

1 Robert G. Schaffer (ASBN #017475)
2 **ROBERT G. SCHAFFER, PLC**
3 13220 North Scottsdale Road, Suite 1055
4 Scottsdale, AZ 85254-0113
5 Email: rschaffer@rgslawfirm.com
6 Phone: (602) 448-5642

7 Jamie R. Kurtz (Admitted *pro hac vice*)
8 JKurtz@robinskaplan.com
9 Paul D. Weller (Admitted *pro hac vice*)
10 PWeller@robinskaplan.com
11 Munir R. Meghjee (Admitted *pro hac vice*)
12 MMeghjee@robinskaplan.com
13 Marcus A. Guith (Admitted *pro hac vice*)
14 MGuith@robinskaplan.com
15 Kyle D. Nelson (Admitted *pro hac vice*)
16 KNelson@robinskaplan.com
17 Alexa R. Ely (Admitted *pro hac vice*)
18 AEly@robinskaplan.com

19 **ROBINS KAPLAN LLP**
20 800 LaSalle Ave, Suite 2500
21 Minneapolis, MN 55402
22 T: (612) 349-8500
23 F: (612) 339-4181

24 **UNITED STATES DISTRICT COURT**
25 **DISTRICT OF ARIZONA**
26 **PHOENIX DIVISION**

27 United Healthcare Services, Inc.;

28 UnitedHealthcare Insurance Company; and

UMR, Inc.,

Plaintiffs,

vs.

Radiology Partners, Inc.; and Sonoran
Radiology, Ltd.,

Defendants.

Case No.: 2:25-cv-02862-PHX-GMS

**PLAINTIFFS' PARTIAL
OPPOSITION TO DEFENDANTS'
REQUEST FOR JUDICIAL NOTICE**

TABLE OF CONTENTS

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

	<u>Page</u>
INTRODUCTION	1
LEGAL STANDARDS	1
ARGUMENT	2
I. United does not object to the Court’s consideration of the California lawsuit filings to resolve the first-to-file issue.....	2
II. United objects to the Court taking judicial notice of Exhibit 4.	2
III. The remaining exhibits are used to dispute the well-pleaded facts in the Complaint.	3
CONCLUSION	4

TABLE OF AUTHORITIES

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

Page(s)

Cases

California Sportfishing Prot. All. v. Shiloh Grp., LLC,
268 F. Supp. 3d 1029 (N.D. Cal. 2017) 1

Castillo v. Prime Hydration LLC,
No. 23-cv-03885, 2025 WL 2978709 (N.D. Cal. Sept. 2, 2025)..... 1

EVO Brands, LLC v. AL Khalifa Grp. LLC,
657 F. Supp. 3d 1312 (C.D. Cal. 2023) 4

F.D.I.C. v. Clementz,
No. C13-737, 2013 WL 6513001 (W.D. Wash. Dec. 12, 2013)..... 2

In re Toyota Motor Corp.,
790 F. Supp. 2d 1152 (C.D. Cal. 2011) 4

KE Arms LLC v. GWACS Armory LLC,
No. CV-20-01625, 2021 WL 871736 (D. Ariz. Mar. 9, 2021)..... 2

Khoja v. Orexigen Therapeutics, Inc.,
899 F.3d 988 (9th Cir. 2018) 1, 2

Lee v. City of Los Angeles,
250 F.3d 668 (9th Cir. 2001) 3

Malheur Forest Fairness Coal. v. Iron Triangle, LLC,
699 F. Supp. 3d 1086 (D. Or. 2023) 3

