

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

Electronically FILED by
Superior Court of California,
County of Los Angeles
3/15/2024 12:53 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By A. Mejia, Deputy Clerk

Attorneys for Defendant
Michael Pierattini

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF LOS ANGELES

9 JOSE DECASTRO,)
10)
11 Plaintiff,)
12)
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 III, Dept. O
**DECLARATION OF R. PAUL KATRINAK
IN SUPPORT OF DEFENDANT
MICHAEL PIERATTINI'S MOTION FOR
SANCTIONS NOT LESS THAN \$10,410.00
AGAINST PLAINTIFF**
Date: May 7, 2024
Time: 8:30 a.m.
Dept: O

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

DECLARATION OF R. PAUL KATRINAK

I, R. Paul Katrinak, declare as follows:

1. I am an attorney duly licensed to practice law before all courts of the State of California. My law firm is counsel for Defendant Michael Pierattini (“Mr. Pierattini”) in this action. The following facts are within my personal knowledge and, if called as a witness herein, I can and will competently testify thereto.

2. On January 2, 2024, I timely filed and served Plaintiff with Mr. Pierattini’s Amended Answer. Attached hereto as Exhibit “A” is a true and correct copy of my email to Plaintiff serving him with Mr. Pierattini’s Amended Answer on January 2, 2024.

3. On January 10, 2024, I sent an email to Plaintiff stating that I still did not understand the basis for his suit against Mr. Pierattini, and that I had alleged as many facts as possible based on Plaintiff’s vague Complaint. I further stated that I would be available to meet and confer with Plaintiff on January 16, 2024. Attached hereto as Exhibit “B” is a true and correct copy of my email to Plaintiff sent on January 10, 2024.

4. On January 16, 2024, I sent an email to Plaintiff stating that I would have to postpone our scheduled meet and confer phone call to the next day due to an emergency matter. Attached hereto as Exhibit “C” is a true and correct copy of my email to Plaintiff sent on January 16, 2024.

5. On January 17, 2024, I sent an email to Plaintiff attempting to meet and confer with Plaintiff regarding my client’s first amended answer. I did not receive any voicemails from Plaintiff. The email explained the legal basis for my client’s position regarding the Amended Answer, and requested that Plaintiff explain in detail how he disagreed with the case law I provided. The email also stated that further attempts to meet and confer would need to be done in writing given the history of the case. Attached hereto as Exhibit “D” is a true and correct copy of my email to Plaintiff sent on January 17, 2024.

6. On January 24, 2024, I again emailed Plaintiff in an attempt to meet and confer regarding his alleged misgivings with my client’s Amended Answer. I explained that Plaintiff had no basis to file a demurrer, and again requested that he explain his position with supporting

1 authorities. Attached hereto as Exhibit “E” is a true and correct copy of my email to Plaintiff
2 sent on January 24, 2024.

3 7. On January 26, 2024, I sent an email to Plaintiff notifying him that his time to
4 file a demurrer had expired. I also again explained that Plaintiff had failed to provide any legal
5 authority to support his position, and that I had given Plaintiff as many facts as I could have
6 given the ambiguous nature of his claims against my client. Attached hereto as Exhibit “F” is a
7 true and correct copy of my email to Plaintiff sent on January 26, 2024.

8 8. On January 31, 2024, Plaintiff filed his frivolous Demurrer well past the
9 deadline to do so, and without having satisfied his meet and confer obligations. Attached
10 hereto as Exhibit “G” is a true and correct copy of Plaintiff’s Demurrer to Mr. Pierattini’s
11 Amended Answer.

12 9. On February 20, 2024, I served a copy of the concurrently filed Motion for
13 Sanctions on Plaintiff at least 21 days before filing it with this Court in compliance with the
14 “safe harbor” provisions of Code of Civil Procedure Section 128.7(c). Attached hereto as
15 Exhibit “H” is a true and correct copy of my email to Plaintiff sent on February 20, 2024,
16 serving Plaintiff with a copy of the Motion for Sanctions.

17 10. I anticipate spending no less than 15.0 hours preparing this Motion opposing
18 Plaintiff’s frivolous Demurrer, researching the issues, preparing the memorandum of points &
19 authorities, and preparing this declaration and the supporting exhibits. I anticipate spending no
20 less than 5.0 hours on a Reply and no less than an additional 3.0 hours for attending the hearing
21 on this matter, for a total of no less than 23.0 hours. My hourly rate is typically \$745 an hour. I
22 have reduced my hourly rate to \$450 an hour, which this court has consistently given for my
23 hourly rate. My hourly rate of \$450 an hour is reasonable.

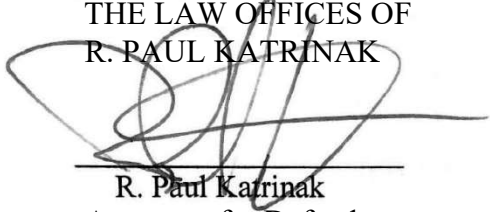
24 11. I have the requisite skill, training, and experience to testify as to how these
25 matters are typically handled and attempts to deviate therefrom. The cost of this motion is
26 \$60.00. Thus, my client should be reimbursed a total of no less than \$10,410.00 for this
27 Motion.

28 ///

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3
4 DATED: February 20, 2024

5 THE LAW OFFICES OF
6 R. PAUL KATRINAK



7 R. Paul Katrinak
8 Attorneys for Defendant
9 Michael Pierattini

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

EXHIBIT A



Paul Katrinak <katrinaklaw@gmail.com>

First Amended Answer

1 message

Paul Katrinak <katrinaklaw@gmail.com>
To: lamAlaskan@gmail.com

Tue, Jan 2, 2024 at 6:55 PM

See attached.

--

Paul Katrinak
Law Offices of R. Paul Katrinak
9663 Santa Monica Blvd., 458
Beverly Hills, California 90210
Tel: (310) 990-4348
Fax: (310) 921-5398

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 **PIERATTINI First Amended Answer.pdf**
193K

EXHIBIT B



Paul Katrinak <katrinaklaw@gmail.com>

Meet and Confer on Plaintiff's Second Motion to Strike Pierattini's Answer

Paul Katrinak <katrinaklaw@gmail.com>
To: Chille DeCastro <chille@situationcreator.com>

Wed, Jan 10, 2024 at 7:28 PM

Dear Mr. DeCastro,

As I have repeatedly said, I have no idea what the basis is of your claims against Mr. Pierattini. I have alleged as many facts as I can based on your absurdly ambiguous complaint. I find it astounding that you sent this email in light of the fact that you have not responded to any discovery or provided any documents to support any claim against Mr. Pierattini.

That being said, I can meet and confer on Tuesday January 16, 2023. I am unavailable for a call until then.

