Case	2:20-cv-02874-AB-SK Document 57	' Filed 08/21/20 Page 1 of 5 Page ID #:586
1 2 3 4 5 6 7 8 9) CHOI, PC
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10	ADAM BDANDV on individual) Case No. 2:20-cv-02874-AB-SK
12	ADAM BRANDY, an individual; JONAH MARTINEZ, an individu DAEMION GARRO, an individua	al;) Honorable André Birotte, Jr.
13	DG 2A ENTERPRISES INC., d.b GUN WORLD; JASON MONTE	.a.)
14	an individual; WEYLAND-YUTA LLC, d.b.a. MATCH GRADE	ANI) LOS ANGELES, SHERIFF ALEX VILLANUEVA AND BARBARA
15	GUNSMITHS; ALAN KUSHNEI an individual; THE TARGET	
16	RANGE; TOM WATT, an individual: A PLACE TO SHOOT) SUPPORT OF THEIR MOTION) FOR JUDGMENT ON THE
17	INC.; SECOND AMENDMENT FOUNDATION; CALIFORNIA) PLEADINGS; EXHIBITS IN) SUPPORT THEREOF
18	GUN RIGHTS FOUNDATION; NATIONAL RIFLE ASSOCIATI	
19	OF AMERICA; and FIREARMS POLICY COALITION, INC.,	 <i>[Defendants' Notice of Motion and</i> <i>Motion for Judgment on the</i>
20	Plaintiffs,	 Pleadings filed and [Proposed]Order lodged concurrently herewith]
21	VS.	
22	ALEX VILLANUEVA, in his) Date: September 18, 2020) Time: 10:00 a.m.
23	official capacity as Sheriff of Los Angeles County, California, and in his capacity as the Director of	n) Crtm.: First Street, 7B
24	Emergency Operations: GAVIN	
25	NEWSOM, in his official capacity Governor and Commander in Chic of the State of California: SONIA	et)
26	of the State of California; SONIA ANGELL, in her official capacity California Public Health Officer;	$\begin{vmatrix} \mathbf{a} \\ \mathbf{a} \\ \mathbf{b} \end{vmatrix}$
27	BARBARA FERRER, in her offic	
28	capacity as Director of Los Angele County Department of Public Hea	Îth;)

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1	COUNTY OF LOS ANGELES; ERIC GARCETTI, in his official capacity as Mayor of the City of Los Angeles, California; CITY OF LOS		
2			
3	HESS, in his official capacity as City) Manager and Director of Emergency)		
4 5	HESS, in his official capacity as City Manager and Director of Emergency Services for the City of Burbank; and CITY OF BURBANK, CALIFORNIA,		
6	Defendants.		
7	\		
8	TO THE HONORABLE COURT AND TO ALL INTERESTED PARTIES		
9	AND THEIR ATTORNEYS OF RECORD:		
10	In support of their Motion for Judgment on the Pleadings, Defendants County		
11	of Los Angeles, Sheriff Alex Villanueva and Barbara Ferrer hereby respectfully		
12	request that the Court take judicial notice of the documents/records/websites listed in		
13	the table below, true and correct copies of which are attached hereto as Exhibits 1 to		
14	10.		
15	Under Rule 201 of the Federal Rules of Evidence, the Court may take		
16	judicial notice of any matter "not subject to reasonable dispute in that it is either		
17	(1) generally known within the territorial jurisdiction of the trial court or (2)		
18	capable of accurate and ready determination by resort to sources who accuracy		
19	cannot reasonably be questioned." Fed. R. Evid. 201(b). Judicial notice of court		
20	records is proper. <i>Kourtis v. Cameron</i> , 419 F.3d 989, 995 at n.3 (9th Cir. 2004),		
21	abrogated on another point by Taylor v. Sturgell, 553 U.S. 880 (2008); United		
22	States v. Howard, 381 F.3d 873, 876 at n.1 (9th Cir. 2004); Mir v. Little Co. of		
23	Mary Hosp., 844 F.2d 646, 649 (9th Cir. 1988).		
24	Public records, including judgments, complaints and other publicly filed		
25	documents, are proper subjects of judicial notice. <i>Romero v. HP, Inc.</i> , 2017 WL		
26	386237, at *4 (N.D. Cal. Jan. 27, 2017) (taking judicial notice of publicly filed		
27	documents in other litigation); <i>Rotham v. Gregor</i> , 220 F.3d 81, 92 (2d Cir. 2000)		
28	(taking judicial notice of complaint). Moreover, "[i]t is well established that a		

court can take judicial notice of its own files and records under Rule 201 of the
 Federal Rules of Evidence." *Gerritsen v. Warner Bros. Entm't Inc.*, 112 F.
 Supp.3d 1011, 1034 (C.D. Cal. Jan. 30, 2015).

