

**GRAY, et. al. v BAXTER**

**20CV44570**

**DEFENDANT'S DEMURRER TO THE COMPLAINT, REQUEST FOR JUDICIAL NOTICE,  
MOTION TO STRIKE UNDER CCP SECTION 425.16, AND REQUEST FOR SANCTIONS**

On February 13, 2020, plaintiff filed the complaint. On March 27, 2020, defendant timely demurred and filed a motion to strike under CCP section 425.16.

Defendant's request for judicial notice for Exhibits A and C pursuant to Evidence Code sections 452 and 453 is GRANTED.

The court will consider matters it has judicially noticed. Rubenstein v Gap, Inc. (2017) 14 Cal. App. 5<sup>th</sup> 870, 875. The court can take judicial notice of the existence of court records to include orders, judgments, and findings of fact and conclusion of law. People v Franklin (2016) 63 Cal.4th 261.

The complaint in this matter involves the same subject matter as San Joaquin Superior Court case number STK-CV-CUBC-2017-000229. The plaintiffs in this matter were defendants in the San Joaquin matter. The defendant in this matter was the plaintiff in the San Joaquin matter. The loan which is at issue in this matter was at issue in the San Joaquin matter. A default judgment was entered on January 8, 2018, in the San Joaquin matter and amended on January 12, 2020.

Plaintiff now seeks to relitigate the San Joaquin matter. Any attack on the default judgment that was entered on January 8, 2018, is improper per the legal doctrine of res judicata. A default judgment operates a final judgment and, once entered, is res judicata on all issues in the case. Murray v Alaska Airlines, Inc. (2010) 50 Cal.4<sup>th</sup> 860, 871 (dicta); Martin v General Fin. Co. (1966) 239 Cal.App.2d 438, 443. Based on the foregoing, defendant's demurrer to the complaint is SUSTAINED Without leave to amend.

Plaintiffs failed to take any legal action to attack the default or the judgment. Although legal remedies were available, plaintiffs choose not to pursue any of these remedies.

As the demurrer is SUSTAINED Without leave to amend, the Court will not address the merits of defendant's motion to strike under CCP section 425.16 as the issue is moot. Therefore, the Court DENIES defendant's request for attorney's fees as the request was made pursuant to the motion to strike.

The clerk shall provide notice of this ruling to the parties forthwith. Defendant to prepare a formal Order pursuant to Rule of Court 3.1312 in conformity with this ruling.