Very Truly Yours,

Paul Katrinak

[Quoted text hidden]

--

Paul Katrinak

Law Offices of R. Paul Katrinak

9663 Santa Monica Blvd., 458

Beverly Hills, California 90210

Tel: (310) 990-4348

Fax: (310) 921-5398

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EXHIBIT C



Paul Katrinak <katrinaklaw@gmail.com>

Meet and Confer on Plaintiff's Second Motion to Strike Pierattini's Answer

Paul Katrinak <katrinaklaw@gmail.com>
To: Chille DeCastro <chille@situationcreator.com>

Tue, Jan 16, 2024 at 12:45 PM

Dear Mr. DeCastro,

I unfortunately have an emergency matter that I have to deal with. Can we push the call to tomorrow at 2:00 p.m.

Thanks.

Very Truly Yours,

Paul Katrinak
[Quoted text hidden]

EXHIBIT D



Paul Katrinak <katrinaklaw@gmail.com>

Meet and confer on your demurrer

Paul Katrinak <katrinaklaw@gmail.com>
To: Chille DeCastro <chille@situationcreator.com>

Wed, Jan 17, 2024 at 10:15 AM

Dear Mr. DeCastro,

I went back over the answer and I believe that I have factually plead what I need to other than things that are not new matters.

In particular, I do not see how the affirmative defenses are new matters.

A general denial is effective to controvert all material allegations of an unverified complaint. (CCP § 431.30, subd.(d).)

Generally, a defendant bears the burden of proving “new matter” and, as such, the underlying facts must be specifically pleaded in the answer. (California Academy of Sciences v. County of Fresno (1987) 192 Cal.App.3d 1436, 1442.)

The phrase “new matter” refers to something relied on by a defendant which is not put in issue by the plaintiff. (Walsh v. West Valley Mission Community College District (1998) 66 Cal.App.4th 1532, 1546.) The basic consideration is whether the matters of defense are responsive to the essential allegations of the complaint, i.e., whether they are contradicting elements of plaintiff’s cause of action or whether they tender a new issue, in which case the burden of proof is upon the defendant as to the allegation constituting such new matter. (Cahil Bros., Inc. v. Clementina Co. (1962) 208 Cal.App.2d 367, 385.)

A defense which negates an essential allegation in the complaint does not constitute a new matter, and therefore, need not be specifically pled by the defendant. (Statefarm Mutual Auto. Ins. Co. v. Superior Court (1991) 228 Cal.App.3d 721, 725.)

Each of the defenses negate an essential element of Plaintiff’s claims and are therefore not “new matter” that require fact pleading.

Please explain in detail how you disagree with cases that I can read.

In light of the history in this case, we feel that we need to meet and confer in writing. Please send me your positions as to the defects in the Answer.

Very Truly Yours,

Paul Katrinak

--

Paul Katrinak
Law Offices of R. Paul Katrinak
9663 Santa Monica Blvd., 458
Beverly Hills, California 90210
Tel: (310) 990-4348
Fax: (310) 921-5398

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2/16/24, 11:55 AM

Gmail - Meet and confer on your demurrer

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EXHIBIT E



Paul Katrinak <katrinaklaw@gmail.com>

Meet and confer on your demurrer

Paul Katrinak <katrinaklaw@gmail.com>
To: Chille DeCastro <chille@situationcreator.com>

Wed, Jan 24, 2024 at 8:07 PM

Dear Mr. DeCastro,

Again, I asked you to explain how I did not plead facts to support the affirmative defenses in writing. You have not explained your position at all, nor provided any legal authority for your position. That does not meet the requirement of meeting and conferring and I will seek sanctions from the judge for your failure to meet and confer.

There is no basis to file a demurrer to the amended answer. Explain your position with authorities.

Very Truly Yours,

Paul Katrinak
[Quoted text hidden]

EXHIBIT F



Paul Katrinak <katrinaklaw@gmail.com>

Meet and confer on your demurrer

Paul Katrinak <katrinaklaw@gmail.com>
To: Chille DeCastro <chille@situationcreator.com>

Fri, Jan 26, 2024 at 10:07 AM

Dear Mr. DeCastro,

I just looked and the time expired for you to file another demurrer. Your deadline expired on January 14, 2024. CCP Section 430.40(b), You cannot file another frivolous demurrer. In any event you have not provided any legal authority for you position. You keep referring to "my complaint." I represent a defendant in a frivolous lawsuit and I filed an answer. Maybe that is where the confusion lies.

You keep asking for additional facts and I do not understand what more facts I can say. 99% of your Complaint is targeted to other defendants. I keep asking you when you will serve them and you ignore me. I keep asking you for the basis of any liability of Mr. Pierantini and you ignore me. I served discovery to ascertain any potential liability of Mr. Pierantini and you refused to respond. I have given you as many facts as I can.

The last demurrer that you served went into my junk mail. I thought the issue was resolved and did not check my junk mail. That will not happen again.

I trust this resolves the issue. If it does not, let me know.

Very Truly Yours,

Paul Katrinak
[Quoted text hidden]

EXHIBIT G

1 Jose DeCastro
1258 Franklin St.
2 Santa Monica, CA 90404
310-963-2445
3 iamalaskan@gmail.com
In Pro Per
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8 **SUPERIOR COURT OF CALIFORNIA**

9 **COUNTY OF LOS ANGELES**

10
11 JOSE DECASTRO

12 Plaintiff,

13 vs.

14 KATHERINE PETER, et al.

15 Defendants.

) Case No.: 23SMCV00538
)
)

) **PLAINTIFF’S NOTICE OF HEARING ON**
) **DEMURRER; PLAINTIFF’S DEMURRER**
) **TO DEFENDANT PIERATTINI’S**
) **AMENDED ANSWER; DECLARATION OF**
) **MEET AND CONFER;**
) **(TELEPHONE APPEARANCE)**

) Judge: Hone. H. Jay Ford III
)
)

) Date: June 4, 2024

) Time: 8:30 am

) Department: O

) **RES ID: 774528882558**

18 **NOTICE OF HEARING ON DEMURRER**

19 NOTICE IS HEREBY GIVEN that Plaintiff Jose DeCastro (“Plaintiff”)’s Demurrer, which is
20 set forth below, to Defendant Michael Pierattini (“Pierattini”)’s Amended Answer (“Answer”) filed
21 on January 2, 2024, has been set for hearing on June 4, 2024, at 8:30 am, or as soon thereafter as the
22 matter may be heard, in the courtroom of Department O of the above-entitled court, located at Santa
23 Monica Courthouse, 1725 Main Street, Room 102, Santa Monica, California.

24 Plaintiff demurs to the Answer on each of the grounds set forth below. The Demurrer is based
25

1 on this Notice of Hearing on Demurrer, on the supporting Memorandum of Points and Authorities,
2 and Declaration of Meet and Confer served and filed concurrently and incorporated here, records in
3 this action, on the oral argument of counsel, if any, and on such other and further evidence as the
4 Court might deem proper.

5 **PLAINTIFF’S DEMURRER TO DEFENDANT PIERATTINI’S AMENDED ANSWER**

6 **Demurrer to all Affirmative Defenses and the prayer for relief in the Answer,**

7 1. Plaintiff’s Demurrer was technically due January 15, 2024. However, Plaintiff files this
8 demurrer late due to a failure to substantially meet and confer that was not the fault of Plaintiff,
9 qualifying for a 30 day extension under Code of Civil Procedure § 430.21(a)(2). Additionally,
10 Pierattini’s counsel never served Plaintiff with his second answer that was filed January 2, 2024.
11 Finally, Plaintiff requests that this Court rule on the demurrer, in its discretion, in the interest of
12 justice and because it does not prejudice any party.

