

1 R. Paul Katrinak, State Bar No. 164057
2 LAW OFFICES OF R. PAUL KATRINAK
3 9663 Santa Monica Blvd., 458
4 Beverly Hills, California 90210
5 Telephone: (310) 990-4348
6 Facsimile: (310) 921-5398

7 Attorneys for Defendant
8 Michael Pierattini

Electronically FILED by
Superior Court of California,
County of Los Angeles
1/25/2024 5:54 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By N. Valles, Deputy Clerk

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

11 JOSE DECASTRO,

12 Plaintiff,

13 v.

14 KATHERINE PETER; DANIEL CLEMENT;
15 MICHAEL PIERATTINI; DAVID OMO JR.;
16 and DOES 1 TO 30, inclusive,

17 Defendants.

) Case No. 23SMCV00538

)
) Assigned for all purposes to the Honorable
) H. Jay Ford, Dept. O

) **NOTICE OF MOTION AND MOTION TO**
) **COMPEL DEPOSITION OF PLAINTIFF**
) **AND REQUEST FOR MONETARY**
) **SANCTIONS AGAINST PLAINTIFF IN**
) **THE SUM OF \$4,560.00; MEMORANDUM**
) **OF POINTS AND AUTHORITIES**

) Date: April 30, 2024
) Time: 8:30 a.m.
) Dept: O

18 [Declaration of R. Paul Katrinak filed
19 concurrently]

20 **RES ID: 155195753424**

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

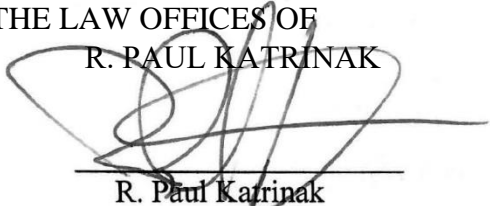
2 PLEASE TAKE NOTICE that on April 30, 2024, at 8:30 AM, or as soon thereafter as
3 the matter may be heard in Department O of the above-entitled court, located at 1725 Main
4 Street, Santa Monica, CA 90401, Defendant Michael Mr. Pierattini (“Mr. Pierattini”) will, and
5 hereby does, move the Court for an order compelling the deposition of Plaintiff Jose DeCastro
6 (“Plaintiff”), and requests monetary sanctions against Plaintiff in the amount of \$4,560.00.

7 This Motion is made on the grounds that Plaintiff failed to appear for his duly noticed
8 deposition. Plaintiff asserted frivolous objections to the Notice claiming that he resides more
9 than 150 miles from where the deposition was noticed. Plaintiff’s address on all pleadings is in
10 Santa Monica and Plaintiff alleged in filing this Complaint that he is a resident of the County
11 of Los Angeles. Counsel for Mr. Pierattini sent a meet and confer letter demanding
12 appearance, which was ignored. Plaintiff filed this lawsuit in Santa Monica and should appear
13 for his deposition where he filed his frivolous lawsuit. In addition, the Court has the authority
14 to order his deposition in the County of Los Angeles. Mr. Pierattini will and does also move
15 the Court for an order that Plaintiff pay to Mr. Pierattini the sum of \$4,560.00 in sanctions for
16 reasonable costs and attorney fees incurred by Mr. Pierattini to file the motion.

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

21 DATED: January 25, 2024

THE LAW OFFICES OF
R. PAUL KATRINAK



R. Paul Katrinak
Attorneys for Defendant
Michael Pierattini

22
23
24
25
26
27
28

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

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

10 The date of the deposition was January 25, 2024. Prior to the deposition on January 8,
11 2024, Plaintiff sent two inapplicable frivolous objections. (Katrinak Decl. ¶ 3, Ex. “B.”) In
12 response, on January 12, 2024 counsel for Mr. Pierattini sent a meet and confer letter
13 explaining that the objections were frivolous and that Plaintiff should appear for his deposition.
14 If Plaintiff failed to appear for his deposition and produce documents, counsel for Mr.
15 Pierattini advised that he would file a Motion to Compel and seek sanctions. (Katrinak Decl. ¶
16 5, Ex. “C.”) True to form, Plaintiff ignored the meet and confer letter and failed to appear for
17 his deposition necessitating this Motion to Compel. (Katrinak Decl. ¶ 6.)

