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Superior Court of California,
County of Los Angeles
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Executive Officer/Clerk of Court,
By A. Mejia, Deputy Clerk

9
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF LOS ANGELES

12 JOSE DECASTRO,)
13)
14 Plaintiff,)
15)
16 v.)
17)
18 KATHERINE PETER; DANIEL CLEMENT;)
19 MICHAEL PIERATTINI; DAVID OMO JR.;)
20 and DOES 1 TO 30, inclusive,)
21)
22 Defendants.)
23)
24)
25)
26)
27)
28)

Case No. 23SMCV00538
Assigned for all purposes to the Honorable
H. Jay Ford, Dept. O
**NOTICE OF MOTION AND MOTION TO
COMPEL FURTHER RESPONSES TO
DEFENDANT MICHAEL PIERATTINI'S
REQUESTS FOR ADMISSION TO
PLAINTIFF JOSE DECASTRO, SET ONE,
AND REQUEST FOR MONETARY
SANCTIONS AGAINST PLAINTIFF IN
THE SUM OF \$4,560.00; MEMORANDUM
OF POINTS AND AUTHORITIES**

Date: February 20, 2024
Time: 8:30 a.m.
Dept: O

[Declaration of R. Paul Katrinak and Separate
Statement filed concurrently]

RES ID: 229069495204

LAW OFFICES OF R. PAUL KATRINAK
9663 Santa Monica Blvd., Suite 458
Beverly Hills, California 90210
(310) 990-4348

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

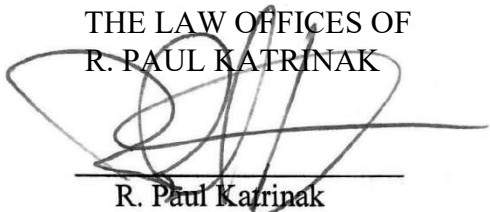
2 PLEASE TAKE NOTICE that on February 20, 2024, at 8:30 AM, or as soon thereafter
3 as the matter may be heard in Department O of the above-entitled court, located at 1725 Main
4 Street Santa Monica, CA 90401, Defendant Michael Pierattini (“Mr. Pierattini”) will, and
5 hereby does, move the Court for an order compelling Plaintiff Jose DeCastro (“Plaintiff”) to
6 provide, forthwith, verified full and complete answers, without objections, to Mr. Pierattini’s
7 Requests for Admission, Set One (the “Requests”), served on Plaintiff on December 11, 2023,
8 and requests monetary sanctions against Plaintiff in the amount of \$4,560.00.

9 This Motion is made pursuant to Code of Civil Procedure section 2033.290 on the
10 grounds that Plaintiff’s responses to Mr. Pierattini’s Requests are incomplete. Plaintiff relies on
11 meritless objections and evasive answers in his refusal to answer a majority of the Requests.
12 Further, counsel for Mr. Pierattini met and conferred with Plaintiff in good faith to no avail.

13 This Motion is based upon this Notice, the attached Memorandum of Points and
14 Authorities in support thereof, the concurrently-filed Separate Statement, the concurrently-filed
15 Declaration of R. Paul Katrinak, and all pleadings, records, and papers on file herein, as well as
16 such other oral arguments as may be presented at the hearing on this Motion.

17
18 DATED: January 25, 2024

THE LAW OFFICES OF
R. PAUL KATRINAK



R. Paul Katrinak
Attorneys for Defendant
Michael Pierattini

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Plaintiff Jose DeCastro (“Plaintiff”) is engaging in recreational litigation against
4 Defendant Michael Pierattini (“Mr. Pierattini”). Plaintiff’s Complaint barely mentions Mr.
5 Pierattini and primarily takes issue with the conduct of other defendants whom, for some
6 reason, Plaintiff has refused to serve. Frankly, Mr. Pierattini has no idea why he has been
7 dragged into this frivolous case. The facts important for this Motion are that on December 11,
8 2023, counsel for Mr. Pierattini served Mr. Pierattini’s Requests for Admission, Set One (the
9 “Requests”) to Plaintiff by electronic mail. (Declaration of R. Paul Katrinak (“Katrinak
10 Decl.”) ¶ 2, Ex. “A”.)