13 2. Plaintiff demurs under Code of Civil Procedure § 430.20(a) because the answer contains no
14 new matter constituting an affirmative defense and includes a prayer for affirmative relief.

15 3. Esecientially Pierattini has refiled the same answer that this court previously found did not
16 meet pleading standards. Pierattini filed an answer with “affirmative defenses” but without sufficient
17 facts to put Plaintiff on notice to any affirmative defenses. Plaintiff filed a demurrer, which was
18 sustained by this court. Pierattini amended the answer by adding random jabs at Plaintiff’s character
19 and legal conclusions. As a result, Pierattini’s amended answer also fails to give notice to Plaintiff,
20 and was filed for no reason other than to harass Plaintiff.

21 4. Plaintiff prays that Plaintiff’s Demurrer be sustained with leave for Defendant to amend.

22 **MEMORANDUM OF POINTS AND AUTHORITIES**

23 **A. Reason for untimeliness.** On December 5, 2023, this court gave Pierattini 20 days to
24 amend his complaint, making it due on December 26, 2023. Plaintiff checked the record for
25 approximately a week and stopped looking. Pierattini surprisingly filed his amended answer on

1 January 2, 2024 and did not properly serve Plaintiff with the amended answer.

2 January 9, 2024, Plaintiff discovered that the amended answer was filed while looking at the
3 record after sending timely objections to Pierattini's discovery requests.

4 January 10, 2024, Plaintiff emailed Defendant's counsel, raising issues with the answer and
5 asking if he would amend it and if he could jump on the phone about it (**Exhibit 1**). Pierattini's
6 counsel said that he couldn't meet until January 16, 2024 (**Exhibit 2**).

7 January 16, 2024, Pierattini's counsel emailed an hour before our scheduled call that he
8 couldn't take the call due to an emergency (**Exhibit 3**). Plaintiff left several voicemails for
9 Pierattini's counsel over the next week.

10 January 23, 2024, Plaintiff emailed Pierattini's counsel with the basic issues regarding the
11 amended answer, that they have only added legal conclusions and that the law is the same as I cited
12 in my first demurrer. (**Exhibit 4**).

13 January 24, 2024, Pierattini's counsel said in an email "Again, I asked you to explain how I did
14 not plead facts to support the affirmative defenses in writing. You have not explained your position
15 at all, nor provided any legal authority for your position. That does not meet the requirement of
16 meeting and conferring and I will seek sanctions from the judge for your failure to meet and confer."
17 Ironically, after he failed to meet and confer. (**Exhibit 5**).

18 January 24, 2024, Plaintiff emailed Pierattini's counsel in verbose to try to make him happy
19 and offer him until January 31 before I file my demurrer so that he can amend his answer. (**Exhibit**
20 **6**).

21 January 25, 2024, Pierattini's counsel files 300 pages of motions to compel, without first
22 meeting to confer, without first scheduling an IDC, completely misunderstanding the difference
23 between a mailing address and a residence, and including discovery responses marked confidential,
24 violating the protective order in this action.

25 January 26, 2024, Pierattini's counsel only responds back to write that his delay tactics have

1 been successful, and that it's too late for Plaintiff to file a demurrer. Pierattini's counsel is still
2 unfamiliar with Code of Civil Procedure § 430.21(a)(2). (**Exhibit 7**).

3 Parties were unable to meet and confer, due to no fault of Plaintiff, supported by the attached
4 Declaration.

5 Notice also that 1) Pierattini's counsel doesn't mention discovery at all during our emails,
6 which Plaintiff had hoped to discuss with him on the phone; 2) He never mentions the alleged
7 "letter" that he claims to have sent to Plaintiff regarding any discovery objections; 3) He has failed
8 to provide discovery responses.

9 Courts in this district have exercised their discretion to rule on late demurrers in the interest of
10 justice where there is no evidence that a late demurrer would adversely affect a party's rights.
11 *Bakhtiar v. Cvs Pharm.*, 2023 Cal. Super. LEXIS 3857, *10. Additionally, ruling on the demurrer
12 will allow Defendant opportunity to amend their Answer without requesting leave, which is in the
13 interest of justice.

14 However, Plaintiff files this demurrer late due to a failure to substantially meet and confer that
15 was not the fault of Plaintiff, qualifying for a 30 day extension under Code of Civil Procedure §
16 430.21(a)(2).

17 **B. The general demurrer to the answer should be sustained because the answer contains**
18 **no new matter constituting an affirmative defense.**

19 **Objection by Demurrer.** A party against whom an answer has been filed may object to it by
20 demurrer on the ground that it fails to state facts sufficient to constitute a defense when the ground of
21 objection appears on the face of the answer [or from any matter of which the court is required to or
22 may take judicial notice] (Code Civ. Proc. §§ 430.20(a), 430.30(a)).

23 **Affirmative defenses must be pled with facts.** *Quantification Settlement Agreement Cases*,
24 201 Cal. App. 4th 758, 812-13, 134 Cal. Rptr. 3d 274, 319 (2011); *Peregrine Funding, Inc. v.*
25 *Sheppard Mullin Richter & Hampton LLP*, 133 Cal. App. 4th 658, 676, 35 Cal. Rptr. 3d 31, 44

1 (2005).

2 Here, none of Defendant's affirmative defenses (Answer, 2:13 – 9:1) are pled with facts and
3 they should all be denied. Additionally, Defendant denies having to prove affirmative defenses at
4 Answer, 2:14-16. An affirmative defense is a defense that must be proved by the Defendant.

5 **C. Affirmative relief.** Defendant's tenth affirmative defense (Answer, ¶7) is a request for
6 affirmative relief, which is not allowed in an answer under CCP §431.30(c).

7 Defendant's prayer for relief (Answer, 8:27-28) also contains requests for affirmative relief,
8 which are not allowed in an answer under CCP §431.30(c).

9 **CONCLUSION**

10 Based on the foregoing, Plaintiff respectfully requests that this Court sustain Defendant's
11 Demurrer with leave to amend.

12 DATED: January 31, 2024

Respectfully submitted,

13 /s/ Jose DeCastro
14 Jose DeCastro
In Pro Per

15 **CERTIFICATE OF SERVICE**

16 On this day, Plaintiff has sent copies to the only participating defendants by email to Paul
17 Katrinak, attorney for Defendant at katrinaklaw@gmail.com.

18 DATED: January 31, 2024

Respectfully submitted,

19 /s/ Jose DeCastro
20 Jose DeCastro
21 In Pro Per

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DECLARATION OF MEET AND CONFER BY JOSE DECASTRO

Defendant filed his late Amended Answer on January 2, 2023 and did not notice Plaintiff.

