

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

GERALD SPENCE,
Plaintiff,
v.
G. KAUR, et al.,
Defendants.

No. 2:16-cv-1828 TLN KJN P

ORDER

Plaintiff, a state prisoner, is proceeding pro se with this civil rights action seeking relief under 42 U.S.C. § 1983. Plaintiff’s request for judicial notice is before the court.

Plaintiff asks the court to take judicial notice of various “facts” contained in various filings by plaintiff and defendant, and asks the court to issue a citation for contempt based on defense counsel’s alleged perjury in connection with the court’s order granting defendant an extension of time, *nunc pro tunc* (ECF No. 56).

A “high degree of indisputability is the essential prerequisite” to taking judicial notice and “the tradition [of taking judicial notice] has been one of caution in requiring that the matter be beyond reasonable controversy.” Fed. R. Evid. 201(a) & (b) advisory committee’s notes. A court, then, may take judicial notice of undisputed facts contained in public records, but it may not take judicial notice of disputed ones. Lee v. City of Los Angeles, 250 F.3d 668, 689-90 (9th Cir. 2001); Lee v. Bender, 2005 WL 1388968, at *8 (N.D. Cal. May 11, 2005) (“Court filings and

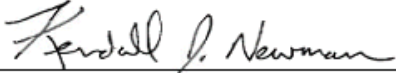
1 orders are the type of documents that are properly noticed under Federal Rule of Evidence 201.
2 Notice can be taken, however, ‘only for the limited purpose of recognizing the judicial act that the
3 order [or filing] represents on the subject matter of the litigation.’”) (quoting United States v.
4 Jones, 29 F.3d 1549, 1553 (11th Cir. 1994) (citation and internal quotation marks omitted)).

5 As demonstrated by the filings cited by plaintiff, plaintiff’s request for judicial notice
6 relies on disputed facts and therefore is not properly subject to judicial notice. Plaintiff’s request
7 for judicial notice (ECF No. 60) is denied.

8 Accordingly, IT IS HEREBY ORDERED that plaintiff’s request for judicial notice (ECF
9 No. 60) is denied.

10 Dated: April 7, 2020

11 /spen1828.rjn

12 
13 _____
14 KENDALL J. NEWMAN
15 UNITED STATES MAGISTRATE JUDGE
16
17
18
19
20
21
22
23
24
25
26
27
28