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5 Plaintiff In Pro Per,

6 **UNITED STATES DISTRICT COURT**
7 **CENTRAL DISTRICT OF CALIFORNIA**

MATTHEW R. WALSH
Plaintiff In Pro Per,

vs.

ROKOKO ELECTRONICS
(AND DOES 1 THROUGH 50,
INCLUSIVE)

Defendant

Case No.: 2:25-CV-05340-ODW-RAO

*[Hon. Rozella A. Oliver, Courtroom
590]*

Hearing Date: February 4, 2025
Hearing Time: 10:00 AM

**PLAINTIFFS OPPOSITION TO
DEFENDANTS IDENTICAL
REQUESTS FOR JUDICIAL
NOTICE; REQUEST FOR
HEARING (Fed. R. Evid. 201(e))**

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**1. DEFENDANT FILED TWO IDENTICAL REQUESTS FOR
JUDICIAL NOTICE**

2. (Dkt #127) and (Dkt #137) are identical filings. Both are being objected to here equally and herein are referred to as “Request for Judicial Notice”.

3. Both must be denied or stricken.

16 **4. OBJECTIONS TO DEFENDANTS' REQUESTS FOR JUDICIAL**
17 **NOTICE**

18 5. “[T]he consequences of taking judicial notice are significant. Where the
19 trial court has taken judicial notice of a fact, the jury must be instructed to
20 accept that fact as conclusive. Judicial notice also precludes either party
21 from introducing evidence to disprove that fact. The Ninth Circuit has
22 accordingly urged the district courts to be cautious in taking judicial notice
23 and to do so only when the matter is beyond controversy.”] Metro.

24 Creditors’ Trust v. Pricewaterhousecoopers, LLP, 463 F. Supp. 2d 1193,
25 1197 (E.D. Wash. 2006) (internal citations and quotation marks omitted)
26 (discussing Fed. R. Evid. 201(g) and Rivera v. Philip Morris, Inc., 395 F.3d
27 1142, 1151 (9th Cir.2005)) (emphasis added). Under Federal Rule of
28 Evidence 201, the Court may take judicial notice of a fact only if it is: “*not*
29 *subject to reasonable dispute in that it is either (1) generally known within*
30 *the territorial jurisdiction of the trial court or (2) capable of accurate and*
31 *ready determination by resort to sources whose accuracy cannot reasonably*
32 *be questioned.*” Fed. R. Evid. 201(b).

33 6. As to all of the documents the Defendant has provided, neither of the
34 reasons for judicially noticing them have been satisfied; quite the contrary.

35 **7. THE REQUEST RELIES ON FALSE STATEMENTS**

36 a. Defendants made a misleading statement to the Court to secure their
37 request for judicial notice “*Documents that are incorporated by*
38 *reference into a complaint*, as Exhibits 1 through 4, are the proper
39 subject of judicial notice on a motion to dismiss.” Those documents
40 were **never** referenced in the Complaint. Those documents were
41 created by the Defendants *recently*, not provided in any way by the
42 Plaintiff. They were referenced neither in the Complaint or amended
43 Complaint.

44 8. **OBJECTION TO EXHIBITS 1 THROUGH 3**

45 a. Plaintiff cannot verify the authenticity of these documents because the
46 Defendant seems to have generated them on their own. In a prior
47 communication on April 29, 2025 with the Defendant, Mikkel
48 Overby, he was incapable of determining what Plaintiff ordered and
49 asked the Plaintiff to confirm if the details were correct: [“*As part of*
50 *the process, I need to confirm the total number and value of orders*
51 *you have placed with Rokoko.... Can you confirm that the below list of*
52 *orders and price is correct and exhaustive?”].*

53 b. Further, the amount Overby stated was “**\$5,582.50 USD**” and the
54 amount(s) provided by Counsel total “\$5,677.26”. While a small
55 difference, if the records are authentic and tied to a digital billing

56 system – there should be no discrepancy; and if there is, it cannot be
57 considered as facially reliable and factual.

58 c. Plaintiff disputes the evidence as inauthentic and inaccurate contrary
59 to even Defendants’ own evidence.

60 **9. OBJECTION TO EXHIBIT 4**

61 a. The operative Terms & Conditions have been in dispute since the
62 Complaint was filed in state Court. In fact, Defendants submitted even
63 a different version with their prior Motion to Dismiss. Plaintiff filed a
64 motion for sanctions due to the same (Dkt #117-7).

