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8 UNITED STATES DISTRICT COURT  
9 SOUTHERN DISTRICT OF CALIFORNIA  
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11 KYLE ROBERT JAMES,  
12 Plaintiff,  
13 v.  
14 BARBARA LEE, et al.,  
15 Defendants.

Case No.: 16-cv-01592-AJB-JLB

**ORDER DENYING PLAINTIFF'S  
REQUEST FOR JUDICIAL NOTICE  
AND REQUEST TO FILE  
INTERROGATORIES**

[ECF No. 84]

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18 Presently before the Court are Plaintiff's requests for judicial notice and to file  
19 interrogatories. (ECF No. 84.) Plaintiff requests that the Court take judicial notice of the  
20 fact that Plaintiff sent interrogatories to defense counsel on June 1, 2018. (*Id.* at 1.)  
21 Plaintiff also requests that the Court "retain" a handwritten copy of interrogatories Plaintiff  
22 declares that he sent to defense counsel. (*Id.* at 1-2) Plaintiff's requests are **DENIED** for  
23 the reasons discussed below.

24 **A. Request for Judicial Notice**

25 If a party requests that a court take judicial notice of a fact, and supplies the court  
26 with the requisite information, and if the fact is appropriate for judicial notice, then the  
27 court must take judicial notice of it. Fed. R. Evid. 201(b) and (c). A fact of which a court  
28 can take judicial notice must "not [be] subject to reasonable dispute because it: (1) is

1 generally known within the trial court’s territorial jurisdiction; or (2) can be accurately and  
2 readily determined from sources whose accuracy cannot reasonably be questioned.” Fed.  
3 R. Evid. 201(b). A court may not take judicial notice of a fact that is subject to reasonable  
4 dispute. *Lee v. City of Los Angeles*, 250 F.3d 668, 688-90 (9th Cir. 2001). Furthermore,  
5 “[b]ecause the effect of judicial notice is to deprive a party of an opportunity to use rebuttal  
6 evidence, cross-examination, and argument to attack contrary evidence, caution must be  
7 used in determining that a fact is beyond controversy under rule 201(b).” *Rivera v. Philip  
8 Morris, Inc.*, 395 F.3d 1142, 1151 (9th Cir. 2005) (quoting *Wright v. Brooke Group. Ltd.*,  
9 114 F. Supp. 2d 797, 815 (N.D. Iowa 2000)).

10 As with Plaintiff’s most recent request (ECF No. 80), Plaintiff’s submission is not  
11 appropriate for the taking of judicial notice. *See* Fed. R. Evid. 201(b). “[A] high degree  
12 of indisputability is the essential prerequisite’ to taking judicial notice of adjudicative  
13 facts.” *Rivera*, 395 F.3d at 1151 (quoting advisory committee note to Fed. R. Evid. 201(a)  
14 & (b)). Here, Plaintiff provides the Court with a handwritten copy of interrogatories that  
15 Plaintiff represents he sent to defense counsel. (ECF No. 84 at 3-4.) This is not a source  
16 “whose accuracy cannot reasonably be questioned.” *See* Fed. R. Evid. 201(b).  
17 Accordingly, Plaintiff’s Request for Judicial Notice (ECF No. 84) is hereby **DENIED**.

#### 18 **B. Request to Retain Copy of Interrogatories**

19 Plaintiff requests that the Court “retain” the handwritten copy of interrogatories  
20 Plaintiff declares that he sent to defense counsel. (ECF No. 84 at 1.) Plaintiff states that  
21 he would like the Court to retain a copy because “Plaintiff has no other way to prove that  
22 he in fact actually constructed and sent these questions to defendants [sic] counsel.” (*Id.*)  
23 Plaintiff declares that he has “been having problems with [defense] counsel” and has not  
24 received a response to any of his discovery requests. (*Id.* at 2.)

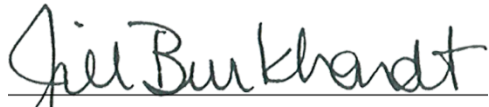
25 As the Court has previously stated, discovery requests are served upon the  
26 responding party, and are not ordinarily filed on the docket (or otherwise “retained” by the  
27 Court). The Local Rules provide that interrogatories and requests for production “need not  
28 be filed unless and until they are used in the proceedings.” CivLR 33.1. Plaintiff’s

1 discovery requests are not at a point where they are being “used in the proceedings.” If  
2 Plaintiff does not receive discovery responses to which he is entitled, Plaintiff can seek  
3 recourse from the Court, but must follow the appropriate procedural rules, including  
4 Magistrate Judge Jill L. Burkhardt’s Civil Chambers Rules.

5 This is the second time Plaintiff has attempted to file discovery requests on the  
6 docket. (ECF Nos. 80, 84.) For the reasons discussed above, Plaintiff is hereby  
7 **ORDERED** not to file any further discovery requests on the docket without a court order,  
8 unless the discovery requests are in support of or in opposition to a motion seeking relief  
9 other than a request to file discovery documents.

10 **IT IS SO ORDERED.**

11 Dated: June 11, 2018

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14 Hon. Jill L. Burkhardt  
15 United States Magistrate Judge  
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