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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

MADONNA YAGUIL,

Plaintiff,

v.

GARY LEE, et al.,

Defendant.

No. 2:14-cv-00110-JAM-DAD

**ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS**

This matter is before the Court on Defendant Gary Lee's ("Defendant") Motion to Dismiss Plaintiff's Complaint (Doc. #8). Plaintiff Madonna Yaguil ("Plaintiff") opposes the motion (Doc. #9) and Defendant replied (Doc. #10).¹ For the reasons set forth below, Defendant's Motion to Dismiss Plaintiff's Complaint is GRANTED.

I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND

Plaintiff originally filed this action on January 16, 2014,

¹ This motion was determined to be suitable for decision without oral argument. E.D. Cal. L.R. 230(g). The hearing was scheduled for April 9, 2014

1 against Defendant. In the complaint, Plaintiff alleges that
2 Defendant has breached the I-864 Affidavit of Support.

3 Plaintiff is a Philippine citizen. She married Defendant, a
4 United States Citizen, on April 28, 2011. As part of Plaintiff's
5 naturalization process, Defendant signed United States
6 Citizenship and Immigration Services Form I-864 ("I-864
7 Affidavit"). See generally Aff., Compl. Ex. A, Doc. #2. By
8 signing the I-864 Affidavit, Defendant promised to provide any
9 support necessary to maintain Plaintiff at an income of no less
10 than 125 percent of the Federal Poverty Guidelines. Id. As the
11 form explains, the I-864 Affidavit "create[s] a contract between
12 [the sponsor] and the U.S. Government," which can be enforced by
13 the sponsored immigrant. Aff. at 6. The sponsor's obligation
14 ends if the sponsored immigrant (1) becomes a U.S. citizen, (2)
15 works 40 quarters as defined by the Social Security Act, (3) no
16 longer has lawful permanent resident status and permanently
17 leaves the United States, (4) receives a new grant of adjustment
18 of status based on a new Affidavit of Support, or (5) dies. Id.
19 at 7. The form states, "Note that divorce does not terminate
20 your obligations under this Form I-864." Id.

21 On November 7, 2013, a Judgment of Divorce was entered in
22 the Superior Court for the State of California, County of
23 Sacramento. Compl. ¶ 13. Plaintiff alleges that since at least
24 November 7, 2013, Defendant has not maintained Plaintiff at an
25 income that is at least 125 percent of Federal Poverty
26 Guidelines. Id. ¶ 14.

1 II. OPINION

2 A. Judicial Notice

3 Defendant requests judicial notice of four filings in Gary
4 T. Lee Jr. v. Madonna Yaguil Lee, 12FL06880, Superior Court of
5 California, County of Sacramento: Respondent's Statement of
6 Issues, Family Law Stipulation and Order, Judgment for
7 Dissolution, and Notice of Entry of Judgment. Exs. A-D,
8 Defendant's Request for Judicial Notice ("DRJN"), Doc. #8-1.
9 These documents are appropriate for judicial notice because
10 federal courts are allowed to take judicial notice of proceedings
11 in other courts. U.S. ex rel Robinson Rancheria Citizens Council
12 v. Boerno, Inc., 971 F.2d 244, 248 (9th Cir. 1992) (citing St.
13 Louis Baptist Temple, Inc. v. FDIC, 605 F.2d 1169 (10th Cir.
14 1979)). Accordingly, the Court grants Defendant's request for
15 judicial notice.

16 B. Discussion

17 Defendant contends that res judicata applies to this action
18 because the parties have already litigated the issue of support
19 in state court during the divorce proceedings. Plaintiff
20 responds that the divorce judgment has no preclusive effect in
21 this instance because the state court did not decide the I-864
22 Affidavit support issue.

23 Res judicata, also known as claim preclusion, prohibits
24 lawsuits on "any claims that were raised or could have been
25 raised" in a prior action. Owens v. Kaiser Found. Health Plan,
26 Inc., 244 F.3d 708, 713 (9th Cir. 2001) (quoting W. Radio Servs.
27 Co. v. Glickman, 123 F.3d 1189, 1192 (9th Cir. 1997)). In order
28 for a claim to be barred by res judicata, there must be "(1) an

1 identity of claims, (2) a final judgment on the merits, and
2 (3) identity or privity between parties." Id.

3 Plaintiff only disputes the first requirement, identity of
4 claims, arguing that spousal support is different from I-864
5 Affidavit support. However, in the statement of issues filed by
6 Plaintiff in the parties' marital dissolution action, Plaintiff
7 stated that Defendant should pay spousal support because "[s]ince
8 the separation (19[]months) my sponsor Mr. Gary Lee failed to
9 comply the I-864 [sic]." Respondent's Statement of Issues, Ex.
10 A, Doc. #8-1, at 5. Plaintiff acknowledges that the I-864
11 Affidavit was part of the documents for the settlement
12 conference, but then argues that at the settlement conference,
13 "the issue was apparently dropped." Opp. at 2. In addition, in
14 her declaration, Plaintiff states that she did not waive or
15 intend to waive any right to support under the I-864 Affidavit.
16 Declaration of Madonna Yaguil, Doc. #9-3, ¶ 3. However, there is
17 no evidence that the issue was dropped. Therefore, even if
18 spousal support is different from I-864 Affidavit support,
19 Plaintiff raised it as an issue in the marital dissolution action
20 under the heading for spousal support thereby removing any
21 distinction between the two. For example, in Nguyen v. Dean, the
22 court rejected the plaintiff's argument that spousal support was
23 different from I-864 financial support because the exhibits
24 attached showed that the plaintiff presented evidence and argued
25 that the divorce court should award plaintiff support based on
26 the I-864 Affidavit. Nguyen v. Dean, CIV. 10-6138-AA, 2011 WL
27 130241, *2-3 (D. Or. Jan. 14, 2011).

28 Because Plaintiff raised this issue in state court, this

1 case is different from the cases cited by Plaintiff: Erlor v.
2 Erlor, CV-12-2793-CRB, 2013 WL 6139721 (N.D. Cal. Nov. 21, 2013)
3 and Shah v. Shah, CIV. 12-4648 RBK/KMW, 2014 WL 185914 (D.N.J.
4 Jan. 14, 2014). In Erlor, the court held that the divorce
5 judgment did not void the I-864 Affidavit because the divorce
6 judgment was based on the premarital agreement and the Affidavit
7 did not go to the validity of the premarital agreement. Erlor,
8 CV-12-2793-CRB, 2013 WL 6139721, at *3. In Shah, the court held
9 that there was no evidence in the record that the plaintiff's
10 claim was litigated and decided by another court. Shah, CIV. 12-
11 4648 RBK/KMW, 2014 WL 185914, at *3. Here, contrastingly, there
12 was no premarital agreement and Defendant has provided evidence
13 that this issue was previously litigated.

14 Accordingly, because there is identity of claims, res
15 judicata applies. The Court does not grant Plaintiff leave to
16 amend because the claim cannot be saved by amendment.
17 Consequently, the Court need not address Defendant's alternative
18 Rooker-Feldman argument.

19
20 III. ORDER

21 For the reasons set forth above, the Court GRANTS WITHOUT
22 LEAVE TO AMEND Defendant's Motion to Dismiss.

23 IT IS SO ORDERED.

24 Dated: April 9, 2014

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26 
27 JOHN A. MENDEZ,
28 UNITED STATES DISTRICT JUDGE