11 To date, Mr. Pierattini has received limited responses to the Requests. (Katrinak Decl. ¶
12 4.) Instead, Plaintiff has “responded” to a majority of Mr. Pierattini’s Requests with a series of
13 frivolous objections. (Katrinak Decl. ¶ 3.)¹

14 Mr. Pierattini respectfully requests the Court order Plaintiff to provide full and
15 complete verified responses without objection to the unanswered Requests. Mr. Pierattini
16 additionally requests that the Court impose mandatory sanctions against Plaintiff in the amount
17 of \$4,560.00.²

18 **II. FACTUAL AND PROCEDURAL BACKGROUND**

19 Plaintiff filed this lawsuit against Mr. Pierattini and several other defendants alleging
20 eight causes of action. The complaint, which meanders and is often difficult to follow,
21 contained vague allegations against Mr. Pierattini that were few and far between. Although
22 nearly none of the allegations in the complaint were directed at Mr. Pierattini, Plaintiff asserted

23 _____
24 ¹ The parties entered into a Protective Order to preserve information, including documents, exchanged in
25 discovery. Plaintiff responded to some of Mr. Pierattini’s Requests for Admission, which have been redacted from
26 the Response attached to the Katrinak Declaration. The Responses that are at issue here were solely objections.
27 Therefore, the Protective Order is not at issue concerning the objections served by Plaintiff.

28 ² Counsel for Mr. Pierattini called the Clerk’s office to inquire whether an informal discovery conference
would be required before the filing of this Motion. (Katrinak Decl., at ¶ 7.) The Clerk stated that the informal
discovery conference does not toll the timeframe for the Motion, so it would be fine to file the Motion without an
informal discovery conference. *Id.* The Clerk also stated that the Court would schedule the informal discovery
conference on the same date as the hearing on the Motion and that if the issues are not resolved then there would be
a hearing. *Id.*

1 all eight of his causes of action against him. In an attempt to understand what exactly
2 Plaintiff's claims against him actually were, Mr. Pierattini propounded commonplace
3 discovery requests to Plaintiff. Rather than responding to Mr. Pierattini's discovery requests
4 with proper responses, Plaintiff has instead engaged in gamesmanship by improperly objecting
5 to Mr. Pierattini's discovery requests at sporadic intervals. Plaintiff has refused to provide
6 virtually any information and has provided no documents, even after Mr. Pierattini properly
7 responded to Plaintiff's own discovery requests. To date, Plaintiff has only responded to a few
8 of Mr. Pierattini's Requests for Admission, otherwise exclusively responding with dozens of
9 improper objections. Plaintiff is also improperly evading his deposition, claiming he does not
10 live within 150 miles of the deposition location in Los Angeles County even though Plaintiff's
11 address with the Court is in Santa Monica and Plaintiff filed this action in Los Angeles County.
12 Plaintiff's actions have severely prejudiced Mr. Pierattini, who has yet to gain a full
13 understanding of what exactly Plaintiff's claims against him are.

14 On December 11, 2023, counsel for Mr. Pierattini propounded Mr. Pierattini's Requests
15 for Admission, Set One on Plaintiff. (Declaration of R. Paul Katrinak ("Katrinak Decl.") ¶ 2,
16 Ex. "A".)

17 On January 8, 2024, Plaintiff responded to Mr. Pierattini's Requests with a series of
18 meritless and frivolous objections. (Katrinak Decl., at ¶ 3, Ex. "B".)

19 On January 10, 2024, Plaintiff responded to Mr. Pierattini's Requests with answers to
20 only a portion of the first 35 Requests, several of which were improper and evasive. (Katrinak
21 Decl., at ¶ 4, Ex. "C".)

22 On January 12, 2024, counsel for Mr. Pierattini sent a letter attempting to meet and
23 confer with Plaintiff regarding his failure to properly respond to Mr. Pierattini's discovery
24 requests, including Mr. Pierattini's Requests. (Katrinak Decl., at ¶ 5, Ex. "D".) True to form,
25 Plaintiff ignored counsel for Mr. Pierattini's attempt to meet and confer, forcing counsel for
26 Mr. Pierattini to file this Motion. (Katrinak Decl., at ¶ 6.)