January 10, 2024, Plaintiff emailed Defendant’s counsel, raising issues with the answer and asking if he would amend it and if he could jump on the phone about it (Exhibit 1). Pierattini’s counsel said that he couldn’t meet until January 16, 2024 (Exhibit 2).

January 16, 2024, Pierattini’s counsel emailed an hour before our scheduled call that he couldn’t take the call due to an emergency (Exhibit 3). Plaintiff left several voicemails for Pierattini’s counsel over the next week.

January 23,2024, Plaintiff emailed Pierattini’s counsel with the basic issues regarding the amended answer, that they have only added legal conclusions and that the law is the same as I cited in my first demurrer. (Exhibit 4).

January 24, 2024, Pierattini’s counsel said in an email “Again, I asked you to explain how I did not plead facts to support the affirmative defenses in writing. You have not explained your position at all, nor provided any legal authority for your position. That does not meet the requirement of meeting and conferring and I will seek sanctions from the judge for your failure to meet and confer.” Ironically, after he failed to meet and confer. (Exhibit 5).

January 24, 2024, Plaintiff emailed Pierattini’s counsel in verbose to try to make him happy and offer him until January 31 before I file my demurrer so that he can amend his answer. (Exhibit 6).

January 26, 2024, Pierattini’s counsel only responds back to write that his delay tactics have been successful, and that it’s too late for Plaintiff to file a demurrer. Pierattini’s counsel is still unfamiliar with Code of Civil Procedure § 430.21(a)(2). (Exhibit 7).

I declare under penalty of perjury under the laws of the State of California that the foregoing is

1 true and correct. Executed this 31st day of January, 2024.

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/s/ Jose DeCastro

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EXHIBIT 1



Chille DeCastro <chille@situationcreator.com>

Meet and Confer on Plaintiff's Second Motion to Strike Pierattini's Answer

1 message

Chille DeCastro <chille@situationcreator.com>
To: Paul Katrinak <pkatrinak@kernanlaw.net>

Wed, Jan 10, 2024 at 2:45 PM

Mr. Katrinak,

Would you be willing to schedule a call to discuss the latest answer that you filed for Mr. Pierattini?

My biggest issue with it is that I had stated that it was missing facts sufficient to put me on notice for the affirmative defenses. The affirmative defenses continue to do that with conclusory statements instead of factual ones.

Respectfully,
Chille DeCastro

EXHIBIT 2



Chille DeCastro <chille@situationcreator.com>

Re: Meet and Confer on Plaintiff's Second Motion to Strike Pierattini's Answer

1 message

Paul Katrinak <katrinaklaw@gmail.com>
To: Chille DeCastro <chille@situationcreator.com>

Wed, Jan 10, 2024 at 7:28 PM

Dear Mr. DeCastro,

As I have repeatedly said, I have no idea what the basis is of your claims against Mr. Pierattini. I have alleged as many facts as I can based on your absurdly ambiguous complaint. I find it astounding that you sent this email in light of the fact that you have not responded to any discovery or provided any documents to support any claim against Mr. Pierattini.

That being said, I can meet and confer on Tuesday January 16, 2023. I am unavailable for a call until then.

Very Truly Yours,

Paul Katrinak

On Wed, Jan 10, 2024 at 2:45 PM Chille DeCastro <chille@situationcreator.com> wrote:

Mr. Katrinak,

Would you be willing to schedule a call to discuss the latest answer that you filed for Mr. Pierattini?

My biggest issue with it is that I had stated that it was missing facts sufficient to put me on notice for the affirmative defenses. The affirmative defenses continue to do that with conclusory statements instead of factual ones.

Respectfully,
Chille DeCastro

--

Paul Katrinak
Law Offices of R. Paul Katrinak
[9663 Santa Monica Blvd.](#), 458
Beverly Hills, California 90210
Tel: (310) 990-4348
Fax: (310) 921-5398

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EXHIBIT 3



Chille DeCastro <chille@situationcreator.com>

Re: Meet and Confer on Plaintiff's Second Motion to Strike Pierattini's Answer

1 message

Paul Katrinak <katrinaklaw@gmail.com>
To: Chille DeCastro <chille@situationcreator.com>

Tue, Jan 16, 2024 at 12:45 PM

Dear Mr. DeCastro,

I unfortunately have an emergency matter that I have to deal with. Can we push the call to tomorrow at 2:00 p.m.

Thanks.

Very Truly Yours,

Paul Katrinak

On Thu, Jan 11, 2024 at 7:25 PM Paul Katrinak <katrinaklaw@gmail.com> wrote:
Yes.

On Thu, Jan 11, 2024 at 1:44 PM Chille DeCastro <chille@situationcreator.com> wrote:
Mr. Katrinak,

Thank you for finding the time in your schedule.

Can I call you at 2p on 1/16?

-JD

On Wed, Jan 10, 2024 at 7:28 PM Paul Katrinak <katrinaklaw@gmail.com> wrote:
Dear Mr. DeCastro,

As I have repeatedly said, I have no idea what the basis is of your claims against Mr. Pierattini. I have alleged as many facts as I can based on your absurdly ambiguous complaint. I find it astounding that you sent this email in light of the fact that you have not responded to any discovery or provided any documents to support any claim against Mr. Pierattini.

That being said, I can meet and confer on Tuesday January 16, 2023. I am unavailable for a call until then.

Very Truly Yours,

Paul Katrinak

On Wed, Jan 10, 2024 at 2:45 PM Chille DeCastro <chille@situationcreator.com> wrote:
Mr. Katrinak,

Would you be willing to schedule a call to discuss the latest answer that you filed for Mr. Pierattini?

My biggest issue with it is that I had stated that it was missing facts sufficient to put me on notice for the affirmative defenses. The affirmative defenses continue to do that with conclusory statements instead of factual ones.

Respectfully,
Chille DeCastro

--

Paul Katrinak
Law Offices of R. Paul Katrinak

9663 Santa Monica Blvd., 458
Beverly Hills, California 90210
Tel: (310) 990-4348
Fax: (310) 921-5398

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EXHIBIT 4



Chille DeCastro <chille@situationcreator.com>

Re: Meet and confer on your demurrer

1 message

Chille DeCastro <chille@situationcreator.com>
To: Paul Katrinak <katrinaklaw@gmail.com>

Tue, Jan 23, 2024 at 10:51 PM

Mr. Katrinak,

I'm not talking about the general denials. Your denials where you just say "I didn't do it", then you don't need to be specific. Where you say "Maybe I did it, but I'm not liable because of fact A and fact B", also known as affirmative defenses, those defenses must be argued with specificity. You need to say what facts A and B are. You can't just say "Chille has unclean hands" or "Plaintiff has a long history of filing frivolous complaints". As I'm sure you're aware, those are conclusory statements. Are you letting Pierattini write these?

The law is still the same as I cited in my first motion to strike your first answer.

I will be filing another motion to strike this Friday.

On Wed, Jan 17, 2024 at 10:15 AM Paul Katrinak <katrinaklaw@gmail.com> wrote:

Dear Mr. DeCastro,

I went back over the answer and I believe that I have factually plead what I need to other than things that are not new matters.

