



1 MATTHEW R. WALSH
2 19197 GOLDEN VALLEY RD #333
3 SANTA CLARITA, CA 91387
4 (661) 644-0012

5 Plaintiff In Pro Per,

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

8 MATTHEW R. WALSH
9 19197 GOLDEN VALLEY RD #333
10 SANTA CLARITA, CA 91387,

11 Plaintiff In Pro Per,

12 vs.

13 ROKOKO ELECTRONICS
14 (AND DOES 1 THROUGH 50, INCLUSIVE)
15 31416 AGOURA RD STE 118
16 WESTLAKE VILLAGE, CA
17 91361

18 Defendant

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

[Assigned to Hon. Otis D. Wright, II,
Courtroom 5D]

**OBJECTION TO REQUEST FOR
JUDICIAL NOTICE**

Hearing date: TBD
Hearing time: TBD
Hearing place: Dept. 5D

State Court Action Filed: May 12, 2025
Removal Date: June 12, 2025
Trial Date: None

19 **OBJECTION TO REQUEST FOR JUDICIAL NOTICE**

20 **OBJECTION TO REQUEST FOR JUDICIAL NOTICE**

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23 Plaintiff objects to Defendant Rokoko Electronics' Request for Judicial Notice (ECF No.
24 43), specifically as to Exhibits 4 through 6, on the grounds that they are not proper subjects of
25 judicial notice under Federal Rule of Evidence 201, nor eligible under the incorporation-by-
26 reference doctrine.
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1 Defendant seeks to introduce the *current* version of Rokoko’s Terms of Service and
2 product FAQs, located at public URLs, to support its Motion to Dismiss. However, those
3 webpages were not in effect at the time of Plaintiff’s transactions and were never agreed to or
4 referenced by Plaintiff. In fact, over the past five years, Rokoko’s Terms have been modified at
5 least sixty-seven (67) times, with only a single version ever being directly communicated to
6 Plaintiff. This is precisely a point made in Plaintiff’s Complaint (Compl. ¶ 33-38) These
7 documents are not only subject to reasonable dispute; but they materially differ from those in
8 place during Plaintiff’s purchases, and present factual issues inappropriate for resolution on a
9 Rule 12(b)(6) motion. Counsel was made aware during meet and confer that Plaintiff has the
10 terms *prior* to alleged spoliation of evidence (Compl. ¶ 109) and that they are materially
11 different. However, they still filed their RJN anyways.
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15 Judicial notice under Rule 201 is limited to facts that *are “not subject to reasonable*
16 *dispute because [they]... can be accurately and readily determined from sources whose accuracy*
17 *cannot reasonably be questioned.”* (Fed. R. Evid. 201(b).) Public webpages that are subject to
18 unilateral revision by a litigant do not meet this standard. Further, the Ninth Circuit has held that
19 courts must not assume the truth of matters within judicially noticed documents that are used to
20 contradict a plaintiff’s well-pleaded allegations. (*Khoja v. Orexigen Therapeutics, Inc.*, 899 F.3d
21 988, 999–1003 (9th Cir. 2018).) This is precisely what Defendant seeks to do — import current,
22 post-litigation, post-spoliation website content to rewrite the timeline forward and retroactively
23 and contradict Plaintiff’s allegations of warranty fraud and deceptive business practices. Such
24 use is improper and misleading.
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1 **ADDITIONAL PROCEDURAL DEFICIENCY – VIOLATION OF LOCAL RULE 7-3**

2 Plaintiff further objects to the Request for Judicial Notice on procedural grounds. It is
3 submitted in support of a Motion to Dismiss that was itself filed in violation of Local Rule 7-3,
4 which requires parties to “*meet and confer at least seven (7) days before the filing of the motion*”
5 in a meaningful attempt to resolve the issues. No such meaningful conference occurred except
6 hours before Defendant filed their motion. Prior, no meet and confer has ever occurred as
7 Defendant wished to be a non-participant. (these issues were raised in Plaintiff’s Request for
8 Entry of Default).
9

10 Defendant’s counsel relied solely on a perfunctory email exchange after Plaintiff
11 expressly stated his intent to oppose. There was no substantive discussion, no dialogue, and no
12 effort to resolve the legal disputes before filing. Courts in this District regularly strike or deny
13 motions for such failures, and this Court has stricken Plaintiff’s motions for the same 7-3
14 violations. Plaintiff requests that the Motion and its supporting filings — including this Request
15 for Judicial Notice — be stricken in full.
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19 **CONCLUSION**

20 For the foregoing reasons, Plaintiff respectfully requests that the Court deny judicial
21 notice of Exhibits 4 through 6, and decline to consider them in ruling on the Motion to Dismiss.
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23
24 I declare under penalty of perjury under the laws of the United States of America that the
25 foregoing is true and correct.
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27 Executed this 30 day of June, 2025 in Santa Clarita, California.
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Matthew R. Walsh
19197 Golden Valley Rd #333
Santa Clarita, CA 91387
matthew@winteryear.com
(661) 644-0012
Plaintiff in pro per

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PROOF OF SERVICE

I, Matthew R. Walsh, declare:

I am a resident of the State of California, over the age of eighteen years, and a party to this action. My business address is 19197 Golden Valley Rd #333, Santa Clarita, CA 91387.

On June 30, 2025, I served the following document(s):

OBJECTION TO REQUEST FOR JUDICIAL NOTICE

by transmitting a true copy via electronic mail to the following email address(es):

Reed Smith LLP (Counsel for Defendant)

Heather Valencia, Esq.

Hvalencia@reedsmith.com

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

Executed on June 30, 2025

Santa Clarita, California



Matthew R. Walsh
Plaintiff In Pro Per