27 ///

28 ///

1 **III. THE COURT IS AUTHORIZED TO GRANT THIS MOTION TO COMPEL**
2 **FURTHER RESPONSES**

3 Code of Civil Procedure section 2033.290 states:

4 “On receipt of a response to requests for admissions, the party requesting
5 admissions may move for an order compelling a further response if that party
6 deems that either or both of the following apply:

- (1) An answer to a particular request is evasive or incomplete.
(2) An objection to a particular request is without merit or too general.”

7 Code Civ. Proc. § 2033.290(a).

8 The court has the inherent power to resolve discovery disputes. “The [Discovery Act] is
9 to be liberally interpreted so that it may accomplish its purpose. The trial court has a wide
10 discretion in granting discovery.” *Caryl Richards, Inc. v. Super. Ct.* (1961) 188 Cal.App.2d
11 300, 303. As discussed below and in Mr. Pierattini’s concurrently filed Separate Statement,
12 Plaintiff served evasive, nonresponsive answers, which included general and meritless
13 objections. Accordingly, the Court is authorized to compel further responses for the reasons
14 stated below.

15 **IV. LAW APPLICABLE TO PLAINTIFF’S REFUSAL TO PROVIDE PROPER**
16 **RESPONSES**

17 **A. The Right to Discovery**

18 The right to discovery is liberally construed. As noted in a leading treatise, Brown &
19 Weil, *California Practice Guide: Civil Procedure Before Trial* (2017 update):

20 “[8:36] **Right to Discovery Liberally Construed:** Courts have construed the
21 discovery statutes broadly, so as to *uphold the right to discovery wherever*
22 *possible*. [*Greyhound Corp. v. Sup.Ct. (Clay)* (1961) 56 C2d 355, 377-378, 15 CR
23 90, 100 (decided under former law); *Emerson Elec. Co. v. Sup.Ct. (Grayson)*
24 (1997) 16 C4th 1101, 1108, 68 CR2d 883, 886—“Our conclusions in *Greyhound*
25 apply equally to the new discovery statutes enacted by the Civil Discovery Act of
26 1986, which retain the expansive scope of discovery”; see *Obregon v. Sup.Ct.*
27 (*Cimm’s, Inc.*) (1998) 67 CA4th 424, 434, 79 CR2d 62, 69 (citing text)]

28 **B. Plaintiff’s Legal Obligations Concerning These Discovery Responses**

As noted in Brown & Weil, there is a duty to provide complete and straightforward
answers:

“[8:1323] **Answering RFAs only partially correct:** The answer must be “as
complete and straightforward” as the information available *reasonably permits*
and must “[a]dmit so much of the matter involved in the request as is true ... or as

1 *reasonably and clearly qualified* by the responding party.” [CCP § 2033.220(a),
2 (b)(1) (emphasis added)].

3 Several of Plaintiff’s responses to Mr. Pierattini’s discovery requests are not complete
4 and straightforward. Many of them have gone unanswered. Plaintiff does not adequately
5 respond, nor does he comply with the Code. Furthermore, evasive responses constitute
6 sanctionable conduct. Code Civ. Proc. § 2023.010(f).

7 **C. Plaintiff has Refused to Properly Respond to a Majority of Mr. Pierattini’s**
8 **Requests for Admission**

9 With regard to Mr. Pierattini’s Requests, several of Plaintiff’s responses are improper
10 and inadequate. As noted in Brown & Weil, the response must be as follows:

11 [8:1321] Answers: The response must contain either an answer or an objection to the
12 particular RFA. [CCP § 2033.210(b)]

13 Each answer “shall be as complete and straightforward as the information reasonably
14 available to the responding party permits.” [CCP § 2033.220(a) (emphasis added)]

15 Thus, absent an objection (§ 8:1349), the response must contain one of the following:

- 16 • An admission;
- 17 • A denial;
- 18 • A statement claiming inability to admit or deny. [CCP § 2033.220(b)].