18 Mr. Pierattini respectfully requests the Court order Plaintiff to appear for his deposition,
19 and produce the requested documents. Mr. Pierattini additionally requests that the Court
20 impose mandatory sanctions against Plaintiff in the amount of \$4,560.00.¹

21 **II. FACTUAL AND PROCEDURAL BACKGROUND**

22 Plaintiff filed this lawsuit against Mr. Pierattini and several other defendants alleging
23 eight causes of action. The complaint, which meanders and is often difficult to follow,
24 contained vague allegations against Mr. Pierattini that were few and far between. Although

25 _____
26 ¹ Counsel for Mr. Pierattini called the Clerk’s office to inquire whether an informal discovery conference
27 would be required before the filing of this Motion. (Katrinak Decl., at ¶ 7.) The Clerk stated that the informal
28 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 nearly none of the allegations in the complaint were directed at Mr. Pierattini, Plaintiff asserted
2 all eight of his causes of action against him. In an attempt to understand what exactly
3 Plaintiff's claims against him actually were, Mr. Pierattini propounded commonplace
4 discovery requests to Plaintiff. Rather than responding to Mr. Pierattini's discovery requests
5 with proper responses, Plaintiff has instead engaged in gamesmanship by improperly objecting
6 the Mr. Pierattini's discovery requests at sporadic intervals. Plaintiff has refused to provide
7 virtually any information, even after Mr. Pierattini properly responded to Plaintiff's own
8 discovery requests. To date, Plaintiff has only responded to a few of Mr. Pierattini's Requests
9 for Admission, otherwise exclusively responding with dozens of improper objections. Plaintiff
10 is also improperly evading his deposition, claiming he does not live within 150 miles of the
11 deposition location in Los Angeles County. Plaintiff's address with the Court is in Santa
12 Monica and Plaintiff filed his Complaint claiming that he is a resident of Los Angeles County.
13 Plaintiff's actions have severely prejudiced Mr. Pierattini, who has yet to gain a full
14 understanding of what exactly Plaintiff's claims against him are.

15 On December 11, 2023, counsel for Mr. Pierattini served a Notice of Deposition and
16 Request for Production of Documents on Plaintiff. (Katrinak Decl., ¶ 2, Ex. "A").

17 On January 8, 2024, Plaintiff served two frivolous objections claiming that he resides
18 more than 150 miles away from Los Angeles County, even though his address with the Court
19 is in Santa Monica and he claims to be a resident of Los Angeles County. (Katrinak Decl. ¶ 3,
20 Ex. "B.")

21 On January 12, 2024 counsel for Mr. Pierattini sent a meet and confer letter explaining
22 that the objections were frivolous and that Plaintiff should appear for his deposition. If
23 Plaintiff failed to appear for his deposition and produce documents, counsel for Mr. Pierattini
24 advised that he would file a Motion to Compel and seek sanctions. (Katrinak Decl. ¶ 5, Ex.
25 "C.") True to form, Plaintiff ignored the meet and confer letter and failed to appear for his
26 deposition necessitating this Motion to Compel. (Katrinak Decl. ¶ 6.)

27 From mid-December through early January Plaintiff served a series of frivolous
28 objections to Mr. Pierattini's written discovery and refused to respond to virtually all of the

1 discovery served. This discovery is critical as Mr. Pierattini has no idea what the basis of
2 Plaintiff's frivolous Complaint is against. Plaintiff is engaging in recreational litigation costing
3 Mr. Pierattini substantial attorney's fees and yet abjectly refuses to engage in the discovery
4 process. (Katrinak Decl., ¶ 7).

5 **III. PLAINTIFF'S DEPOSITION SHOULD BE COMPELLED**

6 A party may obtain discovery regarding any matter that is relevant to the subject matter
7 involved if the requested information is reasonably calculated to the discovery of admissible
8 evidence. CCP § 2017.010. Information is relevant if it might reasonably assist a party in
9 evaluating the case, preparing for trial, or facilitating settlement. *Gonzalez v. Superior Court*
10 (1995) 33 Cal.App.4th 1539, 1546. The concept of "relevance" should be liberally construed in
11 discovery disputes, with doubts resolved in favor of permitting the discovery requested. *Sav-*
12 *On Drugs, Inc. v. Superior Court* (1975) 15 Cal. 3d 1, 7.

13 California Code of Civil Procedure § 2025, *et. seq.* provides authority for the moving
14 party to make a motion to compel attendance at a deposition. Here, good cause justifies
15 compelling Plaintiff's deposition. Counsel for Defendant noticed the deposition for January 25,
16 2024. Plaintiff failed to appear for the deposition and failed to produce documents. Plaintiff's
17 "objections" are frivolous and merely an attempt to play games with the discovery process
18 requiring the filing of a Motion to Compel.