In particular, I do not see how the affirmative defenses are new matters.

A general denial is effective to controvert all material allegations of an unverified complaint. (CCP § 431.30, subd.(d).)

Generally, a defendant bears the burden of proving "new matter" and, as such, the underlying facts must be specifically pleaded in the answer. (California Academy of Sciences v. County of Fresno (1987) 192 Cal.App.3d 1436, 1442.)

The phrase "new matter" refers to something relied on by a defendant which is not put in issue by the plaintiff. (Walsh v. West Valley Mission Community College District (1998) 66 Cal.App.4th 1532, 1546.) The basic consideration is whether the matters of defense are responsive to the essential allegations of the complaint, i.e., whether they are contradicting elements of plaintiff's cause of action or whether they tender a new issue, in which case the burden of proof is upon the defendant as to the allegation constituting such new matter. (Cahil Bros., Inc. v. Clementina Co. (1962) 208 Cal.App.2d 367, 385.)

A defense which negates an essential allegation in the complaint does not constitute a new matter, and therefore, need not be specifically pled by the defendant. (Statefarm Mutual Auto. Ins. Co. v. Superior Court (1991) 228 Cal.App.3d 721, 725.)

Each of the defenses negate an essential element of Plaintiff's claims and are therefore not "new matter" that require fact pleading.

Please explain in detail how you disagree with cases that I can read.

In light of the history in this case, we feel that we need to meet and confer in writing. Please send me your positions as to the defects in the Answer.

Very Truly Yours,

Paul Katrinak

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EXHIBIT 5



Re: Meet and confer on your demurrer

1 message

Paul Katrinak <katrinaklaw@gmail.com>
To: Chille DeCastro <chille@situationcreator.com>

Wed, Jan 24, 2024 at 8:07 PM

Dear Mr. DeCastro,

Again, I asked you to explain how I did not plead facts to support the affirmative defenses in writing. You have not explained your position at all, nor provided any legal authority for your position. That does not meet the requirement of meeting and conferring and I will seek sanctions from the judge for your failure to meet and confer.

There is no basis to file a demurrer to the amended answer. Explain your position with authorities.

Very Truly Yours,

Paul Katrinak

On Tue, Jan 23, 2024 at 10:51 PM Chille DeCastro <chille@situationcreator.com> wrote:

Mr. Katrinak,

I'm not talking about the general denials. Your denials where you just say "I didn't do it", then you don't need to be specific. Where you say "Maybe I did it, but I'm not liable because of fact A and fact B", also known as affirmative defenses, those defenses must be argued with specificity. You need to say what facts A and B are. You can't just say "Chille has unclean hands" or "Plaintiff has a long history of filing frivolous complaints". As I'm sure you're aware, those are conclusory statements. Are you letting Pierattini write these?

The law is still the same as I cited in my first motion to strike your first answer.

I will be filing another motion to strike this Friday.

On Wed, Jan 17, 2024 at 10:15 AM Paul Katrinak <katrinaklaw@gmail.com> wrote:

Dear Mr. DeCastro,

I went back over the answer and I believe that I have factually plead what I need to other than things that are not new matters.

In particular, I do not see how the affirmative defenses are new matters.

A general denial is effective to controvert all material allegations of an unverified complaint. (CCP § 431.30, subd.(d).)

Generally, a defendant bears the burden of proving "new matter" and, as such, the underlying facts must be specifically pleaded in the answer. (California Academy of Sciences v. County of Fresno (1987) 192 Cal.App.3d 1436, 1442.)

The phrase "new matter" refers to something relied on by a defendant which is not put in issue by the plaintiff. (Walsh v. West Valley Mission Community College District (1998) 66 Cal.App.4th 1532, 1546.) The basic consideration is whether the matters of defense are responsive to the essential allegations of the complaint, i.e., whether they are contradicting elements of plaintiff's cause of action or whether they tender a new issue, in which case the burden of proof is upon the defendant as to the allegation constituting such new matter. (Cahil Bros., Inc. v. Clementina Co. (1962) 208 Cal.App.2d 367, 385.)

A defense which negates an essential allegation in the complaint does not constitute a new matter, and therefore, need not be specifically pled by the defendant. (Statefarm Mutual Auto. Ins. Co. v. Superior Court (1991) 228 Cal.App.3d 721, 725.)

Each of the defenses negate an essential element of Plaintiff's claims and are therefore not "new matter" that require fact pleading.

Please explain in detail how you disagree with cases that I can read.

In light of the history in this case, we feel that we need to meet and confer in writing. Please send me your positions as to the defects in the Answer.

Very Truly Yours,

Paul Katrinak

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EXHIBIT 6



Re: Meet and confer on your demurrer

1 message

Chille DeCastro <chille@situationcreator.com>
To: Paul Katrinak <katrinaklaw@gmail.com>

Thu, Jan 25, 2024 at 12:08 PM

Mr. Katrinak,

As I said in my example. You actually plead "Plaintiff has a long history of filing frivolous complaints". That is not a fact. That is a legal conclusion. There are no facts in any of your affirmative defenses.

I did point you to the legal authority from my previous demurrer, as it hasn't changed. However, let me copy and paste that for you. I'll modify the references to match the amended complaint.

-- begin --

A party against whom an answer has been filed may object to it by demurrer on the ground that it fails to state facts sufficient to constitute a defense when the ground of objection appears on the face of the answer [or from any matter of which the court is required to or may take judicial notice] (Code Civ. Proc. §§ 430.20(a), 430.30(a)).

Affirmative defenses must be pled with facts. *Quantification Settlement Agreement Cases*, 201 Cal. App. 4th 758, 812-13, 134 Cal. Rptr. 3d 274, 319 (2011); *Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP*, 133 Cal. App. 4th 658, 676, 35 Cal. Rptr. 3d 31, 44 (2005).

Additionally, Defendant denies having to prove affirmative defenses at Answer, 2:14-16. An affirmative defense is a defense that must be proved by the Defendant.

Defendant's tenth affirmative defense (Answer, ¶7) is a request for affirmative relief, which is not allowed in an answer under CCP §431.30(c).

Defendant's prayer for relief (Answer, 8:27-28) also contains requests for affirmative relief, which are not allowed in an answer under CCP §431.30(c).

-- end --

The only thing you won in my previous demurrer was that the judge is letting you plead your negative defense of failure to state a claim. Everything else needs to be corrected.

I can wait until after Friday, but please let me know by when you would be able to amend your complaint, before January 31.

Here are all of your conclusory statements lacking any facts:

3. As a second separate and distinct affirmative defense, Defendant alleges that Plaintiff has failed to exercise reasonable care and diligence to avoid loss and minimize Plaintiff's alleged damages. In addition, Plaintiff's Complaint is virtually entirely directed to conduct that the other Defendants were allegedly responsible for and not Defendant.

4. As a third separate and distinct affirmative defense, Defendant alleges that Plaintiff is barred from pursuing his claims because of his unclean hands and wrongful conduct. Plaintiff has a long history of filing frivolous complaints and attempting to use the legal system for improper purposes to get innocent defendants, such as Defendant, to incur substantial unnecessary attorney's fees. In addition, Plaintiff has a long history of making false and frivolous claims and false allegations against people in order to harass and intimidate them, such as Defendant.

