UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CIVIL MINUTES – GENERAL

Case No.	**2:23-cv-10505-MCS-SK**	Date	November 10, 2025
Title	***Cooper v. Blum Collins, LLP***		

Present: The Honorable Mark C. Scarsi, United States District Judge

Stephen Montes Kerr	Not Reported
Deputy Clerk	Court Reporter
Attorney(s) Present for Plaintiff(s):	Attorney(s) Present for Defendants(s):
None Present	None Present

Proceedings: **(IN CHAMBERS) ORDER RE: DEFENDANTS' MOTION TO DISMISS (ECF NO. 71), PLAINTIFF'S MOTION TO RENEW STAY (ECF NO. 73), PLAINTIFF'S MOTION TO CONTINUE DEADLINE FOR RESPONSE (ECF NO. 79), AND PLAINTIFF'S MOTION TO STRIKE (ECF NO. 80)**

Defendants Blum Collins, LLP, Steven Aaron Blum, and Craig Michael Collins renew their motion to dismiss this case pursuant to Federal Rule of Civil Procedure 12(b)(6) or, alternatively, for lack of subject-matter jurisdiction pursuant to Rule 12(b)(1).[1] (MTD, ECF No. 71.) Plaintiff Erik Cooper did not file a timely opposition.[2] *See* C.D. Cal. R. 7-9. Separately, Plaintiff moves to renew the stay of

[1] Plaintiff moves to strike Defendants' motion to dismiss for failure to comply with Local Rule 7-3's pre-filing conference requirement. (Mot. to Strike, ECF No. 80.) However, in the interests of judicial economy, the Court considers Defendants' motion on the merits. *See* C.D. Cal. R. 7-4. Plaintiff's motion to strike is denied.

[2] Several days after Plaintiff's deadline to oppose passed, Plaintiff filed a motion to continue the deadline for his opposition to the motion to dismiss. (Mot. to Continue, ECF No. 79.) The motion is denied for lack of good cause or excusable neglect shown to reopen or extend the deadline. Fed. R. Civ. P. 6(b)(1). Plaintiff submits that

this case pending his further appeal of a California state court judgment and criminal proceedings against him in a Tennessee state court. (Mot. to Renew Stay, ECF No. 73.) Defendants opposed, (Opp'n, ECF No. 75), and Plaintiff replied, (Reply, ECF No. 81). The Court deems the motions appropriate for decision without oral argument and vacates the hearing set for November 24, 2025. Fed. R. Civ. P. 78(b); C.D. Cal. R. 7-15.

I. BACKGROUND

Plaintiff filed a complaint alleging breach of contract, breach of an implied-in-fact contract, breach of the implied covenant of good faith and fair dealing, unjust enrichment, quantum meruit, conversion, and civil conspiracy in connection with a purported deal between Defendants and Plaintiff for the retention of his consulting and litigation services. (*See generally* Compl., ECF No. 1.) The Court stayed this case pending Plaintiff's appeal of a Los Angeles County Superior Court judgment confirming an arbitration award against Plaintiff and in favor of Defendants. (Order Staying Case 4, ECF No. 62.) The California Court of Appeal subsequently affirmed the Superior Court's judgment. (Ho Decl. Ex. O, ECF No. 71-17.)[3] The Court thereafter lifted the stay to consider the instant motions. (Order Re: Status Reports, ECF No. 70.)

///

"[b]ecause Defendants' hearing is scheduled to occur prior to Plaintiff's hearing [on the motion to renew the stay], . . . good cause exists to grant this Motion [to continue] to afford reasonable time and opportunity for Plaintiff to file his response to Defendants' Renewed Motion to Dismiss should the Court elect to proceed with Defendants' motion." (Mot. ¶ 9.) However, under the Local Rules, Plaintiff already had a reasonable time and opportunity to oppose the motion to dismiss and failed to do so.

[3] The Court grants Defendants' unopposed request for judicial notice of this opinion, and for judicial notice of the other court documents cited in this Order. Fed. R. Evid. 201(b); *see Reyn's Pasta Bella, LLC v. Visa USA, Inc.*, 442 F.3d 741, 746 n.6 (9th Cir. 2006) ("We may take judicial notice of court filings and other matters of public record."). However, the Court denies as unnecessary Defendants' remaining requests. (*See* RJN, ECF No. 72); *see also Japanese Vill., LLC v. Fed. Transit Admin.*, 843 F.3d 445, 454 (9th Cir. 2016).