19 *Id.* at 8:1321. Plaintiff’s responses to Mr. Pierattini’s Requests fail to state what the
20 Code requires them to state, as they consist exclusively of improper objections (as discussed in
21 detail below). Brown & Weil makes plain the duty to obtain information. It states:

22 “[8:1341] **Claimed inability to admit or deny; reasonable inquiry required:** In
23 lieu of admitting or denying the RFA, a party may respond by claiming inability
24 (lack of sufficient information) to admit or deny the matter stated in the request.
25 [CCP § 2033.220(c)]”

26 But a party responding in this manner *must also state that a reasonable inquiry*
27 *was made* to obtain sufficient information: i.e., “a reasonable inquiry concerning
28 the matter in the particular request has been made, and that the information known
or *readily obtainable* is insufficient to enable that party to admit the matter.” [CCP
§ 2033.220(c) (emphasis added)]”

29 *Id.* at 8:1341-1342. Certainly, Plaintiff has not made a “reasonable inquiry” as required.
30 Again, as plainly noted in Brown & Weil:

31 “[8:1342] **Reasonable inquiry from available sources:** The Discovery Act
32 thus requires the responding party to undertake a “good faith” obligation to
33 investigate sources *reasonably available* to the responding party in formulating

1 answers to RFAs (similar to the duty owed in responding to interrogatories; ¶
2 8:1054).”.

3 *Id.* at 8:1342. The information sought is presumably available, and on that issue Brown
& Weil states:

4 **“Information presumably available to responding party:** Another consequence
5 of the duty to attempt to obtain information is that “I don't know” or “Unknown”
6 are *insufficient* answers to matters presumably known to the responding party.
7 (Example: Question asks, “What is the name and address of each physician who
8 treated you for the injuries described in your complaint?”) The responding party
9 must make a reasonable effort to obtain whatever information is sought; and if
10 unable to do so, must *specify* why the information is unavailable and *what efforts*
11 *he or she made to obtain it.* [See *Deyo v. Kilbourne* (1978) 84 CA3d 771, 782,
12 149 CR 499, 509]”

13 *Id.* at 8:1061.

14 **D. Plaintiff's Objections are Improper**

15 Rather than providing proper responses, Plaintiff has responded to a majority of Mr.
16 Pierattini's Requests with a flurry of improper objections. As explained in Brown & Weil:

17 “[8:1349] Objections: In lieu of admitting or denying the RFA, the party may serve
18 objections to particular requests. [CCP § 2033.210(b)]

19 If only part of a request is objectionable, the remainder must be answered. [CCP §
20 2033.230(a)]

21 (1) [8:1350] Form: The specific ground for objection must be set forth clearly in the
22 response (including claims of privilege and work product protection). [CCP §
23 2033.230(b)]

24 (2) [8:1351] Proper objections: Basically, the same objections available in response to
25 interrogatories (¶ 8:1071 ff.) are available in response to RFAs]”

26 *Id.* at 8:1349. When discussing objections to interrogatories, Brown & Weil explains:

27 “[8:1071] **Objections:** In lieu of answering or allowing inspection of records, above,
28 the responding party may serve objections. Each objection must be
stated *separately* (no objections to entire set), and must bear the same number or letter
as the interrogatory to which it is directed. [CCP § 2030.210(a)(3)]

Objections must be *specific*. A motion to compel lies where objections are “too
general.” [CCP § 2030.300(a)(3); see *Korea Data Systems Co. Ltd. v. Sup.Ct.*
(*Amazing Technologies Corp.*) (1997) 51 CA4th 1513, 1516, 59 CR2d 925, 926—
objecting party subject to sanctions for “boilerplate” objections; and ¶8:1920]”

Id. at 8:1071. Plaintiff's objections have no specificity and often do not clearly state the
specific grounds for objection.

Objections Common to Requests for Admission Nos. 19 and 22-27:

Plaintiff objected to these Requests with an improper and lengthy objection which
states as follows:

1 After reasonable inquiry, the information that Plaintiff knows or can readily
2 obtain is insufficient to enable him to admit or deny the truth of this request.
3 The admission or denial of this request requires Plaintiff to have information
4 which Plaintiff does not have in hi [sic] records and which is not within the
knowledge of Plaintiff’s employees, agents, and others of whom Plaintiff has
made reasonable inquires;

5 This rambling and completely improper objection is without merit. Simply put, Plaintiff
6 brought this litigation, and Plaintiff made the decision to sue Mr. Pierattini under various
7 causes of action. According to these objections, Plaintiff has no evidence or information based
8 on which to sue Mr. Pierattini. If Plaintiff does not have sufficient information to respond to
9 these Requests, which are fully based on Plaintiff’s allegations against Mr. Pierattini, then
10 Plaintiff should dismiss his claims against Mr. Pierattini.

