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DEERING'S CALIFORNIA CODES ANNOTATED
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7, AND 8, AND URGENCY LEGISLATION THROUGH CH 161 OF THE 2010 REGULAR SESSION

EVIDENCE CODE
Division 4. Judicial Notice

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Cal Evid Code § 450 (2009)

§ 450. Judicial notice may be taken only as authorized by law

Judicial notice may not be taken of any matter unless authorized or required by law.

HISTORY:

Enacted Stats 1965 ch 299 § 2, operative January 1, 1967.

NOTES:

Historical Derivation:

- (a) Former CCP § 1827, as enacted Stats 1872.
- (b) Former CCP § 1875, as enacted Stats 1872, amended Stats 1927 p 110, Stats 1957 ch 249 § 1.
- (c) Former CCP § 2103, as enacted Stats 1872.

Law Revision Commission Comments:

1965

Section 450 provides that judicial notice may not be taken of any matter unless authorized or required by law. See *Evidence Code § 160*, defining "law." Sections 451 and 452 state a number of matters which must or may be judicially noticed. Judicial notice of other matters is authorized or required by other statutes or by decisional law. e.g., *Civil Code*

§ 53; Corp. Code § 6602. In this respect, the Evidence Code is consistent with existing law, for the principal judicial notice provision found in existing law--*Code of Civil Procedure Section 1875* (superseded by this division of the Evidence Code)--does not limit judicial notice to those matters specified by statute. Judicial notice has been taken of various matters not so specified, principally of those matters of common knowledge which are certain and indisputable. Witkin, *California Evidence* §§ 50-52 (1958).

Under the Evidence Code, as under existing law, courts may consider whatever materials are appropriate in construing statutes, determining constitutional issues, and formulating rules of law. That a court may consider legislative history, discussions by learned writers in treatises and law reviews, materials that contain controversial economic and social facts or findings or that indicate contemporary opinion, and similar materials is inherent in the requirement that it take judicial notice of the law. In many cases, the meaning and validity of statutes, the precise nature of a common law rule, or the correct interpretation of a constitutional provision can be determined only with the help of such extrinsic aids. Cf. *People v. Sterling Refining Co.* (1927) 86 Cal. App. 558, 261 Pac. 1080, 1927 Cal. App. LEXIS 336 (statutory authority to notice "public and private acts" of legislature held to authorize examination of legislative history of certain acts). See also *Perez v. Sharp*, 32 Cal.2d 711, 198 P.2d 17 (1948) (texts and authorities used by court in opinions determining constitutionality of statute prohibiting interracial marriages). Section 450 will neither broaden nor limit the extent to which a court may resort to extrinsic aids in determining the rules of law that it is required to notice. Nor will Section 450 broaden or limit the extent to which a court may take judicial notice of any other matter not specified in Section 451 or 452.

Cross References:

"Law": *Ev C* § 160.

Information that may be used in taking judicial notice: *Ev C* § 454.

Blood test, determination of paternity on basis of conclusions of experts from: *Ev C* § 895.

Judicial notice of recorded instruments containing unlawful restrictions as to sex, race, color, religion, etc.: *CC* § 53.

Collateral References:

Cal. Forms Pleading & Practice (Matthew Bender(R)) ch 50 "Appeal: Briefs".

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.10.

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.13.

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.14.

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.20.

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Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.40.

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.60.

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.66.

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Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.100.

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.120.

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.124.

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Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.140.

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Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.194.

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.200.

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Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.295.

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.300.

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.310.

Cal. Points & Authorities (Matthew Bender(R)) ch 20 "Arbitration: Compelling," § 20.320.

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Cal. Points & Authorities (Matthew Bender(R)) ch 85 "Discovery: Production Or Inspection Of Tangible Evidence," § 85.90.

Cal. Points & Authorities (Matthew Bender(R)) ch 105 "Fraud And Deceit," § 105.10.

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Cal. Points & Authorities (Matthew Bender(R)) ch 105 "Fraud And Deceit," § 105.170.

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Cal. Points & Authorities (Matthew Bender(R)) ch 201 "Reference And Referees," § 201.90.

Cal. Points & Authorities (Matthew Bender(R)) ch 201 "Reference And Referees," § 201.120.

Cotchett, California Courtroom Evidence, § 12.01 (Matthew Bender).

Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 15.08.

Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 15.12.

Matthew Bender(R) Practice Guide: California E-Discovery and Evidence, 15.15.