II. DEFENDANTS's MOTION TO DISMISS

A. Legal Standard

Federal Rule of Civil Procedure 12(b)(6) allows an attack on the pleadings for "failure to state a claim upon which relief can be granted." "A complaint may be dismissed for failure to state a claim only when it fails to state a cognizable legal theory or fails to allege sufficient factual support for its legal theories." *Caltex Plastics, Inc. v. Lockheed Martin Corp.*, 824 F.3d 1156, 1159 (9th Cir. 2016). "To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendants is liable for the misconduct alleged." *Id.*

B. Discussion

Defendants argue that "this case deserves to be summarily dismissed on res judicata grounds." (Defs.' Mem. P. & A. 7, ECF No. 71-1.) The arbitrator ordered Plaintiff to pay a total of $33,831.25 to Defendants and dismissed Plaintiff's counterclaim.[4] (Ho Decl. Ex. E, at 2, 4, ECF No. 71-7; Ho Decl. Ex. F, at 14, ECF No. 71-8.)[5] The Los Angeles County Superior Court confirmed the arbitration award, observing that the arbitrator dismissed Plaintiff's "[c]ounterclaim in its entirety with prejudice, including every cause of action and claim for relief stated in the [c]ounterclaim." (Ho Decl. Ex. J, at 3–4, ECF No. 71-12.) The California Court of Appeal subsequently affirmed the Superior Court's judgment. (Ho Decl. Ex. O, at

[4] The arbitrator dismissed Plaintiff personally as a party but kept Acuity Consulting Services as respondent and counterclaimant. (Ho Decl. Ex. E, at 2, ECF No. 71-7.) The state court observed that Acuity "is Mr. Cooper's fictitious business name, not a legal entity." (Ho Decl. Ex. J, at 2, ECF No. 71-12.) The California Court of Appeal recognized the same. (Ho Decl. Ex. O, at 2 n.1 (quoting *Pinkerton's, Inc. v. Super. Ct.*, 49 Cal. App. 4th 1342, 1348 (1996), for the proposition that "[u]se of a fictitious business name does not create a separate legal entity" (alteration in original)).) The Court treats Acuity and Plaintiff as one and the same, as the state appellate court did.

[5] Pinpoint citations of exhibits to the Ho declaration refer to Defendants' appended pagination where applicable.

11.) A "state court's confirmation of the arbitration award constitutes a judicial proceeding . . . and thus must be given the full faith and credit it would receive under state law." *Caldeira v. County of Kauai*, 866 F.2d 1175, 1178 (9th Cir. 1989). "Although res judicata is usually applied to judicial decisions, a prior judgment confirming an arbitration award may also bar a subsequent lawsuit based on the same cause of action." *Bucur v. Ahmad*, 244 Cal. App. 4th 175, 185 (2016).

"In determining the preclusive effect of . . . a state court judgment, [federal courts] follow the state's rules of preclusion." *White v. City of Pasadena*, 671 F.3d 918, 926 (9th Cir. 2012) (citing *Kremer v. Chem. Constr. Corp.*, 456 U.S. 461, 482 (1982)). "In California, '[c]laim preclusion arises if a second suit involves: (1) the same cause of action (2) between the same parties [or parties in privity with them] (3) after a final judgment on the merits in the first suit.'" *Furnace v. Giurbino*, 838 F.3d 1019, 1023 (9th Cir. 2016) (alterations in original) (quoting *DKN Holdings LLC v. Faerber*, 61 Cal. 4th 813, 824 (2015)).

As to the first element, Plaintiff's claims in this action involve the same consulting agreement at issue in the arbitration proceedings. Plaintiff seeks the same damages of $768,602.60 resulting from alleged breach of the consulting services agreement that he sought in the arbitration proceedings. (*Compare* Compl. ¶ 84, *with* Ho Decl. Ex. C, Prayer for Relief ¶ 3, ECF No. 71-5.) Though Plaintiff asserts an additional quantum meruit theory of recovery in this action, (Compl. ¶¶ 111–23), this theory relates to the same underlying agreement and alleged injury—that is, the same primary right. *See Furnace*, 838 F.3d at 1024 ("[I]n California, if two actions involve the same injury to the plaintiff and the same wrong by the defendant then the same primary right is at stake even if in the second suit the plaintiff pleads different theories of recovery, seeks different forms of relief and/or adds new facts supporting recovery." (internal quotation marks omitted)). Thus, the issues resolved in the arbitration decision that was subsequently confirmed by the Los Angeles County Superior Court and affirmed by the California Court of Appeal are in every way identical to those presented in this case.

