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12 **UNITED STATES DISTRICT COURT**
13 **NORTHERN DISTRICT OF CALIFORNIA**

14 ANDRES RONDON and SKUNKWORX,

15 Plaintiffs,

16 v.

17 COUNTY OF MENDOCINO, MATTHEW
18 KENDALL, THOMAS ALLMAN, DARREN
19 BREWSTER, JAMES WELLS, and DOES 1-
20 10,

21 Defendants.

) 4:20-cv-07013-SBA

)
) **COUNTY OF MENDOCINO**
) **DEFENDANTS’ REPLY TO**
) **PLAINTIFFS’ OPPOSITION TO**
) **MOTION TO DISMISS**

) Date: January 13, 2021
) Time: 2:00 p.m.
) Location: U.S. District Court, 1301 Clay
) Street, Oakland, California

)
) Honorable Sandra Brown Armstrong
) United States Senior District Judge
)

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23 **I. INTRODUCTION**

24 Plaintiffs Andres Rondon and Skunkworx Pharms, LLC have brought this action
25 seeking damages based on the destruction of their cannabis plants and damage to personal
26 property during the execution of a search warrant on Plaintiffs’ cannabis farm. Plaintiffs
27 previously brought an earlier action in state court seeking damages for the same injuries under

1 California’s Ban Act. That action resulted in a judgment for defendants. Consequently,
2 Defendants have moved to dismiss the Complaint, inter alia, on the grounds that this action is
3 barred by the doctrine of res judicata.

4 In their Opposition, Plaintiffs now assert that Plaintiff Skunkworx Pharms, LLC was
5 dismissed from the prior action before a judgment was rendered and that their federal claims
6 for these events are sufficiently distinct to prevent the application of res judicata. As set forth
7 more fully herein, these arguments lack merit, because the pleadings clearly establish that
8 Plaintiffs are in privity and because Plaintiffs are erroneously applying the wrong standard to a
9 California judgment.

10 **II. LEGAL ARGUMENT**

11 **A. The Dismissal of Skunkworks Pharms from the Prior Action Would not Bar**
12 **Application of Res Judicata**

13 In opposition to the Motion to Dismiss, Plaintiffs have argued that *res judicata* should
14 not bar the claims by Skunkworks Pharms, LLC, because that company was “not a party in the
15 prior state court action or ruling . . .” Opposition [3:6-7]. Plaintiffs acknowledge that the
16 company was a party at the inception of the case, but assert that “Skunkworx was omitted as a
17 plaintiff on the first amended complaint . . .” Opposition [3:25-28].¹ Plaintiffs do not assert,
18 however, that a dismissal of Skunkworks was ever requested or entered with the Court. Cal.
19 Code of Civ. P. § 581.² Regardless of whether such a dismissal actually occurred, however, it
20 is clear that the judgment from the prior action is equally binding on Skunkworks Pharms,
21 LLC, because it is plain from the Complaint that Plaintiff Skunkworx Pharms, LLC privity
22 with Plaintiff Rondon.

23 The preclusive effect of *res judicata* does not apply just to the named parties in a prior
24 proceeding, but also to those in privity with those parties.

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26 ¹ The current action refers to “Skunkworx Pharms, LLC,” whereas the prior action was brought by “Skunkworks
27 Pharms, LLC.” This discrepancy, however, appears to merely be a spelling error. The Opposition does not
28 dispute that these are the same company. Opposition [3:25-28].

² In California, dismissal is typically accomplished by the filing and serving of a Judicial Council form Civ-110.
Defendants have not located such a dismissal in their own records.

1 a four factor analysis determining whether claims are “identical.” Opposition [3:13-22]; 732 F.
2 App’x 517, 518 (9th Cir. 2018); 673 F.3d 914, 916 (9th Cir. 2012). These cases, however, have
3 no bearing to the motion at bench, because neither addressed the preclusive effect of a
4 California judgment. *Silberstein v. Fox Entm’t Grp., Inc.* dealt with a judgment from a New
5 York State Court and *Turtle Island Restoration Network v. United States Dep’t of State* dealt
6 with a judgment from the Court of International Trade. The standard articulated by these cases,
7 although used by other jurisdictions, is simply not applicable here. Instead, the preclusive
8 effect of a judgment from a California Court is determined California law and its primary rights
9 theory. *Sosa v. DIRECTV, Inc.*, 437 F.3d 923, 927 (9th Cir. 2006); *Manufactured Home*
10 *Cmtys., Inc. v. City of San Jose*, 420 F.3d 1022, 1031 (9th Cir. 2005).

11 Under California law, it is clear that *res judicata* bars a second suit for the same injuries
12 under a different legal theory. See *Mycogen Corp. v. Monsanto Co.*, 28 Cal. 4th 888 at 904
13 (2002); *Crowley v. Katleman*, 8 Cal. 4th 666 at 682 (1994). In this case, Plaintiffs have not and
14 cannot argue that the injuries alleged in the current action are distinct from those raised in the
15 prior case. They “acknowledge that generally the complaint here arises from the same facts
16 and circumstances as the prior state case.” Opposition [4:25-26]. Instead, they have argued
17 that “the constitutional rights asserted here are different from the state law rights and injuries
18 asserted in the state case . . .” Opposition [4:18-20]. Notably, the two actions actually assert
19 the same constitutional injuries, they merely claim a separate *statutory* basis for recovery
20 (California’s Bane Act in the state case versus 42 USC § 1983 in this proceeding).
21 Consequently, under California’s primary right analysis, the new action is barred by the prior
22 judgment.

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III. CONCLUSION

For the reasons stated herein, Defendants request that the Motion to Dismiss be granted and that leave to amend be denied.

Dated: December 28, 2020

Respectfully submitted,
CHRISTIAN CURTIS, County Counsel

by /s/ Christian M. Curtis
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Attorneys for County Defendant