11 Additionally, Plaintiff’s objections to these Requests that “admission or denial of the
12 matter requested would result in the disclosure of information protected by the attorney-client-
13 privilege” are absurd and are without merit. The attorney-client privilege does not apply to
14 Plaintiff as an In Pro Per party, as it is legally and factually impossible for him to have
15 “communications” with himself. If for some reason such a privilege does apply, then Plaintiff
16 must be prepared to explain why the privilege is applicable to each individual Request.
17 Furthermore, even if such a privilege existed, a proper response to each Request, as described
18 in California Code of Civ. Proc. § 2033.220, would not result in the disclosure of any allegedly
19 protected information. Plaintiff must withdraw these objections and provide a proper response
20 without objection.

21 “Compound and Conjunctive” Objections:

22 Plaintiff’s objections that requests 19 and 26 are “compound and conjunctive” are
23 without merit. Request 26 quotes and refers to specific allegations Plaintiff has made.
24 Additionally, Request 19 is neither compound nor conjunctive. Plaintiff cannot refuse to
25 respond to these requests based on the fact that they quote his own words, nor can Plaintiff
26 refuse to respond to them by falsely claiming that they are compound or conjunctive. Plaintiff
27 must withdraw these objections and provide a proper response without objection.

28 “Matters Outside the Question” Objections:

1 Plaintiff's objection that Request 19 refers to matters outside the question by referring
2 to the complaint is without merit. This request is full and complete in and of itself as required
3 by California Code Civ. Proc. § 2033.060(d). This request specifically references an allegation
4 made in the complaint and does not require Plaintiff to refer to the complaint itself to
5 understand what admission is being requested. There are no general or ambiguous references to
6 the complaint. Therefore, Plaintiff must withdraw this objection.

7 Additionally, Plaintiff's objections that Requests 24 and 25 refer to matters outside the
8 question are completely improper and are without merit. On these Requests, Plaintiff
9 repeatedly writes "alleged where?" even though the Requests are referencing specific
10 allegations Plaintiff made in the complaint. Plaintiff cannot feign ignorance when each request
11 is full and complete in and of itself as required by California Code Civ. Proc. § 2033.060(d).
12 Therefore, Plaintiff must withdraw these objections so that his responses are made without
13 improper limitations.

14 Relevance Objections:

15 Plaintiff's relevance objection to Request 19 is without merit. As discussed above, the
16 scope of discovery is extremely broad and allows for discovery reasonably calculated to *lead to*
17 the discovery of admissible evidence. Plaintiff does not have the right to arbitrarily proclaim
18 that a request is "irrelevant" for purposes of discovery and then refuse to respond to that
19 request. Notably, the request Plaintiff objected to as irrelevant is derived directly from
20 assertions *Plaintiff* made in his complaint, making it directly relevant to this lawsuit. Therefore,
21 Plaintiff must withdraw this objection and answer this Request without objection.

22 Objections to Requests for Admission Nos. 36-76:

23 Plaintiff's objections to these Requests because the "number of requests [was]
24 exceeded" are without merit. Under § 2033.040 of the California Code of Civil Procedure, a
25 party may exceed the 35-request limit set by § 2033.030 so long as the party seeking additional
26 discovery attaches a supporting declaration as described in § 2033.050. The Requests Mr.
27 Pierattini propounded were delivered to Plaintiff with such a declaration attached. Therefore,
28

1 Plaintiff's objections are invalid, and Plaintiff cannot refuse to answer these additional
2 Requests.

3 Furthermore, these Requests are not "frivolous" or "duplicative," nor do they require an
4 "undue burden" to answer. These Requests directly address Plaintiff's allegations in his
5 Complaint against Mr. Pierattini. The number of Requests directly correlates to the complexity
6 of the case and the large number of allegations Plaintiff has made against Mr. Pierattini.
7 Plaintiff must withdraw these meritless objections and answer without objection.

8 Plaintiff's improper objections to Mr. Pierattini's Requests should be overruled in their
9 entirety and Plaintiff should be ordered to provide a Code-compliant response without objection.

