION
1	“Judgment Confirming Arbitration Award” dated January 31, 2012, in the amount of \$2,000,000, in favor of JOHN C. TORGESEN and JOHN C. TORGESEN & ASSOCIATES, PC, under LASC Case No. 425880.
2	“Abstract of Judgment” dated April 4, 2012, recorded on April 17, 2012 in the Ventura County Recorder’s Office as document No. 20120571795.
3	“Notice of Intent to Begin Collection of Judgment” dated April 23, 2012, filed on April 19, 2012 under LASC Case No. 425880.
4	“Affidavit of Death of Joint Tenant” together with the “Death Certificate” of Harry Mansdorf, recorded on November 26, 2012, under Instrument No. 20121787040, in the Ventura County Recorder’s Office.
5	Execution Lien, comprised of a “Notice of Levy,” the September 17, 2012 issued “Writ of Execution” and the “Legal Description,” recorded on October 11, 2012 under Instrument No. 20121011-00181994-0 in the Ventura County Recorder’s Office.
6	“Order After Ex Parte To Reconsider Court’s Ruling Dismissing Third Party Claim of Jaime Gonzalez” dated April 15, 2013, filed April 15, 2013 in LASC Case No. 425880.
7	“First Amended Complaint” filed on November 13, 2009 under LASC Case No. 425880 by John C. Torjesen, the Judgment Creditor who forced the Sheriff’s Sale.
8	“Notice of Sheriff’s Sale of Real Property” dated March 7, 2013, referencing LASC Case No. BC425880, providing a “legal description” of only Assessor’s Parcel Numbers.
9	“Sheriff’s Deed” on file and on record with the Ventura County Sheriff’s Department which was actually issued by the Sheriff to Howard Weinberg on April 18, 2013.

BASIS FOR REQUESTING JUDICIAL NOTICE

A Court in California may take judicial notice of matters of public record in accordance with California Evid. Code § 452 which states in relevant part:

Judicial notice may be taken of the following matters to the extent that they are not embraced within Evid. Code § 451:

a) The decisional, constitutional, and statutory law of any state of the United States and the resolutions and

private acts of the Congress of the United States and of the Legislature of this state

- b) Regulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States.
- c) **Official acts of the legislative, executive, and judicial departments of the United States and of any state of the United States.**
- d) **Records of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.**
- e) Rules of court of (1) any court of this state or (2) any court of record of the United States or of any state of the United States.
- f) The law of an organization of nations and of foreign nations and public entities in foreign nations.
- g) **Facts and propositions that are of such common knowledge within the territorial jurisdiction of the court that they cannot reasonably be the subject of dispute.**
- h) **Facts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonably indisputable accuracy.**

(Emphasis Added). Additionally, pursuant to Evid. Code § 453:

The trial court shall take judicial notice of any matter specified in Code § 452 if a party requests it and:

- a) Gives each adverse party sufficient notice of the request, through the pleadings or otherwise, to enable such adverse party to prepare to meet the request; and
- b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.”

1 Finally according to Evid. Code § 454(a): “[i]n determining the propriety of taking
2 judicial notice of a matter, or the tenor thereof:

- 3 1. Any source of pertinent information, including the advice of persons
4 learned in the subject matter, may be consulted or used, whether or not
5 furnished by a party.
- 6 2. Exclusionary rules of evidence do not apply except for Section 352 and
7 the rules of privilege.
- 8 b) Where the subject of judicial notice is the law of an
9 organization of nations, a foreign nation, or a public entity in a
10 foreign nation and the court resorts to the advice of persons
11 learned in the subject matter, such advice, if not received in
12 open court, shall be in writing.

13 Courts may take judicial notice of documents outside of the complaint that are capable of
14 accurate and ready determination by resort to sources whose accuracy cannot reasonably be
15 questioned. *California Evid. Code* § 451(g) & (h). As explained further below, the Courts may
16 take judicial notice of proceedings in other courts. *See U.S. ex rel Robinson Rancheria Citizens*
17 *Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (citing *St. Louis Baptist Temple,*
18 *Inc. v. FDIC*, 605 F.2d 1169 (10th Cir. 1979) (“[W]e ‘may take notice of proceedings in other
19 courts, both within and without the federal judicial system, if those proceedings have a direct
20 relation to matters at issue.”)).

21 Exhibits 1, 3 and 6-8 are official records of LASC case no. 425880. Exhibits 2, 4 and 5
22 are documents recorded in the Ventura County Recorder’s Office. Exhibit 9 is an official
23 document produced by the Ventura County Sheriff’s Department pursuant to a public records
24 request. The contents of these filings are public records that are not subject to reasonable dispute
25 and capable of accurate and ready determination by resort to sources whose accuracy cannot
26 reasonably be questioned. *California Evidence Code* § 452(d).

1 Plaintiff requests that this Court take judicial notice of Exhibits 1-9 solely to demonstrate
2 their existence and not for the truth of their contents. As stated in *Lee*, on a motion to dismiss, the
3 court may take judicial notice of "undisputed matters of public record." *Lee*, 250 F.3d at 690.

4 **MEMORANDUM OF POINTS AND AUTHORITIES**

5 California Evidence Rule § 452, subdivision (d), provides judicial notice may be taken of
6 court records of any state court. *See also*, *See Fremont Indem. Co. v. Fremont Gen. Corp.* (2007)
7 148 Cal.App. 4th 97, 113. In *People v. Preslie* (1977) 70 Cal.App.3d 486 [138 Cal.Rptr. 828], the
8 Appellate court held judicial notice may be taken of such court records on file in the action before
9 the trial court, though the records were not presented as evidence or relied upon by the trial court
10 in the action below. (*Id.* at p. 493.) However, an appellate court normally will not grant such a
11 motion unless the matter has been presented to the court below, the substantive issues to which
12 the document(s) relate are adequately raised, the originals remain on file and certified copies are
13 forwarded to the appellate court. (*Id.*, at pp. 493-495.)