65 b. First, Defendant wishes to circumnavigate the Federal Rules of
66 Evidence and have the Court accept that this agreement is *the*
67 *agreement* Plaintiff may have consented to, which is improper
68 [*“[T]he Court can only take judicial notice of the fact that the pages*
69 *were published; the Court cannot take judicial notice of the contents...*
70 *As such, the Court will take judicial notice only of the fact that the*
71 *pages that were submitted to the Court were published.”*] (Lack v.
72 Rustick, No. 06-cv-02204, 2008 WL 268712, *4 (D. Ariz. Jan. 28,
73 2008)). Here, the terms & conditions provided were never even
74 published, they exist nowhere other than this Court.

75 c. The Terms & Conditions provided appear to be an inauthentic

76 document which has been substantially altered by the Defendant not
77 only the ‘effective date’ which has been disproven to be accurate in
78 Plaintiff’s opposition to Defendant’s MTD.

79 d. Additionally, the terms & conditions indicate it came from
80 Defendants’ website as [Ad1][Ad2] placeholders are visible on page
81 20, yet it entirely lacks the webpage source URL in the footer as is
82 typical with printed documents from the web and as can be witnessed
83 in Defendants’ exhibit’s 1-3. This strongly suggests the document was
84 copy-pasted into Word then altered after, thereby erasing (a) image
85 placeholders leaving behind the alt-text “[ad1]”, “[ad2]” (b) the entire
86 footer which *should* contain a URL as seen in the lower left hand
87 corner of Exhibits 1-3.

88 e. Plaintiff disputes the document as not authentic and tampered with.

89 **10. OBJECTION TO EXHIBIT 5**

90 a. This document seems to be incomplete and selectively presented to
91 the Court and is lacking in material substantive evidentiary matter.
92 Additionally, Defendants’ claim it is printed from a Government
93 website, but it entirely lacks the webpage source URL either in footer
94 as is typical with printed documents from the web and as can be
95 witnessed in the lower left hand corner of Defendants’ exhibit’s 1-3.

96 b. Plaintiff disputes the document as not authentic and incomplete.

97 **11. OBJECTION TO EXHIBIT 4 & 5**

98 12. *Gerritsen v. Warner Bros. Entm't Inc.*, 112 F. Supp. 3d 1011, 1033 (C.D.

99 Cal. 2015) (noting that, under Rule 201, a “*court can take judicial notice of*

100 *[p]ublic records and government documents available from reliable*

101 *sources on the Internet, ’ such as websites run by governmental agencies.”)*

102 (internal citations omitted).

103 13. Here, the Defendant has provided no confirmation of what the source of

104 those documents may be. As the URL is stripped from only Exhibits 4 & 5,

105 but not Exhibit 1; the Court may not infer the Defendant is truthfully

106 disclosing the actual source of the document(s). No indicator exist to certify

107 it’s authenticity and the Court cannot make that inference without proper

108 evidence from the Defendants as any such speculation would not be

109 [*“generally known within the trial court’s territorial jurisdiction,”*] nor can

110 they [*“be accurately and readily determined from sources whose accuracy*

111 *cannot be reasonably questioned”*] as is required under Federal Rule of

112 Evidence 201(b). Like the New York Times report that the court denied

113 judicial notice of in *Alabama Aircraft Indus., Inc.-Birmingham v. United*

114 *States*, No. 08-470C, 2008 WL 2973952, 82 Fed.Cl. 757, 765 (Fed. Cl. July

115 31, 2008), none of the articles set forth in Exhibits 1-5 are “necessarily

116 'indisputable,' nor would [they] state facts 'whose accuracy cannot be
117 questioned.'".

118
119 **CONCLUSION**

120 14. Defendant's Request for Judicial Notice is not really a request for Judicial
121 Notice but rather an attempt to circumvent the rules of a Rule 12(b)(6)
122 motion by utilizing this RJN to cement evidence outside of the four-corners
123 of the Complaint. Plaintiff objects wholly to this tactic as the evidence is not
124 trustworthy and facially improper.

125 15. For the reasons set forth above, this Court should either deny plaintiffs'
126 Request For Judicial Notice in its entirety, **or pursuant to Federal Rule of**
127 **Evidence 201(a), allow Plaintiff's objections to the request, as set forth**
128 **above, to be heard at or before the hearing set on this matter.**

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130 I declare under penalty of perjury under the laws of the United States of America
131 that the foregoing is true and correct.

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133 Dated this January 27, 2026, in Santa Clarita, California.

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Matthew R. Walsh

Plaintiff In Pro Per

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