10 **E. Plaintiff Has Not Provided a Privilege Log**

11 As explained in *Brown & Weil*:

12 (a) [8:1474.5] **Objection based on privilege; "privilege log" may be required:** When
13 asserting claims of privilege or attorney work product protection, the objecting party
14 must provide "sufficient factual information" to enable other parties to evaluate the
15 merits of the claim, "including, *if necessary*, a privilege log." [CCP § 2031.240(c)(1)
16 (emphasis added); *Lopez v. Watchtower Bible & Tract Soc. of New York, Inc.* (2016)
246 CA4th 566, 596-597, 201 CR3d 156, 181—burden to show preliminary facts
supporting application of privilege not met where D failed to produce privilege log or
identify any specific confidential communications]

17 1) [8:1474.5a] **Required contents of privilege log:** As the term is commonly
18 used by courts and attorneys, a "privilege log" identifies each document for
19 which a privilege or work product protection is claimed, its author, recipients,
date of preparation, and the *specific* privilege or work product protection
claimed.

20 [8:1458] Responding to Demand, Cal. Prac. Guide Civ. Pro. Before Trial Ch. 8H-6.

21 Here, Plaintiff provides no privilege log but still claims protection under the attorney-
22 client privilege. Additionally, there is no undue burden defense to preparing a privilege log.
23 *Riddell, Inc. v. Super. Ct.* (2017) 14 Cal.App.5th 755, 772.

24 **V. GOOD CAUSE EXISTS FOR COMPELLING FURTHER RESPONSES**

25 Here, each and every one of Mr. Pierattini's Requests is supported by good cause and
26 specifically tailored to obtain answers that are essential to supporting Mr. Pierattini's defenses
27 against Plaintiff's frivolous claims against him. Plainly, Mr. Pierattini still does not fully
28 understand Plaintiff's allegations against him, as Plaintiff's meandering complaint is difficult

1 to follow. A crucial purpose of Mr. Pierattini’s Requests is to understand exactly what
2 Plaintiff’s allegations against Mr. Pierattini are, and what support, if any, Plaintiff has for these
3 allegations.

4 Plaintiff’s answers must be “as complete and straightforward” as the information
5 available reasonably permits. CCP § 2033.220(a). Here, several of Plaintiff’s responses are not
6 straightforward because they only make partial admissions. Furthermore, a majority of the
7 Requests go unanswered behind a flurry of improper objections. A good faith obligation to
8 investigate should result in proper admissions or denials. Plaintiff plainly has access to enough
9 information to admit or deny Mr. Pierattini’s Requests. Thus, proper responses need to be
10 compelled.

11 **Request No. 19** seeks an admission that Plaintiff has “been arrested multiple times”.
12 This admission would shed light on Plaintiff’s propensity to seek out legal conflicts and make
13 similar improper allegations against others, allowing Mr. Pierattini to bolster his defense
14 against Plaintiff’s frivolous claims against him.

15 **Request Nos. 22 and 23** seek admissions regarding specific allegations Plaintiff made
16 in his complaint. Specifically, these Requests seek admissions that Mr. Pierattini never entered
17 or harmed Plaintiff’s property. These admissions are essential to Mr. Pierattini’s defense
18 against Plaintiff’s claims against him because they would clarify the scope of Plaintiff’s
19 sweeping allegations against the various Defendants and would clarify what Plaintiff’s specific
20 allegations against Mr. Pierattini actually are.

21 **Request Nos. 24 and 25** seek admissions regarding specific allegations Plaintiff made
22 in his complaint. Specifically, these Requests seek admissions that Mr. Pierattini never
23 admitted to or took credit for the alleged theft of Plaintiff’s van. These admissions are essential
24 to Mr. Pierattini’s defense against Plaintiff’s claims against him because they would clarify the
25 scope of Plaintiff’s sweeping allegations against the various Defendants and would clarify
26 what Plaintiff’s specific allegations against Mr. Pierattini actually are.

27 **Request Nos. 26 and 27** seek admissions regarding specific allegations Plaintiff made
28 in his complaint. Specifically, these Requests seek admissions that Mr. Pierattini never placed

1 specific items on Plaintiff's or Plaintiff's friend's property. These admissions are essential to
2 Mr. Pierattini's defense against Plaintiff's claims against him because they would clarify the
3 scope of Plaintiff's sweeping allegations against the various Defendants and would clarify
4 what Plaintiff's specific allegations against Mr. Pierattini actually are.