5. As a fourth separate and distinct affirmative defense, Defendant alleges that any damages suffered as alleged in the First Amended Complaint, if any, was solely the fault of Plaintiff. Based on the allegations of the Complaint and Plaintiff's false narrative about his

alleged history, any alleged damages are the fault of Plaintiff. Plaintiff has a history of making false claims about himself and other people. Additionally, there are basically no facts alleged in Plaintiff's Complaint about any alleged conduct by Defendant that would have caused Plaintiff any damages. All of the conduct alleged by Plaintiff and forming the basis of Plaintiff's Complaint consists of allegations of conduct performed by other individuals and Defendants other than Defendant.

6. As a fifth separate and distinct affirmative defense, Defendant alleges he is not liable for the damages claimed in the First Amended Complaint by Plaintiff and that other persons or entities are solely responsible for Plaintiff's alleged damages. The Complaint describes alleged conduct by other individuals and other Defendants, not alleged conduct by Defendant. The failure of Plaintiff to allege the names and information of the defendants who allegedly defamed him, allegedly stalked him, allegedly harassed him and allegedly assaulted him is a misjoinder of Defendant.

7. As a sixth separate and distinct affirmative defense, Defendant is informed and believes and based thereon alleges that Defendant's liability, if any, is subject to offset of any amounts allegedly due to Plaintiff. Plaintiff has engaged in harassing conduct of Defendant and forced Defendant to file a TRO concerning Plaintiff's harassing conduct. Based on the harassment of Defendant by Plaintiff, Defendant is entitled to an offset.

8. As a seventh separate and distinct affirmative defense, any alleged conduct by Defendant was protected by the First Amendment. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected by the First Amendment and are not actionable.

9. As an eighth separate and distinct affirmative defense, any alleged statements by Defendant about Plaintiff were protected opinion. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant. Since the statements are protected opinion, they would not be actionable.

10. As a ninth separate and distinct affirmative defense, any alleged statements by Defendant about Plaintiff were true. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant, and to the extent any statements are not considered opinion, the statements would be true. The alleged statements are protected opinion and, to the extent they are not considered protected opinion, they are true and would not be actionable.

11. As a tenth separate and distinct affirmative defense, Defendant alleges that Plaintiff suffered no damages based on the allegations of Plaintiff's First Amended Complaint. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. Defendant has no information, nor facts that Plaintiff suffered any damages. In addition, as the statements are fully protected, Defendant cannot be liable for any alleged damages by Plaintiff.

12. As an eleventh separate and distinct affirmative defense, any claims alleged by Plaintiff in the First Amended Complaint are barred by immunity arising out of the Communications Decency Act of 1996 (47 U.S.C. § 230) ("CDA"). While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected since they were posted on the internet by the CDA.

13. As a twelfth, separate and distinct affirmative defense, Defendants allege that Plaintiff's First Amended Complaint fails to state a cause of action sufficient for the imposition of punitive damages in any sum against Defendants. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant, protected as true, protected by the First Amendment and protected by the CDA. Since the statements are not actionable, they certainly would not establish a claim for punitive damages.

14. As a thirteenth, separate and distinct affirmative defense, Defendants allege that Plaintiff is barred from pursuing his claim for punitive damages, because Defendant did not act with malice, oppression or fraud. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant, protected as true, protected by the First Amendment and protected by the CDA. Since the statements are not actionable, they certainly would not establish a claim for punitive damages.

15. As a fourteenth, separate and distinct affirmative defense, Plaintiff's First Amended Complaint for punitive damages is barred by the Due Process and Equal Protection clauses of the Fifth and Fourteenth Amendments to the United States Constitution, as well as by the Due Process, Equal Protection, and excessive fines provisions of the California Constitution. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant, protected as true, protected by the First Amendment and protected by the CDA. Since the statements are not actionable, they certainly would not establish a claim for punitive damages. Additionally, in the context of the allegations against Defendant, punitive damages would be unconstitutional.

16. As a fourteenth, separate and distinct affirmative defense, Defendant alleges that Plaintiff's First Amended Complaint is subject to defenses yet unknown to Defendant at this time. Defendant will amend the answer to allege each additional affirmative defense when the nature of such defense becomes known to Defendant. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant, protected as true, protected by the First Amendment and protected by the CDA.

On Wed, Jan 24, 2024 at 8:07 PM Paul Katrinak <katrinaklaw@gmail.com> wrote:

Dear Mr. DeCastro,

Again, I asked you to explain how I did not plead facts to support the affirmative defenses in writing. You have not explained your position at all, nor provided any legal authority for your position. That does not meet the requirement of meeting and conferring and I will seek sanctions from the judge for your failure to meet and confer.

There is no basis to file a demurrer to the amended answer. Explain your position with authorities.

Very Truly Yours,

Paul Katrinak

On Tue, Jan 23, 2024 at 10:51 PM Chille DeCastro <chille@situationcreator.com> wrote:

Mr. Katrinak,

I'm not talking about the general denials. Your denials where you just say "I didn't do it", then you don't need to be specific. Where you say "Maybe I did it, but I'm not liable because of fact A and fact B", also known as affirmative defenses, those defenses must be argued with specificity. You need to say what facts A and B are. You can't just say "Chille has unclean hands" or "Plaintiff has a long history of filing frivolous complaints". As I'm sure you're aware, those are conclusory statements. Are you letting Pierattini write these?

The law is still the same as I cited in my first motion to strike your first answer.

I will be filing another motion to strike this Friday.

On Wed, Jan 17, 2024 at 10:15 AM Paul Katrinak <katrinaklaw@gmail.com> wrote:

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I went back over the answer and I believe that I have factually plead what I need to other than things that are not new matters.

In particular, I do not see how the affirmative defenses are new matters.

A general denial is effective to controvert all material allegations of an unverified complaint. (CCP § 431.30, subd.(d).)

Generally, a defendant bears the burden of proving “new matter” and, as such, the underlying facts must be specifically pleaded in the answer. (California Academy of Sciences v. County of Fresno (1987) 192 Cal.App.3d 1436, 1442.)

The phrase “new matter” refers to something relied on by a defendant which is not put in issue by the plaintiff. (Walsh v. West Valley Mission Community College District (1998) 66 Cal.App.4th 1532, 1546.) The basic consideration is whether the matters of defense are responsive to the essential allegations of the complaint, i.e., whether they are contradicting elements of plaintiff’s cause of action or whether they tender a new issue, in which case the burden of proof is upon the defendant as to the allegation constituting such new matter. (Cahil Bros., Inc. v. Clementina Co. (1962) 208 Cal.App.2d 367, 385.)

A defense which negates an essential allegation in the complaint does not constitute a new matter, and therefore, need not be specifically pled by the defendant. (Statefarm Mutual Auto. Ins. Co. v. Superior Court (1991) 228 Cal.App.3d 721, 725.)