Next, claim preclusion requires that the second suit involve the same parties, or parties in privity with them. While Blum Collins, LLP, and Plaintiff were parties to the state court proceedings, (Ho Decl. Ex. J, at 1), individual Defendants Blum and Collins were not. Defendants do not address whether Blum and Collins may be considered in privity with Blum Collins, LLP. However, there is "a broad exception to the requirements of mutuality and privity . . . where the liability of the defendant asserting the plea of res judicata is dependent upon or derived from the liability of

one who was exonerated in an earlier suit brought by the same plaintiff upon the same facts." *Bernhard v. Bank of Am. Nat'l Tr. & Sav. Ass'n*, 19 Cal. 2d 807, 812 (1942). Courts have found "[d]erivative liability supporting preclusion . . . between a corporation and its employees, a general contractor and subcontractors, an association of securities dealers and member agents, and among alleged coconspirators." *DKN Holdings, LLC v. Faerber*, 61 Cal. 4th 813, 828 (2015) (citations omitted). Nowhere does Plaintiff's complaint allege that Blum and Collins were acting outside of the scope of their partnership at Blum Collins, LLP. Accordingly, the arbitrator's finding and the state court's confirmation that Blum Collins, LLP, was not liable to Plaintiff necessarily resolves Blum and Collins's liability as well. *Cf. Sartor v. Super. Ct.*, 136 Cal. App. 3d 322, 328 (1982) (concluding that a corporation's employees may plead res judicata as to the corporation's liability because "a corporation may act only through its agents"). Therefore, all Defendants may assert claim preclusion against Plaintiff.

Finally, the third element is met: the state court's confirmation, which was affirmed by the California Court of Appeal, is treated as a final judgment on the merits. "Under California law . . . a judgment is not final for purposes of *res judicata* during the pendency of and *until the resolution of an appeal*." *Eichman v. Fotomat Corp.*, 759 F.2d 1434, 1439 (9th Cir. 1985) (emphasis added). The California Court of Appeal's judgment and issuance of a remittitur resolved Plaintiff's appeal and rendered the state court judgment final. (*See* Ho Decl. Ex. P, ECF No. 71-18 (remittitur).) *See also In re Grunau*, 169 Cal. App. 4th 997, 1002 (2008) ("[R]emittitur is the device by which an appellate court formally communicates its judgment to the lower court, finally concluding the appeal and relinquishing jurisdiction over the matter."). Though Plaintiff has lodged subsequent notices of appeal, multiple appeals of the same ruling are improper and do not disturb the finality of the state court judgment. *See, e.g.*, *Anderson v. Sherman*, 125 Cal. App. 3d 228, 239 (1981) ("Defendants are not entitled to two appeals from the same ruling.").

Consequently, the Los Angeles County Superior Court judgment confirming the arbitration award bars further litigation of this action.

III. CONCLUSION

The Court finds that Plaintiff's claims are barred by the doctrine of res judicata. As a result, the Court denies Plaintiff's motion to renew the stay of this action, as the interests of the parties and the orderly course of justice would not be

served by delaying this determination until the conclusion of other court proceedings between the parties, the result of which would have no bearing on the preclusion issue.[6] *See Lockyer v. Mirant Corp.*, 398 F.3d 1098, 1110 (9th Cir. 2005) (setting forth factors to consider in evaluating a request to stay).

Although courts are required to grant leave to amend "with extreme liberality," *Hoang v. Bank of Am., N.A.*, 910 F.3d 1096, 1102 (9th Cir. 2018), "[c]ourts may decline to grant leave to amend" if doing so would be futile, *Sonoma Cnty. Ass'n of Retired Emps. v. Sonoma County*, 708 F.3d 1109, 1117 (9th Cir. 2013). Because Plaintiff's claims are barred by res judicata, any amendment would be futile. *Davis v. County of Maui*, 454 F. App'x 582, 583 (9th Cir. 2011). Accordingly, Defendants' motion to dismiss is granted with prejudice and without leave to amend. The Court directs the Clerk to enter judgment accordingly.

IT IS SO ORDERED.

[6] The Court credits Defendants' assertions that the Tennessee criminal case has no bearing on the preclusion question and that Plaintiff's further notices of appeal of the state court judgment are frivolous given the California Court of Appeal's remittitur. (Opp'n 3–5.)