19 If a deponent fails to attend the deposition and produce documents, a meet and confer is
20 not required; the moving party only needs a declaration stating that the deponent has been
21 contacted about the nonappearance. CCP § 2025.450(b)(2). Counsel for the Defendant sent a
22 meet and confer letter to Plaintiff explaining why he had to appear and produce documents and
23 Plaintiff ignored the meet and confer letter.

24 Therefore, the Court should compel the deposition of Defendant and the production of
25 documents at the deposition.

26 ///

27 ///

28 ///

1 **IV. PLAINTIFF’S OBJECTIONS ARE FRIVOLOUS**

2 **a. According to Plaintiff’s Pleadings and Complaint, Plaintiff resides in Santa**
3 **Monica**

4 In all of Plaintiff’s filings with the Court, Plaintiff listed his address as 1258 Franklin
5 St., Santa Monica, CA 90404. In his complaint, Plaintiff specifically stated as follows:

6 8. Plaintiff Jose “Chille/Chelito” DeCastro is, and at all times herein
7 mentioned was, an individual residing in Santa Monica, Los Angeles County,
8 California. Plaintiff operates the YouTube channel “Delete Lawz”.

9 California Code Civ. Proc., § 2025.250 permits counsel for Defendant to take his
10 deposition either within 75 miles of Plaintiff’s residence, or within Los Angeles County and
11 within 150 miles of Plaintiff’s residence. Plaintiff chose to sue in Los Angeles County, and
12 stated that you reside in Los Angeles County. Plaintiff cannot now claim that you are unable to
13 attend your deposition in Los Angeles County because Plaintiff do not reside within 150 miles
14 of the deposition location.

15 Additionally, notwithstanding having no information about any other address for
16 Plaintiff other than Santa Monica, the Court has the authority to order Plaintiff’s deposition in
17 Los Angeles County where Plaintiff filed his Complaint. According to the court in *Glass v.*
18 *S.Ct.* (1988) 204 Caql.App.3d 1048:

19 A witness to be deposed in California need not be a California resident.
20 **Subdivision (e)(1) of section 2025** states: “The deposition of a natural person,
21 whether or not a party to the action, shall be taken at a place that is ... either
22 within 75 miles of the deponent’s residence, or within the county where the
23 action is pending and within 150 miles of the deponent’s residence, unless the
24 court orders otherwise under paragraph (3).” Subdivision (e)(3) provides: “A
25 party desiring to take the deposition of a natural person who is a party to the
26 action or an officer, director, managing agent, or employee of a party may make
27 a motion for an order that the deponent attend for deposition at a place that is
28 more distant than that permitted under paragraph (1).... [¶] In exercising its
discretion to grant or deny this motion, the court shall take into consideration
any factor tending to show whether the interests of justice will be served by
requiring the deponent’s attendance at that more distant place, including, but not
limited to, the following: [¶] (A) Whether the moving party selected the forum.
[¶] (B) Whether the deponent will be present to ****692** testify at the trial of the
action. . . .

Id. at 1051.

1 The Court plainly has the authority to order Plaintiff's deposition in Los Angeles
2 County. Plaintiff chose this forum and Plaintiff claims to be a resident of Santa Monica.
3 Plaintiff has provided no other information concerning any other address and ignored counsel
4 for Defendant's meet and confer letter. Plaintiff refusing to appear for deposition in the forum
5 he chose is ironic given the fact, among others, that Mr. Pierantini is a Washington resident
6 and has been forced to come to Los Angeles to defend Plaintiff's frivolous lawsuit.

7 **b. Plaintiff's Objections to the Requested Documents are Frivolous**

8 Plaintiff's objection to the document request is meritless. According to Brown &
9 Weil, *California Practice Guide: Civil Procedure Before Trial* (2023 update), 8:521.

10 No subpoena is required to compel a party or "party-affiliated" witnesses to
11 produce books, records or other materials – including electronically-stored
12 information – in their possession at the time of deposition as long as the notice
13 of deposition specified with reasonable particularity the materials or category of
14 materials (including any electronically-stored information) they are to produce
15 [CCP §2025.220(a)(4)]

16 Compare – CCP §2031.010 et seq. inspection demands: Production of
17 documents, electronically-stored information, and other things can also be
18 obtained through a CCP §2031.010 et seq. inspection demand (discussed in Ch.
19 8H). But these are separate procedures. Absent a protective order, neither
20 procedure bars use of the other. [*Carter v. Sup.Ct. (CSAA Inter-Insurance*
21 *Bureau)* (1990) 218 CA3d 994, 997, 267 CR 290, 291-292 – Party who missed
22 deadline for compelling inspection under CCP §2031.010 et seq. may compel
23 inspection at deposition.

