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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
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11 KATHLEEN HOLT, *individually and on*
12 *behalf of all others similarly situated,*

13 Plaintiff,

14 v.

15 NOBLE HOUSE HOTELS & RESORT,
16 LTD; and DOES 1 TO 25,

17 Defendant.

Case No.: 17cv2246-MMA (BLM)

**ORDER GRANTING UNOPPOSED
MOTION FOR JUDGMENT ON THE
PLEADINGS**

[Doc. No. 64]

18 Plaintiff Kathleen Holt (“Plaintiff”), individually and on behalf of all others
19 similarly situated, filed this class action against Defendant Noble House Hotels & Resort,
20 LTD (“Noble House”) alleging causes of action for violations of California’s False
21 Advertising Law (“FAL”),¹ California’s Unfair Competition Law (“UCL”), and
22 California’s Consumers Legal Remedy Act (“CLRA”). Doc. No. 35 (“FAC”). On
23 November 15, 2018, Plaintiff filed a motion for judgment on the pleadings pursuant to
24 Federal Rule of Civil Procedure 12(c). Doc. No. 64. Specifically, Plaintiff seeks
25 dismissal with prejudice of the following affirmative defenses raised by Noble House:
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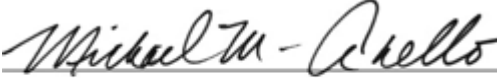
28 ¹ The FAL claim is raised by Plaintiff in her individual capacity only. *See* Doc. No. 63 at 1.

1 (1) laches (fifth affirmative defense); (2) failure to state a cause of action for attorneys’
2 fees (eighth affirmative defense); (3) statute of limitations pursuant to California
3 Business and Professions Code § 17208 (ninth affirmative defense); (4) statute of
4 limitations pursuant to California Code of Civil Procedure §§ 337, 338, 339, and 340
5 (sixteenth affirmative defense); and (5) reservation of rights to assert additional
6 affirmative defenses (twenty-first affirmative defense). *Id.* at 2. On December 3, 2018,
7 Noble House filed a statement of non-opposition to Plaintiff’s motion.² Doc. No. 65.
8 The Court finds this matter suitable for determination on the papers submitted and
9 without oral argument pursuant to Civil Local Rule 7.1.d.1.

10 In light of Noble House’s statement of non-opposition, the Court **GRANTS**
11 Plaintiff’s unopposed motion for judgment on the pleadings [Doc. No. 64], and
12 **DISMISSES WITH PREJUDICE** Defendant’s fifth, eighth, ninth, sixteenth, and
13 twenty-first affirmative defenses.³

14 **IT IS SO ORDERED.**

15 Dated: December 11, 2018

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17 Hon. Michael M. Anello
18 United States District Judge
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22 ² Additionally, a district court may properly grant an unopposed motion pursuant to local rule where the
23 local rule permits, but does not require, the granting of a motion for failure to oppose. *See Ghazali v.*
24 *Moran*, 46 F.3d 52, 54 (9th Cir. 1995). Civil Local Rule 7.1.f.3.c. provides that a party’s failure to
25 oppose a motion “may constitute a consent to the granting of a motion or other request for ruling by the
26 court.” As such, the Court has the option of granting Plaintiff’s motion for judgment on the pleadings
27 on the basis of Noble House’s failure to oppose. Generally, public policy favors disposition of cases on
28 their merits. *See Hernandez v. City of El Monte*, 138 F.3d 393, 399 (9th Cir. 1998). However, a case
cannot move forward toward resolution on the merits when the defendant fails to defend its affirmative
defenses against a motion for judgment on the pleadings.

³ The Court **DENIES** Plaintiffs’ request for judicial notice. *See* Doc. No. 64-4; *Ruiz v. City of Santa*
Maria, 160 F.3d 543, 548 n.13 (9th Cir. 1998) (finding that judicial notice is inappropriate where the
facts to be noticed are not relevant to the disposition of the issues before the court).