5 **Request Nos. 36 through 76** seek admissions regarding various other specific
6 allegations Plaintiff made in his complaint. Plaintiff improperly objected to these Requests on
7 the grounds that they exceeded the number of statutorily allowed requests. However, as
8 discussed above, Mr. Pierattini propounded these Requests with the required supporting
9 declaration to allow for additional requests. Therefore, Plaintiff has neither responded nor
10 properly objected to these requests, and responses must therefore be compelled. These
11 admissions are essential to Mr. Pierattini's defense against Plaintiff's claims against him
12 because they would clarify the scope of Plaintiff's sweeping allegations against Mr. Pierattini
13 and would clarify what Plaintiff's specific allegations against Mr. Pierattini actually are.

14 **VI. MR. PIERATTINI MET AND CONFERRED IN GOOD FAITH**

15 A motion to compel further responses to requests for admission "shall be accompanied
16 by a meet and confer declaration under Section 2016.040." Code Civ. Proc. § 2033.290(b)(1).
17 "A meet and confer declaration in support of a motion shall state facts showing a reasonable
18 and good faith attempt at an informal resolution of each issue presented by the motion." *Id.*
19 § 2016.040. Here, as described above, the Declaration of R. Paul Katrinak attests to Mr.
20 Pierattini's meet and confer efforts with Plaintiff in writing. Plaintiff has responded with
21 stonewalling and a refusal to produce complete, Code-compliant responses. Thus, Mr.
22 Pierattini has fully met and conferred as required by statute, and Plaintiff has left Mr. Pierattini
23 with no other option but to seek assistance from the Court by filing this Motion.

24 **VII. THIS MOTION IS TIMELY FILED**

25 Code of Civil Procedure section 2033.290, subdivision (c) states:

26 Unless notice of this motion is given within 45 days of the service of the
27 verified response, or any supplemental **verified** response, or any specific
28 later date to which the requesting party and the responding party have agreed
in writing, the requesting party waives any right to compel further response
to the requests for admission.

1 Code Civ. Proc. § 2033.290(c) (emphasis added). *See also Steven M. Garber & Assocs. v.*
2 *Eskandarian* (2007) 150 Cal.App.4th 813, 817 at n.4, *as modified* (May 22, 2007) (“unverified
3 responses ‘are tantamount to no responses at all.’”).

4 Here, Mr. Pierattini is timely filing this Motion within the 45-day statutory deadline.
5 Plaintiff’s verification of his responses to Mr. Pierattini’s Requests was served on January 10,
6 2024. Therefore, this Motion is timely filed.

7 **VIII. MONETARY SANCTIONS AGAINST PLAINTIFF ARE WARRANTED FOR**
8 **FAILURE TO RESPOND TO LEGITIMATE DISCOVERY AND FOR**
9 **NECESSITATING THIS MOTION**

10 Section 2023.030(a) of the Code of Civil Procedure provides that “[t]he court may
11 impose a monetary sanction ordering that one engaging in the misuse of the discovery process,
12 or any attorney advising that conduct, or both pay the reasonable expenses, including
13 attorney’s fees, incurred by anyone as a result of that conduct.” *Id.* “Misuses of the discovery
14 process include, but are not limited to . . . (e) Making, without substantial justification, an
15 unmeritorious objection to discovery. . . . (f) Making an evasive response to discovery. . . . (h)
16 Making or opposing, unsuccessfully and without substantial justification, a motion to compel
17 or to limit discovery.” *Id.* § 2023.010.

18 “The court *shall* impose a monetary sanction . . . against any party, person, or attorney
19 who unsuccessfully makes or opposes a motion to compel further response, unless it finds that
20 the one subject to the sanction acted with substantial justification or that other circumstances
21 make the imposition of the sanction unjust.” *Id.* § 2033.290(d) (emphasis added). These
22 sanctions may be awarded “under the Discovery Act in favor of a party who files a motion to
23 compel discovery, even though no opposition to the motion was filed, or an opposition to the
24 motion was withdrawn, or the requested discovery was provided to the moving party after the
25 motion was filed.” Cal. R. Ct. 3.1348(a).

26 The purpose of discovery sanctions is “to prevent abuse of the discovery process and
27 correct the problem presented.” *Do v. Super. Ct.* (2003) 109 Cal.App.4th 1210, 1213 (citations
28 omitted). Here, there is no excuse or justification for Plaintiff’s refusal to provide further

1 responses to the subject discovery. The Declaration of R. Paul Katrinak attests to the efforts
2 expended by Mr. Pierattini to avoid this motion. It is evident from the facts presented that
3 Plaintiff will not comply with this authorized method of discovery absent a court order and the
4 imposition of sanctions.