15 The authority of the Court to take judicial notice of adjudicative facts is well established.
16 "Records of (1) any court of this state or (2) any court of record of the United States or of any
17 state of the United States" and "[f]acts and propositions that are not reasonably subject to dispute
18 and are capable of immediate and accurate determination by resort to sources of reasonably
19 indisputable accuracy" California Evid. Code §§ 451 & 452. Thus, Exhibits 1, 3 and 6-8 are
20 properly judicially noticeable. Because the accuracy of these facts is certain, they can be
21 judicially noticed.

23 When a court exercises its discretion to take judicial notice of recorded documents,
24 Evidence Code section 452 allows the court to take judicial notice of a fact or proposition within a
25 recorded document "that cannot reasonably be controverted, even if it negates an express

1 allegation of the pleading.’ [Citation.]” (*Fontenot v. Wells Fargo Bank, N.A.* (2011) 198
2 Cal.App.4th 256, 264.) Thus, a court may take judicial notice of the following facts: (1) a
3 document’s recordation; (2) the date it was recorded and executed; (3) the parties to the
4 transaction as reflected in a recorded document; and (4) the document’s legally operative
5 language, assuming there is no genuine dispute regarding the document’s authenticity. (*Id.* at pp.
6 264-265.) “From this, the court may deduce and rely upon the legal effect of the recorded
7 document, when that effect is clear from its face.” (*Id.* at p. 265; see also *Scott v. JPMorgan*
8 *Chase Bank, N.A.* (2013) 214 Cal.App.4th 743, 754-756 [where judicial notice is requested of a
9 legally operative document, the court may take notice not only of the fact of the document and its
10 recording but also facts that clearly derive from its legal effect].) Exhibits 2, 4 and 5 are properly
11 judicially noticed in this manner.
12

13 For the foregoing reasons, Exhibits 1-9 may properly be considered by the Court to be
14 considered contemporaneously with the Movant’s Motion to Quash Service of Summons and
15 Complaint, and the Movant requests that this Court take judicial notice of Exhibits 1-9.
16

17 DATED: January 6, 2013

18 By: _____
Jaime DeJesus Gonzalez, Defendant

DECLARATION OF JAIME DEJESUS GONZALEZ
IN SUPPORT OF REQUEST FOR JUDICIAL NOTICE

I, Jaime DeJesus Gonzalez, declare as follows:

1. I am over the age of 18, of sound mind, and am competent and willing to testify to all the facts in this Declaration.

2. I am a defendant named in this case.

3. I have personal knowledge of the facts set forth herein, except as to those stated on information and belief and, as to those, I am informed and believe them to be true.

4. Attached as Exhibit "1" is a true and correct copy of the "Judgment Confirming Arbitration Award" dated January 31, 2012, in the amount of \$2,000,000, in favor of JOHN C. TORGESEN and JOHN C. TORGESEN & ASSOCIATES, PC, under LASC Case No. 425880.

5. Attached as Exhibit "2" is a "certified" copy of the "Abstract of Judgment" dated April 4, 2012, recorded on April 17, 2012 in the Ventura County Recorder's Office as document No. 20120571795

6. Attached as Exhibit "3" is a true and correct copy of the "Notice of Intent to Begin Collection of Judgment" dated April 23, 2012, filed on April 19, 2012 under LASC Case No. 425880.

7. Attached as Exhibit "4" is a "certified" copy of the "Affidavit of Death of Joint Tenant" together with the "Death Certificate" of Harry Mansdorf, recorded on November 26, 2012, under Instrument No. 20121787040, in the Ventura County Recorder's Office.

8. Attached as Exhibit "5" is a "certified" copy of the Execution Lien, comprised of a "Notice of Levy," the September 17, 2012 issued "Writ of Execution" and the "Legal

Description,” recorded on October 11, 2012 under Instrument No. 20121011-00181994-0 in the Ventura County Recorder’s Office.

9. Attached as Exhibit “6” is a true and correct copy of the “Order After Ex Parte To Reconsider Court’s Ruling Dismissing Third Party Claim of Jaime Gonzalez” dated April 15, 2013, filed April 15, 2013 in LASC Case No. 425880.

10. Attached as Exhibit “7” is a true and correct copy of the “First Amended Complaint” filed on November 13, 2009 under LASC Case No. 425880 by John C. Torjesen, the Judgment Creditor who forced the Sheriff’s Sale.

11. Attached as Exhibit “8” is a true and correct copy of the “Notice of Sheriff’s Sale of Real Property” dated March 7, 2013, referencing LASC Case No. BC425880, providing a “legal description” of only Assessor’s Parcel Numbers.

12. Attached as Exhibit “9” is a True and Correct copy of the “Sheriff’s Deed” on file and on record with the Ventura County Sheriff’s Department which was actually issued by the Sheriff to Howard Weinberg on April 18, 2013, requested and provided via the Public Records Act, disclosed by the Sheriff pursuant to a request made on December 12, 2013.

I declare under penalty of perjury under the laws of the State of California that all the foregoing statements are true, correct and complete to the best of my firsthand knowledge, understanding and belief.

EXECUTED this 23rd day of December, 2013, in Beverly Hills, California.

By: _____
Jaime DeJesus Gonzalez, Declarant