Each of the defenses negate an essential element of Plaintiff’s claims and are therefore not “new matter” that require fact pleading.

Please explain in detail how you disagree with cases that I can read.

In light of the history in this case, we feel that we need to meet and confer in writing. Please send me your positions as to the defects in the Answer.

Very Truly Yours,

Paul Katrinak

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Thank you.

EXHIBIT 7



Re: Meet and confer on your demurrer

1 message

Paul Katrinak <katrinaklaw@gmail.com>
To: Chille DeCastro <chille@situationcreator.com>

Fri, Jan 26, 2024 at 10:07 AM

Dear Mr. DeCastro,

I just looked and the time expired for you to file another demurrer. Your deadline expired on January 14, 2024. CCP Section 430.40(b), You cannot file another frivolous demurrer. In any event you have not provided any legal authority for you position. You keep referring to "my complaint." I represent a defendant in a frivolous lawsuit and I filed an answer. Maybe that is where the confusion lies.

You keep asking for additional facts and I do not understand what more facts I can say. 99% of your Complaint is targeted to other defendants. I keep asking you when you will serve them and you ignore me. I keep asking you for the basis of any liability of Mr. Pierantini and you ignore me. I served discovery to ascertain any potential liability of Mr. Pierantini and you refused to respond. I have given you as many facts as I can.

The last demurrer that you served went into my junk mail. I thought the issue was resolved and did not check my junk mail. That will not happen again.

I trust this resolves the issue. If it does not, let me know.

Very Truly Yours,

Paul Katrinak

On Thu, Jan 25, 2024 at 12:08 PM Chille DeCastro <chille@situationcreator.com> wrote:
Mr. Katrinak,

As I said in my example. You actually plead "Plaintiff has a long history of filing frivolous complaints". That is not a fact. That is a legal conclusion. There are no facts in any of your affirmative defenses.

I did point you to the legal authority from my previous demurrer, as it hasn't changed. However, let me copy and paste that for you. I'll modify the references to match the amended complaint.

-- begin --

A party against whom an answer has been filed may object to it by demurrer on the ground that it fails to state facts sufficient to constitute a defense when the ground of objection appears on the face of the answer [or from any matter of which the court is required to or may take judicial notice] (Code Civ. Proc. §§ 430.20(a), 430.30(a)).

Affirmative defenses must be pled with facts. *Quantification Settlement Agreement Cases*, 201 Cal. App. 4th 758, 812-13, 134 Cal. Rptr. 3d 274, 319 (2011); *Peregrine Funding, Inc. v. Sheppard Mullin Richter & Hampton LLP*, 133 Cal. App. 4th 658, 676, 35 Cal. Rptr. 3d 31, 44 (2005).

Additionally, Defendant denies having to prove affirmative defenses at Answer, 2:14-16. An affirmative defense is a defense that must be proved by the Defendant.

Defendant's tenth affirmative defense (Answer, ¶7) is a request for affirmative relief, which is not allowed in an answer under CCP §431.30(c).

Defendant's prayer for relief (Answer, 8:27-28) also contains requests for affirmative relief, which are not allowed in an answer under CCP §431.30(c).

-- end --

The only thing you won in my previous demurrer was that the judge is letting you plead your negative defense of failure to state a claim. Everything else needs to be corrected.

I can wait until after Friday, but please let me know by when you would be able to amend your complaint, before January 31.

Here are all of your conclusory statements lacking any facts:

3. As a second separate and distinct affirmative defense, Defendant alleges that Plaintiff has failed to exercise reasonable care and diligence to avoid loss and minimize Plaintiff's alleged damages. In addition, Plaintiff's Complaint is virtually entirely directed to conduct that the other Defendants were allegedly responsible for and not Defendant.

4. As a third separate and distinct affirmative defense, Defendant alleges that Plaintiff is barred from pursuing his claims because of his unclean hands and wrongful conduct. Plaintiff has a long history of filing frivolous complaints and attempting to use the legal system for improper purposes to get innocent defendants, such as Defendant, to incur substantial unnecessary attorney's fees. In addition, Plaintiff has a long history of making false and frivolous claims and false allegations against people in order to harass and intimidate them, such as Defendant.

5. As a fourth separate and distinct affirmative defense, Defendant alleges that any damages suffered as alleged in the First Amended Complaint, if any, was solely the fault of Plaintiff. Based on the allegations of the Complaint and Plaintiff's false narrative about his alleged history, any alleged damages are the fault of Plaintiff. Plaintiff has a history of making false claims about himself and other people. Additionally, there are basically no facts alleged in Plaintiff's Complaint about any alleged conduct by Defendant that would have caused Plaintiff any damages. All of the conduct alleged by Plaintiff and forming the basis of Plaintiff's Complaint consists of allegations of conduct performed by other individuals and Defendants other than Defendant.

6. As a fifth separate and distinct affirmative defense, Defendant alleges he is not liable for the damages claimed in the First Amended Complaint by Plaintiff and that other persons or entities are solely responsible for Plaintiff's alleged damages. The Complaint describes alleged conduct by other individuals and other Defendants, not alleged conduct by Defendant. The failure of Plaintiff to allege the names and information of the defendants who allegedly defamed him, allegedly stalked him, allegedly harassed him and allegedly assaulted him is a misjoinder of Defendant.

7. As a sixth separate and distinct affirmative defense, Defendant is informed and believes and based thereon alleges that Defendant's liability, if any, is subject to offset of any amounts allegedly due to Plaintiff. Plaintiff has engaged in harassing conduct of Defendant and forced Defendant to file a TRO concerning Plaintiff's harassing conduct. Based on the harassment of Defendant by Plaintiff, Defendant is entitled to an offset.

8. As a seventh separate and distinct affirmative defense, any alleged conduct by Defendant was protected by the First Amendment. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected by the First Amendment and are not actionable.

9. As an eighth separate and distinct affirmative defense, any alleged statements by Defendant about Plaintiff were protected opinion. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant. Since the statements are protected opinion, they would not be actionable.

10. As a ninth separate and distinct affirmative defense, any alleged statements by Defendant about Plaintiff were true. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant, and to the extent any statements are not considered opinion, the statements would be true. The alleged statements are protected opinion and, to the extent they are not considered protected opinion, they are true and would not be actionable.

11. As a tenth separate and distinct affirmative defense, Defendant alleges that Plaintiff suffered no damages based on the allegations of Plaintiff's First Amended Complaint. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. Defendant has no information, nor facts that Plaintiff suffered any damages. In addition, as the statements are fully protected, Defendant cannot be liable for any alleged damages by Plaintiff.

12. As an eleventh separate and distinct affirmative defense, any claims alleged by Plaintiff in the First Amended Complaint are barred by immunity arising out of the Communications Decency Act of 1996 (47 U.S.C. § 230) ("CDA"). While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected since they were posted on the internet by the CDA.