Moreover, judicial notice of information published on government 4 websites, such as COVID-19 related information published on publicly available 5 6 web pages of the websites of the Centers for Disease Control and the County of Los Angeles is proper under FRCP Rule 201. See Uribe v. Perez, 2020 WL 7 8 131858, at *4 (C.D. Cal. Mar. 3, 2020), report and recommendation adopted (C.D. Cal. Mar. 20, 2020) 2020 WL 1317727 (granting the request for judicial 9 notice of three publicly available Centers for Disease Control web pages 10 identifying "key facts', according to the CDC, about who may contract 11 norovirus, the number infected each year, how norovirus spreads, tips for 12 prevention, and treatment of norovirus.")¹; McGhee v. City of Flagstaff, 2020 WL 13 2309881, at *2-4 (D. Ariz., May 8, 2020) (taking judicial notice of COVID-19 14 related guidance published by the CDC, available on government websites, 15 including information "on the manner and speed at which the virus is spreading"); 16 Glenn v. B & R Plastics, Inc., 326 F.Supp.3d 1044, 1068 (D. Idaho, July 16, 17 2018) ("it is proper to take judicial notice of information from a federal agency, 18 such as the CDC, under [FRCP] Rule 201 ... as facts from a governmental agency 19 20 that are not subject to reasonable dispute"); Gent v. CUNA Mut. Ins. Soc'y, 611 21 F.3d 79, 84 n.5 (1st Cir. 2010) (taking judicial notice of records on 22 the CDC's website); New Mexico ex rel. Richardson v. Bureau of Land Mgmt., 565 F.3d 683, 702 n.22 (10th Cir. 2009) (taking judicial notice of materials on the 23 websites of two federal agencies). 24 25 26

 ²⁷ ¹ These websites were: <u>https://www.cdc.gov/norovirus/downloads/keyfacts.pdf;</u>
 ²⁸ <u>https://www.cdc.gov/norovirus/trends-outbreaks/burden-US.html;</u>
 <u>https://www.cdc.gov/norovirus/index.html.</u>

Federal Rules of Civil Procedure, Rule 201		
Exhibit No.	Description of Document/Record/Website	
1	Safer at Home Order for Control of COVID-19: Temporary Prohibition of Events and Gatherings of 10 Persons or More Closure of Non-Essential Businesses and Areas, issued on March 19, 2020, published at <u>http://publichealth.lacounty.gov/media/coronavirus/</u>	
2	Reopening Safer at Work and in the Community for Control of COVID-19 Moving the County of Los Angeles into Stage 3 of California's Pandemic Resilience Roadmap, issued on June 18, 2020, published at <u>http://publichealth.lacounty.gov/media/coronavirus/</u>	
3	Novel Coronavirus (COVID-19) Reopening Safer at Work and in the Community for Control of COVID-19 Order: Examples of What's Open in Los Angeles County, issued on June 19, 2020, published at <u>http://publichealth.lacounty.gov/media/coronavirus/</u>	
4	Protocols for Retail Establishments Opening for In-person Shopping: Appendix B, dated June 23, 2020, published at <u>http://publichealth.lacounty.gov/media/coronavirus/</u>	
5	Reopening Safer at Work and in the Community for Control of COVID-19 Moving the County of Los Angeles into Stage 3 of California's Pandemic Resilience Roadmap, issued on August 12, 2020, published at <u>http://publichealth.lacounty.gov/media/coronavirus/</u>	
6	Protocols for Retail Establishments – Opening for In-person Shopping: Appendix B, revised on July 18, 2020, published at http://publichealth.lacounty.gov/media/coronavirus/	
7	County of Los Angeles Public Health Officer Orders' Impact on Daily Life FAQs (English), dated August 13, 2020, published at http://publichealth.lacounty.gov/media/coronavirus/	

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1 2 3 4	8	Order denying the plaintiffs' <i>ex parte</i> application for temporary restraining order against the County of Ventura from ordering the closure of gun stores pursuant to the County's "Stay Well at Home Order", entered on April 1, 2020 in <i>McDougall v. County of Ventura California</i> , U.S.D.C. Case No. 2:20-cv-02927-CBM-AS (ECF No. 12)
5 6 7 8	9	The information regarding the confirmed cases of COVID-19 and COVID-19 related deaths in the County of Los Angeles and the other Counties in the State of California, published by the Centers for Disease Control at <u>https://www.cdc.gov/coronavirus/2019-ncov/cases-</u> <u>updates/county-map.html</u> , last visited on August 21, 2020
9	10	The information regarding the number of confirmed cases of COVID-19
10		and COVID-19 related deaths in the United States, published by the
11		Centers for Disease Control at <u>https://www.cdc.gov/coronavirus/2019-</u> <u>ncov/cases-updates/cases-in-us.html</u> , last visited on August 21, 2020
12		
13		
14	Dated:	August 21, 2020LAWRENCE BEACH ALLEN & CHOI, PC
15		
16		By <u>/s/ Jin S. Choi</u>
17		Jin S. Choi Attorneys Defendants County of Los
18 19		Angeles, Sheriff Alex Villanueva,
20		and Barbara Ferrer
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