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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF ORANGE – CENTRAL JUSTICE CENTER**

10
11 JAMES BELLINO, et al.,

12 Plaintiffs,

13 vs.

14 HEATHER MCDONALD, et al.

15 Defendants.

) Case No.: 30-2019-01078776-CU-DF-CJC

) **REQUEST FOR JUDICIAL NOTICE**
) **IN SUPPORT OF SPECIAL MOTION**
) **TO STRIKE COMPLAINT**

) (Assigned for all purposes to
) Hon. Layne H. Melzer, Dept. C12)

) RES ID: 73153139

Date: February 20, 2020
Time: 2:00 p.m.
Department: C12

Case Filed: June 24, 2019
Trial Date: None Set

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22 Defendant Heather McDonald (“Ms. McDonald”) makes this request for
23 judicial notice in support of the concurrently-filed motion to strike the complaint of
24 plaintiffs James Bellino (“Bellino”) and Jump Management Co. LLC (“Jump
25 Management”) pursuant to California Code of Civil Procedure section 425.16.
26 Accordingly, Ms. McDonald respectfully requests that the Court take judicial notice
27 of the following documents:
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1 1. Screenshots taken from the “Jim Bellino Get to Know the Facts from
2 Jim Bellino” website (www.jimbellino.com), true and correct copies of which are
3 attached as Exhibit 16 to the Salem Declaration.

4 2. News Articles and publications discussing facts related to the American
5 TV Show, The Real Housewives of Orange County, including articles from Reality
6 TV World, The Futon Critic, Bestle.com, and Vulture, which describe when the show
7 premiered and the successes of the franchise due to the widespread support from
8 fans and ongoing public interest in the show. True and correct copies of these news
9 articles and publications are attached as Exhibits 2, 3, 4, 5, and 6 to the Salem
10 Declaration.

11 3. Various news articles and publications discussing Alexis and Jim
12 Bellino and their businesses, including articles from the websites of the US Weekly,
13 The Orange County Register, Inquisitr, The Celeb Worth, Reality Tea, Bravo’s The
14 Daily Dish, Psychology Today, Blast You Want It. We Got It., All About the Real
15 Housewives All About the Truth, and Net Worth Post just to name a few. True and
16 correct copies of these news articles and publications are attached as Exhibits 1, 7, 8,
17 9, 10, 11, 12, 13, 14, 15, 17, 26, 28 and 29 to the Salem Declaration.

18 4. Various news articles and publications discussing trampoline parks,
19 including articles from the websites of the Los Angeles Times, Today, Fox News
20 Health, Twin Cities Pioneer Press.com, Global News, and American Academy of
21 Pediatrics, just to name a few. True and correct copies of these news articles and
22 publications are attached as Exhibits 18, 19, 20, 22, 23, 24, and 25 to the Salem
23 Declaration.

24 5. First Amended Complaint from Orange County Superior Court Case
25 No. 30-2015-00770553-CU-PO-CJC, *Harman v. Sky Zone, LLC*, et al., attached as
26 Exhibit 21 to the Salem Declaration.

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1 6. Complaint from Orange County Superior Court, Case No. No. 30-2018-
2 01004529-CU-CO-CJC, the action *Hughes v. Bellino, et al.*, attached as Exhibit 27 to
3 the Salem Declaration.

4 Paragraph 1 & 2: Plaintiffs' and Third Party's Websites: Ms. McDonald
5 submits screenshots of Joe Bellino's website, Exhibit 16 to the Salem Declaration,
6 which shows that Mr. Bellino is a public figure involved in an issue of public
7 interest. Ms. McDonald also includes websites providing factual information
8 regarding the American TV show, "The Real Housewives of Orange County,"
9 Exhibits 1, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 26, 28 and 29 to Salem Declaration. It is
10 appropriate to take judicial notice of Courts may take judicial notice of the contents
11 of websites, and blogs including those operated by the Plaintiff or third parties.
12 *Ampex Corp. v. Cargle*, 128 Cal. App. 4th 1569 (2005) (The Court of Appeal would
13 take judicial notice in a defamation action that Web portal offered financial message
14 boards on the Internet for publicly traded companies where any user could post
15 comments); *Blue Lake Rancheria v. U.S.*, No. 08-4206 SC, 2010 WL 144989 at *2 n.4
16 (N.D. Cal. Jan. 8, 2010) (taking judicial notice of printout from the opposing party's
17 website); *Datel Holdings Ltd. v. Microsoft Corp.*, No. C-09-05535 EDL, 2010 WL
18 1691790 (N.D. Cal. April 23, 2010) (same); *Perkins v. LinkedIn Corp.*, 53 F. Supp. 3d
19 1190, 1205 (N.D. Cal. 2014) (taking judicial notice of third-party's website); see also
20 *O'Toole v. Northrop Grumman Corp.*, 499 F.3d 1218, 1225 (10th Cir. 2007) (taking
21 judicial notice of a party's website and explaining that "[i]t is not uncommon for
22 courts to take judicial notice of factual information found on the world wide web").
23 As such, the Court may take judicial notice of Bellino's website.