24 Here, as the Court is well aware, attorney's notice the production of documents at a
25 deposition that mirror document requests. This procedure is standard practice. There is simply
26 no merit to Plaintiff's objection. Plaintiff should be ordered to appear for deposition and
27 produce documents forthwith.

28 **V. SANCTIONS IN THE AMOUNT OF \$4,560.00 ARE WARRANTED**

The Court may impose a monetary sanction for misuse of the discovery process. CCP§
2023.030. Monetary sanctions compensating the moving party's "reasonable expenses" are
proper-including fees on the motion to compel. *See Marriage of Niklas* (1989) 211 Cal.App.3d
28, 37-38; *Ghanooni v. Super Shuttle of Los Angeles* (1993) 20 Cal.App.4th 256, 262. The
purpose of sanctions is to compel disclosure, but also to compensate for the costs of enforcing
discovery requests. *Deyo v. Kilbourne* (1978) 84 Cal.App.3d 771, 796. Award of sanctions is

1 justified when there is a failure to provide responses to requests for relevant evidence. *London*
2 *v. Dri-Honing Corp.* (2004) 117 Cal.App.4th 999, 1009-10. Additionally, the Court “shall”
3 impose a monetary sanction against the party that has been served with a deposition notice and
4 fails to appear and produce documents. CCP § 2025.450(g)(1); CCP § 2023.010(d). This is no
5 requirement to meet and confer prior to seeking sanctions when a defendant fails to respond to
6 discovery requests. *Sinaiko Healthcare Consulting, Inc. v. Pacific Healthcare Consultants*
7 (2007) 148 Cal.App.4th 390, 411 (Award of monetary sanctions to plaintiff was authorized
8 against defendants who provided untimely responses to interrogatories and who failed to
9 comply with court's discovery order, without plaintiff's bringing motion for sanctions within 45
10 days of defendants' tardy responses and without meeting and conferring with defendants prior
11 to seeking sanctions).

12 Plaintiff has demonstrated his agenda is to stall and delay providing discovery and
13 appearing for deposition, without justification and run up the attorney's fees for Mr. Pierattini.
14 Monetary sanctions should be imposed against Plaintiff for the costs of bringing this Motion in
15 the amount of \$4,560.00. Counsel for Mr. Pierattini expended and anticipates expending in
16 excess of no less than a total of 10 hours in preparing this Motion, preparing a reply and
17 appearing at the hearing on this Motion. Counsel for Mr. Pierattini bills his time at \$450.00 per
18 hour, so no less than \$4,560.00 in fees have been incurred. (Katrinak Decl. ¶ 9.)

19 **VI. CONCLUSION**

20 For the foregoing reasons, Mr. Pierattini respectfully requests that the Court order that
21 Plaintiff appear for deposition and produce documents and that Plaintiff pay the costs of
22 bringing this motion, in an amount no less than \$4,560.00.

23 DATED: January 25, 2024

THE LAW OFFICES OF
R. PAUL KATRINAK



R. Paul Katrinak
Attorneys for Defendant
Michael Pierattini

28

1 **PROOF OF SERVICE**

2 STATE OF CALIFORNIA
3 COUNTY OF LOS ANGELES

4 I am employed in the County of Los Angeles, State of California; I am over the age of
5 18 and not a party to the within action; my business address is 9663 Santa Monica Boulevard,
6 Suite 458, Beverly Hills, California 90210.

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

8 **NOTICE OF MOTION AND MOTION TO COMPEL RESPONSES TO**
9 **DEFENDANT MICHAEL PIERATTINI'S FORM INTERROGATORIES TO**
10 **PLAINTIFF JOSE DECASTRO, SET ONE, AND REQUEST FOR MONETARY**
11 **SANCTIONS AGAINST PLAINTIFF IN THE SUM OF \$4,560.00;**
12 **MEMORANDUM OF POINTS AND AUTHORITIES**

13 on the interested parties to this action addressed as follows:

14 Jose DeCastro
15 1258 Franklin Street
16 Santa Monica, CA 90404
17 chille@situationcreator.com

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

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

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

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

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


R. Paul Katrinak