Pina v. Henderson,
752 F.2d 47 (2d Cir. 1985)..... 4

Reyn’s Pasta Bella, LLC v. Visa USA, Inc.,
442 F.3d 741 (9th Cir. 2006) 2

United States v. Black,
482 F.3d 1035 (9th Cir. 2007) 1

United States v. Corinthian Colleges,
655 F.3d 984 (9th Cir. 2011) 2, 4

Rules

Fed. R. Evid. 201(b)..... 1

INTRODUCTION

1
2 Defendants Radiology Partners, Inc. (“RP”) and Sonoran Radiology, Ltd.
3 (“Sonoran”) filed what they call a Request for Judicial Notice. D.E. 24. While the Court
4 can consider the court filings from the California lawsuit to resolve the first-to-file issue,
5 the remainder of Defendants’ request is, in reality, a request for judicial resolution of
6 disputed facts. Specifically, Defendants invite the Court to consider various materials to
7 make factual determinations—such as what medical groups the providers at issue were
8 legitimately affiliated with and whether the fraud at issue was discoverable by United—
9 which cannot be decided on judicial notice. Accepting Defendants’ request would exceed
10 the narrow purpose of judicial notice. Accordingly, the Court should deny Defendants’
11 request for judicial notice of Exhibits 4 and 7–27.

LEGAL STANDARDS

12
13 Judicial notice under Federal Rule of Evidence 201(b) “permits a court to notice an
14 adjudicative fact if it is ‘not subject to reasonable dispute.’” *Khoja v. Orexigen*
15 *Therapeutics, Inc.*, 899 F.3d 988, 999 (9th Cir. 2018) (quoting Fed. R. Evid. 201(b)). A
16 court may take judicial notice “of publicly available information on a government
17 agency’s website” or certain government records and reports. *Castillo v. Prime Hydration*
18 *LLC*, No. 23-cv-03885, 2025 WL 2978709, at *2 (N.D. Cal. Sept. 2, 2025). But “[j]ust
19 because the document itself is susceptible to judicial notice does not mean that every
20 assertion of fact within that document is judicially noticeable for its truth.” *Khoja*, 899
21 F.3d at 999. “Courts cannot take judicial notice of the contents of documents for the truth
22 of the matters asserted therein when the facts are disputed.” *California Sportfishing Prot.*
23 *All. v. Shiloh Grp., LLC*, 268 F. Supp. 3d 1029, 1038 (N.D. Cal. 2017).

24 In addition, a court “may take notice of proceedings in other courts, both within and
25 without the federal judicial system, if those proceedings have a direct relation to matters
26 at issue.” *United States v. Black*, 482 F.3d 1035, 1041 (9th Cir. 2007) (internal quotation
27 marks and citation omitted). But “[w]here a court takes judicial notice of a different court’s
28

1 order, it does not take all of the facts within that order as true.” *KE Arms LLC v. GWACS*
2 *Armory LLC*, No. CV-20-01625, 2021 WL 871736, at *4 (D. Ariz. Mar. 9, 2021).

3 ARGUMENT

4 **I. United does not object to the Court’s consideration of the California lawsuit** 5 **filings to resolve the first-to-file issue.**

6 Defendants first ask the Court to take judicial notice of the filings from the
7 California lawsuit to resolve the first-to-file issue. The Court “may take judicial notice of
8 court filings,” *Reyn’s Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir.
9 2006), and United agrees that the Court will have to consider the pleadings from the
10 California lawsuit in order to determine that this action is distinct from that matter. Thus,
11 United does not object to the Court’s consideration of those filings—Exhibits 1, 2, 3, 5,
12 and 6—for the limited purpose of evaluating Defendants’ first-to-file argument.

13 Defendants may not, however, use the California lawsuit to “show[] that the fraud
14 United alleges was ‘discoverable,’” D.E. 26 at 25, as the “substance of [the California
15 lawsuit] is subject to varying interpretations, and there is a reasonable dispute as to what
16 [the complaint in that case] establishes” related to United’s knowledge of the fraud alleged
17 here. *Khoja*, 899 F.3d at 1000 (internal quotation marks and citation omitted).