24 Paragraph 3: Media Articles and Blogs Showing the Bellinos and Trampoline
25 Park Injuries Are a Matter of Public Interest: Courts can also take judicial notice of
26 the contents of news articles, periodicals, and press releases. Here, Ms. McDonald
27 has submitted various news articles, publications, and press releases to demonstrate
28 that the Bellinos have received widespread media coverage and concern a "matter of



1 public interest” within the meaning of California’s anti-SLAPP statute, Exhibits 1, 7,
2 8, 9, 10, 11, 12, 13, 14, 15, 17, and 26 to the Salem Declaration. Ms. McDonald has
3 further submitted various news articles and press releases to show the extensive
4 media coverage and public interest with regard to trampoline parks and whether
5 they are dangerous for children and adults, Exhibits 18, 19, 20, 22, 23, 24, and 25 to
6 Salem Declaration. These materials are subject to judicial notice. See, e.g., *Seelig v.*
7 *Infinity Broadcasting Corp.*, 97 Cal. App. 4th 798, 809 n.5 (2002) (taking judicial
8 notice of articles discussing television show); *Von Saher v. Norton Simon Museum of*
9 *Art at Pasadena*, 592 F.3d 954, 960 (9th Cir. 2010) (“The Museum also moves for
10 judicial notice of the fact that various newspapers, magazines, and books have
11 published information about the Cranachs. Courts may take judicial notice of
12 publications introduced to ‘indicate what was in the public realm at the time, not
13 whether the contents of those articles were in fact true.”); *Heliotrope Gen., Inc. v.*
14 *Ford Motor Co.*, 189 F.3d 971, 981 n.18 (9th Cir. 1999) (“We take judicial notice that
15 the market was aware of the information contained in news articles submitted by
16 the defendants”); *Brodsky v. Yahoo! Inc.*, 630 F. Supp. 2d 1104, 1111–12 (N.D. Cal.
17 2009) (“The Court also grants Defendants’ request [for judicial notice] as to Exhibits
18 31 through 47, Yahoo! press releases, news articles, analyst reports, and third party
19 press releases.”); *Plevy v. Haggerty*, 38 F. Supp. 2d 816, 821 (C.D. Cal. 1998) (taking
20 judicial notice of press releases); *In re Homestore.com, Inc. Sec. Litig.*, 347 F. Supp.
21 2d 814, 817 (C.D. Cal. 2004) (same); *Patel v. Parnes*, 253 F.R.D. 531, 546–47 (C.D.
22 Cal. 2008) (same).

23 Paragraph 5: *Harman v. Sky Zone* and *Hughes v. Bellino* Complaints: Ms.
24 McDonald submits the First Amended Complaint from Orange County Superior
25 Court case No. 30-2015-00770553-CU-PO-CJC, *Harman v. Sky Zone, LLC, et al.* and
26 Complaint from Orange County Superior Court, Case No. No. 30-2018-01004529-
27 CU-CO-CJC, *Hughes v. Bellino, et al.* The Court may take judicial notice of “Records
28 of (1) any court of this state.” Evid.Code, §§ 452, subd. (d); 459, subd. (a); *Schifando*



1 v. *City of Los Angeles*, 31 Cal.4th 1074, 1089 n.4 (2003) (taking judicial notice of
2 Ninth Circuit Opinion); *Forty-Niner Truck Plaza, Inc. v. Union Oil Co.*, 58 Cal. App.
3 4th 1261, 1277, fn. 7 (1997) (taking judicial notice of unpublished district court order
4 and an order in another federal case); *Deveny v. Entropin, Inc.*, 139 Cal. App. 4th
5 408, 418 (2006) (“For the Court of Appeal to take judicial notice of court records
6 outside the record on appeal, including unpublished orders and decisions in a related
7 federal proceeding, the litigant must demonstrate that the matter as to which
8 judicial notice is sought is both relevant to and helpful toward resolving the matters
9 before the Court.”). The complaint filed by Tisha Harman is both relevant and
10 helpful to resolving the dispute in this litigation because it shows that Ms.
11 McDonald’s statement that she heard the Bellino’s did not have the trampoline park
12 because they were sued is a true statement. The Bellino’s were sued and the
13 complaint is proof of that. As such, the Court may take judicial notice of the
14 complaint filed in that action. The Hughes complaint is relevant because it shows
15 that the Bellino’s trampoline park may have been sold around or before the time of
16 this lawsuit.

17 For all the foregoing reasons, Ms. McDonald respectfully requests that the
18 Court grant judicial notice of the referenced exhibits to the Salem Declaration.

19
20 DATED: October 23, 2019

JEFF LEWIS LAW

21
22
23 By: _____


Jeffrey Lewis
Sean C. Rotstan

24
25 Attorneys for Defendant
26 **HEATHER MCDONALD**



PROOF OF SERVICE

Bellino, et al. v. McDonald

Orange County Superior Court Case No.: 30-2019-01078776-CU-DF-CJC

I, Jason R. Ebbens, declare that I am over the age of 18 years, employed in the County of Los Angeles, and not a party to the within action; my business address is 609 Deep Valley Drive, Suite 200, Rolling Hills Estates, CA 90274.

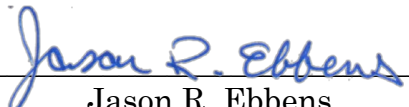
On **October 23, 2019**, I served the foregoing: **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF SPECIAL MOTION TO STRIKE COMPLAINT** on the interested parties in this action by placing the original a true copy thereof, enclosed in a sealed envelope with postage pre-paid, addressed as follows:

** See Attached Service List **

BY ELECTRONIC SERVICE. I served the foregoing document(s) on interested parties by using the electronic filing service ONELEGAL to serve and file documents electronically as mandated by the Orange County Superior Court. The documents were electronically transmitted to the e-mail addresses of the persons set forth the above.

(STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **October 23, 2019**, in Rolling Hills Estates, California.



Jason R. Ebbens

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SERVICE LIST

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Bellino, et al. v. McDonald

Orange County Superior Court Case No.: 30-2019-01078776-CU-DF-CJC

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