5 In the present case, Mr. Pierattini has incurred and will incur in excess of \$4,560.00 in
6 costs and attorney's fees in connection with this Motion and enforcing this discovery.
7 (Katrinak Decl., at ¶ 9). Pursuant to Code of Civil Procedure §§ 2023.010, 2023.030, and
8 2033.290, and the power of this Court to impose monetary sanctions against the losing party on
9 a motion to compel further responses, Mr. Pierattini submits that given Mr. Pierattini's
10 attempts to avoid having to file this motion, and Plaintiff's lack of compliance, sanctions
11 should properly be awarded to Mr. Pierattini and against Plaintiff in the amount of \$4,560.00,
12 as reflected in the Declaration of R. Paul Katrinak.

13 In the event that Plaintiff provides Code-Compliant responses after this Motion has
14 been filed, this hearing should still remain on calendar and be heard before the Court in order
15 to grant sanctions for Plaintiff's gross misuse of the discovery process.

16 **IX. CONCLUSION**

17 For the foregoing reasons, Defendant Michael Pierattini respectfully requests that this
18 Motion be granted and that this Court issue an Order compelling Plaintiff Jose DeCastro to
19 provide further, Code-compliant responses to Mr. Pierattini's Requests for Admission, Set
20 One, within thirty (30) days. Mr. Pierattini further requests that this Court issue an Order
21 imposing monetary sanctions on Plaintiff in the amount of \$4,560.00, payable within thirty
22 (30) days.

24 DATED: January 25, 2024

25 THE LAW OFFICES OF
26 R. PAUL KATRINAK
27 
28 R. Paul Katrinak
Attorneys for Defendant
Michael Pierattini

PROOF OF SERVICE

STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California; I am over the age of 18 and not a party to the within action; my business address is 9663 Santa Monica Boulevard, Suite 458, Beverly Hills, California 90210.

On January 25, 2024, I served the foregoing document(s) described as:

NOTICE OF MOTION AND MOTION TO COMPEL FURTHER RESPONSES TO DEFENDANT MICHAEL PIERATTINI’S REQUESTS FOR ADMISSION TO PLAINTIFF JOSE DECASTRO, SET ONE, AND REQUEST FOR MONETARY SANCTIONS AGAINST PLAINTIFF IN THE SUM OF \$4,560.00; MEMORANDUM OF POINTS AND AUTHORITIES

on the interested parties to this action addressed as follows:

Jose DeCastro
1258 Franklin Street
Santa Monica, CA 90404
chille@situationcreator.com

(BY MAIL) I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid and addressed to the person above.

(BY PERSONAL SERVICE) by causing a true and correct copy of the above documents to be hand delivered in sealed envelope(s) with all fees fully paid to the person(s) at the address(es) set forth above.

X (BY EMAIL) I caused such documents to be delivered via electronic mail to the email address for counsel indicated above.

Executed January 25, 2024, at Los Angeles, California.

I declare under penalty of perjury under the laws of the United States that the above is true and correct.


R. Paul Katrinak



Make a Reservation

JOSE DECASTRO vs KATHERINE PETER

Case Number: 23SMCV00538 Case Type: Civil Unlimited Category: Defamation (slander/libel)

Date Filed: 2023-02-06 Location: Santa Monica Courthouse - Department O

Reservation

Case Name: JOSE DECASTRO vs KATHERINE PETER	Case Number: 23SMCV00538
Type: Motion to Compel Further Discovery Responses	Status: RESERVED
Filing Party: Michael Pierattini (Defendant)	Location: Santa Monica Courthouse - Department O
Date/Time: 02/20/2024 8:30 AM	Number of Motions: 1
Reservation ID: 229069495204	Confirmation Code: CR-CPGF5CL69EYNXFKTW

Fees

Description	Fee	Qty	Amount
Motion to Compel Further Discovery Responses	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
TOTAL			\$61.65

Payment

Amount: \$61.65	Type: MasterCard
Account Number: XXXX7784	Authorization: 25214Z
Payment Date: 1969-12-31	

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