18 Similarly, while Defendants may cite Exhibit 6 to establish the existence of the
19 status report, United objects to Defendants’ attempt to draw inferences from its content.
20 *See* D.E. 26 at 7; *United States v. Corinthian Colleges*, 655 F.3d 984, 999 (9th Cir. 2011)
21 (“[W]e may not, on the basis of evidence outside of the Complaint, take judicial notice of
22 facts favorable to Defendants that could reasonably be disputed.”); *F.D.I.C. v. Clementz*,
23 No. C13-737, 2013 WL 6513001, at *5 (W.D. Wash. Dec. 12, 2013) (“On a motion to
24 dismiss, the Court will not draw inferences in favor of Defendants from the judicially
25 noticeable facts” (internal quotation marks and citation omitted)).

26 **II. United objects to the Court taking judicial notice of Exhibit 4.**

27 United objects to the Court taking judicial notice of Exhibit 4 —the Application to
28 Confirm Final Arbitration Award in the Texas arbitration. The exhibit is not relevant to
the first-to-file issue. Defendants appear to rely on Exhibit 4 solely to emphasize the

1 outcome of the Texas arbitration and invite the Court to rely on the outcome to draw
2 inferences in their favor in this case.¹ See D.E. 26 at 6–7 (emphasizing the outcome of the
3 determination). Exhibit 5 already establishes that there has been a final determination, so
4 Defendants’ reliance on Exhibit 4 is unnecessary. Moreover, Defendants may not use
5 judicial notice as a vehicle for weighing the merits of the arbitration or drawing factual
6 inferences from its outcome. See *Lee v. City of Los Angeles*, 250 F.3d 668, 690 (9th Cir.
7 2001) (a court may take judicial notice of “another court’s opinion . . . not for the truth of
8 the facts recited therein, but for the existence of the opinion, which is not subject to
9 reasonable dispute over its authenticity” (internal quotation marks and citation omitted)).

10 **III. The remaining exhibits are used to dispute the well-pleaded facts in the
Complaint.**

11 The remainder of Defendants’ request for judicial notice (Exhibits 7–27) is merely
12 a request for judicial determination of disputed facts. Defendants rely on a number of
13 documents—for example, Sun City Imaging’s entity information and reports from CMS’s
14 revalidation database—to prove “the employment statuses and affiliations of the
15 radiologists at issue.” D.E. 24 at 1. Defendants deny that they are asking the Court to
16 consider the truth of the contents of these documents and yet assert that the documents
17 “contradict[] United’s assertion[s]” regarding Sonoran. *Id.* at 8. But the Court may not
18 take judicial notice “for the truth of the facts recited therein”; judicial notice is only
19 appropriate to establish “the existence of the [record], which is not subject to reasonable
20 dispute over its authenticity.” *Malheur Forest Fairness Coal. v. Iron Triangle, LLC*, 699
21 F. Supp. 3d 1086, 1102 (D. Or. 2023) (internal quotation marks and citation omitted).

22 Whether these providers are legitimately affiliated with Sonoran is at the heart of
23 this lawsuit, and “[t]he more critical an issue is to the ultimate disposition of the case, the
24 less appropriate judicial notice becomes.” *In re Toyota Motor Corp.*, 790 F. Supp. 2d
25 1152, 1160 (C.D. Cal. 2011) (quoting *Pina v. Henderson*, 752 F.2d 47, 50 (2d Cir. 1985)).

27 ¹ Defendants’ reliance on the Texas arbitration is especially confusing because the panel made
28 determinations *against* Singleton—namely, that Singleton breached provisions in its agreement with United
and engaged in “other acts and omissions.” Ex. 4A at 5. But again, this is beside the point, as the Court
should not draw inferences from its content.

