

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  
DISTRICT OF NEVADA**

\* \* \*

Andrew et al.,  
  
                                                Plaintiffs,  
  
                                                v.  
  
Century Surety Co.,  
  
                                                Defendant.

Case No. 2:12-cv-00978-APG-PAL

**ORDER GRANTING CENTURY  
SURETY COMPANY’S REQUEST FOR  
JUDICIAL NOTICE**

On May 13, 2013, Defendant Century Surety Company (“Defendant”) filed its Request for Judicial Notice Submitted in Support of its Counter Motion for Summary Judgment. (ECF#73-5).

Judicial Notice is governed by Federal Rule of Evidence 201. “A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(1)-(2). “[A] party requesting judicial notice bears the burden of persuading the trial judge that the fact is a proper matter for judicial notice.” *In re Tyrone F. Conner Corporation*, 140 B.R. 771, 781 (Bankr. E.D. Cal. 1992). “To sustain its burden in persuading the trial judge that the adjudicative fact sought to be noticed is in fact proper for notice under FRE 201, the party must (1) persuade the court that the particular fact is not reasonably subject to dispute and is capable of immediate and accurate determination by resort to a source ‘whose accuracy cannot reasonably be questioned’ ....” *Id.* at 781. In other words, “the fact must be one that only an unreasonable person

1 would insist on disputing.” *United States v. Jones*, 29 F.3d 1549, 1553 (11th Cir.1994).  
2 Documents that are part of the public record may be judicially noticed to show, for example, that  
3 a judicial proceeding occurred or that a document was filed in another court case, but a court may  
4 not take judicial notice of findings of facts from another case. *See Wyatt v. Terhune*, 315 F.3d  
5 1108, 1114 & n. 5 (9th Cir.2003); *Lee v. City of Los Angeles*, 250 F.3d 668 (9th Cir.2001); *Jones*,  
6 29 F.3d at 1553. Nor may the court take judicial notice of any matter that is in dispute. *Lee*, 250  
7 F.3d at 689–90; *Lozano v. Ashcroft*, 258 F.3d 1160, 1165 (10th Cir.2001).

8 Defendant requests that the Court take judicial notice of the following documents:

9  
10 **Exhibit 6 to the Compendium of Exhibits:** State of Nevada  
Traffic Accident Report (dated 1/12/09).

11 **Exhibit 7 to the Compendium of Exhibits:** City of Henderson  
Police Incident Report (dated 2/2/09).

12 **Exhibit 14 to the Compendium of Exhibits:** Complaint in the  
13 matter titled *Lee Pretner, et al. v. Michael A. Vasquez, et al.*,  
14 District Court for Clark County, Nevada, Case No. A-11-632845-  
C.

15 **Exhibit 19 to the Compendium of Exhibits:** Defaults filed  
16 against Blue Streak and Michael Vasquez in the matter *Lee*  
*Pretner, et al. v. Michael A. Vasquez, et al.*, District Court for  
17 Clark County, Nevada, Case No. A-11-632845-C (dated 6/27/11).

18 **Exhibit 21 to the Compendium of Exhibits:** Notice to Set Aside  
19 Default Against Michael Vasquez filed in the matter *Lee Pretner,*  
*et al. v. Michael A. Vasquez, et al.*, District Court for Clark  
County, Nevada, Case No. A-11-632845-C (dated 6/28/11).

20 **Exhibit 25 to the Compendium of Exhibits:** Application for  
21 Entry of Default Judgment (without exhibits) in the matter *Lee*  
*Pretner, et al. v. Michael A. Vasquez, et al.*, District Court for  
22 Clark County, Nevada, Case No. A-11-632845-C (dated 10/20/11).

23 **Exhibit 26 to the Compendium of Exhibits:** Notice of Prove-Up  
24 Hearing in the matter *Lee Pretner, et al. v. Michael A. Vasquez, et*  
*al.*, District Court for Clark County, Nevada, Case No. A-11-  
632845-C (filed on February 29, 2012).

25  
26 **Exhibit 27 to the Compendium of Exhibits:** Court Minutes dated  
27 April 11, 2012 in the matter titled *Lee Pretner, et al. v. Michael A.*  
28

1 Vasquez, et al., District Court for Clark County, Nevada, Case No.  
A-11-632845-C.

2 **Exhibit 28 to the Compendium of Exhibits:** Default Judgment  
3 signed by the Court on April 11, 2012 in the matter titled *Lee*  
4 *Pretner, et al. v. Michael A. Vasquez, et al.*, District Court for  
Clark County, Nevada, Case No. A-11-632845-C.

5 **Exhibit 29 to the Compendium of Exhibits:** Notice of Removal  
and Complaint - *Andrew v. Century Surety USDC* Case No. 2:12-  
6 cv-00978 (Court Document No. 1)

7 (ECF#73-5 at 2-3).

8 Plaintiffs have filed no opposition to Defendant's Request for Judicial Notice.

9 Accordingly, the Court will take notice of those documents, *but only to the extent that they*  
10 *demonstrate that the reports or judicial proceedings they represent occurred, and for no other*  
11 *purpose.* The Court does not take notice of the contents of those documents.

12 For good cause showing, Defendant's Request for Judicial Notice Submitted in Support of  
13 its Counter Motion for Summary Judgment, ECF#73-5, is **GRANTED IN PART.**

14 DATED this 27<sup>th</sup> day of September, 2013.

15  
16  
17 

18 \_\_\_\_\_  
ANDREW P. GORDON  
19 UNITED STATES DISTRICT JUDGE  
20  
21  
22  
23  
24  
25  
26  
27  
28