



1 In their *ex parte* application, Defendants now advise the Court that on  
2 January 8, 2015, the California Court of Appeal affirmed Plaintiff’s criminal  
3 conviction, and that on April 1, 2015, the California Supreme Court denied  
4 Plaintiff’s petition for review and that the case was considered “complete” as of  
5 April 8, 2015. (Dkt. No. 292.)

6 In support of their *ex parte* application, Defendants request judicial notice of  
7 the following two documents (Dkt. No. 292-1):

- 8 • **Exhibit A:** Opinion of the Court of Appeal, Fourth Appellate District  
9 of California, Division One, Case No. D064053 (*The People v. Paul*  
10 *Hupp*) filed 1/8/15 (Dkt. No. 292-2);
- 11 • **Exhibit B:** Docket (Register of Actions) for Court of Appeal, Fourth  
12 Appellate District of California, Division One, Case No. D064053 (*The*  
13 *People v. Paul Hupp*) (Dkt. No. 292-3).

14 A court may take notice of undisputed “matters of public record” subject to  
15 judicial notice. *Lee v. City of Los Angeles*, 250 F.3d 668, 688–89 (9th Cir. 2001)  
16 (citing Fed. R. Evid. 201; *MGIC Indem. Corp. v. Weisman*, 803 F.2d 500, 504 (9th  
17 Cir. 1986)). Under Federal Rule of Evidence 201, a district court may take notice of  
18 facts not subject to reasonable dispute that are capable of accurate and ready  
19 determination by resort to sources whose accuracy cannot reasonably be questioned.  
20 Fed. R. Evid. 201(b); *see also Lee*, 250 F.3d at 689. Defendants’ two requests for  
21 judicial notice are properly noticeable as the documents are matters of public record  
22 and are capable of accurate and ready determination. Finding the Opinion of the  
23 Court of Appeal and the Docket (Register of Actions) for the state appeal  
24 proceeding relevant, the Court takes judicial notice of both documents.

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