Matthew Bender(R) Practice Guide: *California Pretrial Civil Procedure, ch 26, "Law and Motion Procedure", §§ 26.17, 26.50.*

1 Witkin Cal. Evidence (4th ed) Judicial Notice §§ 1, 2, 6.

3 Witkin Cal. Evidence (4th ed) Presentation at Trial § 47.

California Trial Guide, Unit 20, "Procedural Rules for Presentation of Evidence", § 20.60 (Matthew Bender).

Jefferson's California Evidence Benchbook, 3rd Edition (CEB, 2003) § 47.5.

Law Review Articles:

Judicial notice. *6 Cal LR 377.*

Judicial notice, presumptions, and burden of proof. *13 Cal LR 472.*

Annotations:

Judicial notice as to location of street address within particular political subdivision. *86 ALR3d 484.*

Hierarchy Notes:

Evid Code Note

Div. 4 Note

NOTES OF DECISIONS 1. Judicial Notice Not Allowed 2. Judicial Notice Allowed

1. Judicial Notice Not Allowed

Possible effect on testimonial capacity of witness of present or past use of narcotic may not be judicially noticed. *People v. Pargo (1966, Cal App 4th Dist) 241 Cal App 2d 594, 50 Cal Rptr 719, 1966 Cal App LEXIS 1275.*

The location and course of an unnamed tributary of a known creek may not be judicially noted. *Smith v. County of San Diego (1967, Cal App 4th Dist) 252 Cal App 2d 438, 60 Cal Rptr 602, 1967 Cal App LEXIS 1520.*

A statement of an individual legislator as to his intention, motive, or opinion regarding a particular piece of legislation is inadmissible as evidence, and where such a declaration was neither offered nor received as evidence in a trial court, its contents are ineligible for judicial notice. *Bragg v. Auburn (1967, Cal App 3d Dist) 253 Cal App 2d 50, 61 Cal Rptr 284, 1967 Cal App LEXIS 2318.*

In a workmen's compensation case involving emphysema, the cause of the disease is not a matter for judicial notice and can be established only by medical evidence. *Chambers v. Workers' Comp. Appeals Bd. (1968) 69 Cal 2d 556, 72*

Cal Rptr 651, 446 P2d 531, 1968 Cal LEXIS 265.

Trial court, in ruling on a parent company's demurrer to its subsidiary's complaint alleging misappropriation of funds, erred in taking judicial notice of a letter agreement and in determining that the agreement allowed the parent company to use the net operating losses in the manner alleged where the parties disputed and continued to dispute the proper interpretation and the enforceability of the letter agreement. *Fremont Indemnity Co. v. Fremont General Corp.* (2007, Cal App 2d Dist) 148 Cal App 4th 97, 55 Cal Rptr 3d 621, 2007 Cal App LEXIS 279.

Court ruling on a demurrer cannot decide a question that may depend on disputed facts by means of judicial notice, and this rule applies not only with respect to the interpretation of a contract, but also with respect to its enforceability. A court ruling on a demurrer cannot take judicial notice that a contract submitted in support of the demurrer is binding and enforceable if the plaintiff claims the contract is unenforceable due to fraud or duress. *Fremont Indemnity Co. v. Fremont General Corp.* (2007, Cal App 2d Dist) 148 Cal App 4th 97, 55 Cal Rptr 3d 621, 2007 Cal App LEXIS 279.

Court cannot by means of judicial notice convert a demurrer into an incomplete evidentiary hearing in which the demurring party can present documentary evidence and the opposing party is bound by what that evidence appears to show. *Fremont Indemnity Co. v. Fremont General Corp.* (2007, Cal App 2d Dist) 148 Cal App 4th 97, 55 Cal Rptr 3d 621, 2007 Cal App LEXIS 279.

In a case in which plaintiffs who received fertility treatments at a fertility clinic in the late 1980s sued university regents and a medical center, alleging that clinic doctors stole human genetic material from them, the trial court erred in taking judicial notice of news articles and press releases concerning the clinic's problems; the trial court could not rely on judicial notice of the media reports to support an inference plaintiffs had knowledge of their injury because such matters were reasonably subject to dispute and therefore required formal proof. *Unruh-Haxton v. Regents of University of California* (2008, 4th Dist) 2008 Cal App LEXIS 605.

2. Judicial Notice Allowed

Where a citizen filed a complaint against manufacturers, distributors, and marketers of nicotine replacement therapy products, seeking injunctive relief, and the reversal of summary judgment in favor of manufacturers, distributors, and marketers of the products was appealed, the appellate court was authorized to take into account a letter received by the citizen from the Food and Drug Administration after the trial court judgment. *Dowhal v. SmithKline Beecham Consumer Healthcare* (2004) 32 Cal 4th 910, 12 Cal Rptr 3d 262, 88 P3d 1, 2004 Cal LEXIS 3040.