

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

AMEGY BANK NATIONAL
ASSOCIATION,

Plaintiff,

v.

Case No: 2:12-cv-243-FtM-38UAM

DB PRIVATE WEALTH
MORTGAGE, LTD. and DEUTSCHE
BANK ALEX.BROWN,

Defendants.

ORDER¹

This matter comes before the Court on Defendants' Motion Requesting Judicial Notice ([Doc. #91](#)) filed on November 14, 2013. Defendants request that the Court take judicial notice of amended motions for summary judgment filed in matters within the 164th Judicial District Court of Harris County, Texas "to establish the fact of the parallel litigation by which Amegy seeks to recover damages in the amount of \$9,798,174.59 plus pre-judgment and post-judgment interest and attorney's fees against Host Hotels & Resorts, L.P. and Host Hotels & Resorts, Inc." ([Doc. #90](#), [Doc. #91-1](#), [Doc. #91-2](#)). Pursuant to Local Rule 3.01(g), Defendants conferred with Plaintiff and Plaintiff indicated it opposes

¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or Web sites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other Web sites, this court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their Web sites. Likewise, the court has no agreements with any of these third parties or their Web sites. The court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the court.

this motion. Although given the opportunity, Plaintiff did not file a response in opposition. This matter is now ripe for review.

[Rule 201\(c\)\(2\) of the Federal Rules of Evidence](#) states a court “must take judicial notice if a party requests it and the court is supplied with the necessary information.” Further, the “court may take judicial notice of a document filed in another court ‘not for the truth of the matters asserted in the other litigation, but rather to establish the fact of such litigation and related filings.’” [United States v. Jones](#), 29 F.3d 1549, 1553 (11th Cir. 1994) (citing [Liberty Mut. Ins. Co. v. Rotches Pork Packers, Inc.](#), 969 F.2d 1384, 1388-89 (2d Cir. 1992)). Therefore, judicial notices of related court cases can only be taken for two limited purposes. Either to recognize the judicial act that the order represents or to recognize the subject matter of the litigation. [Allstate Insurance Company v. Estate of Robert M. Levesque](#), No. 8:08-cv-2253-T-33EAJ, 2010 WL 2978037, at *1 (M.D. Fla. July 29, 2010) (citing [Jones](#), 29 F.3d at 1553; [In re Delta Res., Inc.](#), 54 F.3d 722, 725-26 (11th Cir. 1995); [Johnson v. Clark](#), 2:03-CV-490-FtM-33DNF, 2006 WL 289107, at *2 (M.D. Fla. Feb. 07, 2006)).

Here, there is no dispute that the two summary judgment motions were filed in state court. ([Doc. #91-1](#), [Doc. #91-2](#)). Defendants do not seek ruling from this Court that the allegations contained within the motions are true but rather that Plaintiff is in the process of seeking a judgment against two other corporations in a pending state court matter. See [F.D.I.C. v. Icard, Merrill, Cullis, Timm, Furen & Ginsburg, P.A.](#), No. 8:11-cv-2831-T-33MAP, 2013 WL 1912838, at *2 (M.D. Fla. May 9, 2013). The Court takes judicial notice of the subject matter of the state court litigation. The Court does not take judicial notice of the accuracy of the factual allegations, arguments, or legal conclusions

contained within the state court motions. See e.g., [Vongrave v. Rice](#), No. 3:06-cv-152-J-33HTS, 2006 WL 1805873, at *1 (M.D. Fla. June 29, 2006). In addition, the Court's decision to take judicial notice of the state court motions does not constitute a determination regarding the admissibility of such motions for the purposes of this litigation.

Accordingly, it is now

ORDERED:

Defendants' Motion Requesting Judicial Notice ([Doc. #91](#)) is **GRANTED**.

DONE and **ORDERED** in Fort Myers, Florida this 23rd day of January, 2014.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record