13. As a twelfth, separate and distinct affirmative defense, Defendants allege that Plaintiff's First Amended Complaint fails to state a cause of action sufficient for the imposition of punitive damages in any sum against Defendants. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant, protected as true, protected by the First Amendment and protected by the CDA. Since the statements are not actionable, they certainly would not establish a claim for punitive damages.

14. As a thirteenth, separate and distinct affirmative defense, Defendants allege that Plaintiff is barred from pursuing his claim for punitive damages, because Defendant did not act with malice, oppression or fraud. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant, protected as true, protected by the First Amendment and protected by the CDA. Since the statements are not actionable, they certainly would not establish a claim for punitive damages.

15. As a fourteenth, separate and distinct affirmative defense, Plaintiff's First Amended Complaint for punitive damages is barred by the Due Process and Equal Protection clauses of the Fifth and Fourteenth Amendments to the United States Constitution, as well as by the Due Process, Equal Protection, and excessive fines provisions of the California Constitution. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant, protected as true, protected by the First Amendment and protected by the CDA. Since the statements are not actionable, they certainly would not establish a claim for punitive damages. Additionally, in the context of the allegations against Defendant, punitive damages would be unconstitutional.

16. As a fourteenth, separate and distinct affirmative defense, Defendant alleges that Plaintiff's First Amended Complaint is subject to defenses yet unknown to Defendant at this time. Defendant will amend the answer to allege each additional affirmative defense when the nature of such defense becomes known to Defendant. While Plaintiff's First Amended Complaint is difficult to follow, it does appear that Plaintiff is taking issue with statements allegedly made by Defendant on the internet and in an interview. These statements allegedly made by Defendant would be protected opinion of Defendant, protected as true, protected by the First Amendment and protected by the CDA.

On Wed, Jan 24, 2024 at 8:07 PM Paul Katrinak <katrinaklaw@gmail.com> wrote:

Dear Mr. DeCastro,

Again, I asked you to explain how I did not plead facts to support the affirmative defenses in writing. You have not explained your position at all, nor provided any legal authority for your position. That does not meet the requirement of meeting and conferring and I will seek sanctions from the judge for your failure to meet and confer.

There is no basis to file a demurrer to the amended answer. Explain your position with authorities.

Very Truly Yours,

Paul Katrinak

On Tue, Jan 23, 2024 at 10:51 PM Chille DeCastro <chille@situationcreator.com> wrote:

Mr. Katrinak,

I'm not talking about the general denials. Your denials where you just say "I didn't do it", then you don't need to be specific. Where you say "Maybe I did it, but I'm not liable because of fact A and fact B", also known as affirmative defenses, those defenses must be argued with specificity. You need to say what facts A and B are. You can't just say "Chille has unclean hands" or "Plaintiff has a long history of filing frivolous complaints". As I'm sure you're aware, those are conclusory statements. Are you letting Pierattini write these?

The law is still the same as I cited in my first motion to strike your first answer.

I will be filing another motion to strike this Friday.

On Wed, Jan 17, 2024 at 10:15 AM Paul Katrinak <katrinaklaw@gmail.com> wrote:

Dear Mr. DeCastro,

I went back over the answer and I believe that I have factually plead what I need to other than things that are not new matters.

In particular, I do not see how the affirmative defenses are new matters.

A general denial is effective to controvert all material allegations of an unverified complaint. (CCP § 431.30, subd.(d).)

Generally, a defendant bears the burden of proving "new matter" and, as such, the underlying facts must be specifically pleaded in the answer. (California Academy of Sciences v. County of Fresno (1987) 192 Cal.App.3d 1436, 1442.)

The phrase "new matter" refers to something relied on by a defendant which is not put in issue by the plaintiff. (Walsh v. West Valley Mission Community College District (1998) 66 Cal.App.4th 1532, 1546.) The basic consideration is whether the matters of defense are responsive to the essential allegations of the complaint, i.e., whether they are contradicting elements of plaintiff's cause of action or whether they tender a new issue, in which case the burden of proof is upon the defendant as to the allegation constituting such new matter. (Cahil Bros., Inc. v. Clementina Co. (1962) 208 Cal.App.2d 367, 385.)

A defense which negates an essential allegation in the complaint does not constitute a new matter, and therefore, need not be specifically pled by the defendant. (Statefarm Mutual Auto. Ins. Co. v. Superior Court (1991) 228 Cal.App.3d 721, 725.)

Each of the defenses negate an essential element of Plaintiff's claims and are therefore not "new matter" that require fact pleading.

Please explain in detail how you disagree with cases that I can read.

In light of the history in this case, we feel that we need to meet and confer in writing. Please send me your positions as to the defects in the Answer.

Very Truly Yours,

Paul Katrinak

--

Paul Katrinak
Law Offices of R. Paul Katrinak

9663 Santa Monica Blvd., 458
Beverly Hills, California 90210
Tel: (310) 990-4348
Fax: (310) 921-5398

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Make a Reservation

Success! Your Reservation Number is **774528882558**.

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:	Demurrer - without Motion to Strike
Status:	RESERVED
Filing Party:	Jose Decastro (Plaintiff)
Location:	Santa Monica Courthouse - Department O
Date/Time:	06/04/2024 8:30 AM
Number of Motions:	1
Reservation ID:	774528882558
Confirmation Code:	CR-TIPCEFKNHVXT3OJQN

Fees

Description	Fee	Qty	Amount
Demurrer - without Motion to Strike	60.00	1	60.00
Credit Card Percentage Fee (2.75%)	1.65	1	1.65
TOTAL			\$61.65

EXHIBIT H



Paul Katrinak <katrinaklaw@gmail.com>

Motion for Sactions

1 message

Paul Katrinak <katrinaklaw@gmail.com>
To: Chille DeCastro <chille@situationcreator.com>

Tue, Feb 20, 2024 at 8:01 PM

Dear Mr. DeCastro,

Attached is a Motion for 128.7 sanctions. You have 21 days to withdraw your frivolous Demurrer. If you do not do so, I will file the attached Motion with the Court and will provide the hearing date at that time.

Very Truly Yours,




Paul Katrinak

--

Paul Katrinak
Law Offices of R. Paul Katrinak
9663 Santa Monica Blvd., 458
Beverly Hills, California 90210
Tel: (310) 990-4348
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3 attachments

-  **PIERATTINI Final Notice and Motion for Sanctions 2.20.24.pdf**
521K
-  **PIERATTINI Final RPK Decl. iso Motion for Sanctions 2.20.24.pdf**
1655K
-  **PIERATTINI Final [Proposed] Order re Motion for Sanctions 2.20.24.pdf**
418K

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 February 20, 2024, I served the foregoing document(s) described as:

8 **DECLARATION OF R. PAUL KATRINAK IN SUPPORT OF DEFENDANT
9 MICHAEL PIERATTINI'S MOTION FOR SANCTIONS NOT LESS THAN
10 \$10,410.00 AGAINST PLAINTIFF**

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

12 Jose DeCastro
13 1258 Franklin Street
14 Santa Monica, CA 90404
15 chille@situationcreator.com

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

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

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

24 Executed February 20, 2024, at Los Angeles, California.

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

27 
28 R. Paul Katrinak

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