1 United alleges that the providers using Sonoran’s TIN are neither affiliated with nor
2 divisions of Sonoran. Rather, Sonoran functions as a shell company where outside
3 providers’ claims are funneled solely to obtain higher reimbursement rates. Thus, to the
4 extent that certain documents make “representations regarding [providers’] affiliation”
5 with Sonoran, D.E. 24 at 7, United disputes the truth of these representations. *See EVO*
6 *Brands, LLC v. AL Khalifa Grp. LLC*, 657 F. Supp. 3d 1312, 1324 (C.D. Cal. 2023)
7 (“When the contents comprise disputed facts, a court *cannot* take notice of their truth.”
8 (emphasis in original)). Thus, judicial notice is improper.

9 In an attempt to save their request for judicial notice, Defendants argue that they
10 “do not ask the court to notice these reports for the truth of the affiliations, but for the fact
11 that the providers at issue have made these representations regarding their affiliation with
12 radiology groups.” D.E. 24 at 7. But Defendants do not cite these documents to merely
13 establish that statements were made. Rather, they ask the Court to rely on those statements
14 to reject United’s allegations and to infer that the providers were, in fact, legitimately
15 affiliated with Sonoran and that Sonoran was not a shell company. *See* D.E. 26 at 19–20.
16 Whether those representations are true—or whether they were made as part of the
17 fraudulent scheme—is a disputed factual question that cannot be resolved through judicial
18 notice, let alone a motion to dismiss where United is the party entitled to deference.

19 Lastly, Defendants attempt to use these documents to argue that it is judicially
20 noticeable that physicians often affiliate with multiple physician groups. *See* D.E. 26 at
21 19. But again, this is a disputed issue. What is common practice in the industry is “subject
22 to reasonable dispute” and therefore not suitable for judicial notice. *Corinthian Colleges*,
23 655 F.3d at 999.

24 CONCLUSION

25 Defendants will have their opportunity to contest the allegations within the
26 Complaint. However, the motion-to-dismiss stage is not the appropriate time, and judicial
27 notice is not the proper means, to do so. United therefore requests that the Court deny
28 Defendants’ request for judicial notice of Exhibits 4 and 7–27.

1 Dated: December 19, 2025

By: /s/ Jamie R. Kurtz

2 **ROBERT G. SCHAFFER, PLC**

3 Robert G. Schaffer
4 rschaffer@rgslawfirm.com
5 (602) 448-5642
6 13220 North Scottsdale Road
7 Suite 1055
8 Scottsdale, AZ 85254-0113

9 *and*

10 **ROBINS KAPLAN LLP**

11 Jamie R. Kurtz*
12 JKurtz@robinskaplan.com
13 Paul D. Weller*
14 PWeller@robinskaplan.com
15 Munir R. Meghjee*
16 MMeghjee@robinskaplan.com
17 Marcus A. Guith*
18 MGuith@robinskaplan.com
19 Kyle D. Nelson*
20 KNelson@robinskaplan.com
21 Alexa R. Ely*
22 AEly@robinskaplan.com
23 800 LaSalle Avenue, Suite 2800
24 Minneapolis, MN 55402
25 T: (612) 349-8500
26 F: (612) 339-4181

27 *Admitted *pro hac vice*

28 *Attorneys for Plaintiffs*

CERTIFICATE OF SERVICE

The undersigned hereby certifies, under penalty of perjury under the laws of the State of Arizona that I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Glenn Solomon
Christopher Charles Jew
William Mavity
KING & SPALDING LLP
633 West Fifth Street, Suite 1600
Los Angeles, CA 90071
Telephone: (213) 443-4355
Facsimile: (213) 443-4310
Email: gsolomon@kslaw.com
cjew@kslaw.com
wmavity@kslaw.com

Sara Brinkmann
KING & SPALDING LLP
1100 Louisiana Street, Suite 4100
Houston, TX 77002-5213
Telephone: (713) 751-3200
Facsimile: (713) 751-3290
sbrinkmann@kslaw.com

Connor R. Brewer
KING & SPALDING LLP
2601 Olive Street, Suite 2300
Dallas, TX 75201
Telephone: (214) 764-4420
Facsimile: (214) 764-4601
cbrewer@kslaw.com

/s/ Jamie R. Kurtz