

1 **LESOWITZ GEBELIN LLP**
2 Steven T. Gebelin, Esq. (Bar No. 261507)
3 steven@lawbylg.com
4 8383 Wilshire Blvd., Suite 800
5 Beverly Hills, CA 90211
6 Telephone: (310) 341-3072
7 Facsimile: (310) 341-3070

Electronically FILED by
Superior Court of California,
County of Los Angeles
7/24/2024 10:20 AM
David W. Slayton,
Executive Officer/Clerk of Court,
By K. Parenteau, Deputy Clerk

8 Attorneys for Plaintiff Jose DeCastro

9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **COUNTY OF LOS ANGELES, SANTA MONICA COURTHOUSE**

11 JOSE DECASTRO,

12 Plaintiff,

13 V.

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

18 Defendants.

Case No.: 23SMCV00538

Assigned for all Purposes to
Hon. H. Jay Ford III, Department O

**PLAINTIFF JOSE DECASTRO'S
OBJECTIONS TO EVIDENCE SUBMITTED
BY DEFENDANT MICHAEL PIERATTINI
IN SUPPORT OF MOTION FOR SUMMARY
JUDGMENT OR, IN THE ALTERNATIVE,
SUMMARY ADJUDICATION**

Date: August 6, 2024
Time: 8:30 A.M.
Dept: O

1 Plaintiff **JOSE DECASTRO** (“Plaintiff” or “DeCastro”) submits this following objections
 2 to evidence cited by Defendant MICHAEL PIERATTINI’S (“Defendant” or “Pierattini”) in
 3 support of Defendant MICHAEL PIERATTINI’S Motion for Summary Judgment or, In the
 4 Alternative, Summary Adjudication.

5 **I. Declaration of Michael Pierattini in Support of Defendant Michael Pierattini’s**
 6 **Motion for Summary Judgment or in the Alternative Summary Adjudication**

7 **OBJECTION NO. 1.**

Material Objected to:	Grounds for Objection:	RULING
<p>9 ¶ 2 “As to Plaintiff Jose DeCastro’s 10 (“Plaintiff”) allegations of “libel, slander, and 11 false light” (First Amended Complaint 12 (“FAC”), ¶¶ 18-26), in the video at issue, 13 which is approximately 2 hours and 22 14 minutes long and in which I only made a brief 15 appearance, I made no statements in which I 16 “assert[ed] as factual that plaintiff was 17 convicted of crime” as alleged in the FAC. In 18 that video, I did not refer to any 19 “BeenVerified” documents as Plaintiff 20 alleges. Any alleged statements made by me 21 were based on my own good faith opinions, 22 were not made with malice, and were made 23 directly to Plaintiff, who was actively 24 participating in the discussion using 25 YouTube’s live chat function. Additionally, 26 the video at issue was recorded and posted by 27 Defendant Peter.”</p>	<p>The Best Evidence Rule (Evid. Code § 1521, et seq.) applies to exclude all of the statements concerning the content of the referenced video, which was not presented to the court by Mr. Pierattini.</p> <p>Hearsay also preclu</p>	<p>Sustained _____ Overruled _____</p>

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

OBJECTION NO. 2.

Material Objected to:	Grounds for Objection:	RULING
¶ 2 “Any alleged statements made by me were based on my own good faith opinions, were not made with malice, and were made directly to Plaintiff, who was actively participating in the discussion using YouTube’s live chat function.”	Lack of Foundation / Improper Opinion. Mr. Pierattini’s conclusory statements fail to state his “opinions” expressed in the video, fail to provide foundation for the “good faith” basis for those “opinions”, and fails to state whether those statements were published to third parties.	Sustained _____ Overruled _____

OBJECTION NO. 3.

Material Objected to:	Grounds for Objection:	RULING
¶ 2 “Additionally, the video at issue was recorded and posted by Defendant Peter.”	Relevance, and Lack of Foundation / Improper Opinion. Mr. Pierattini’s conclusory statement that the live video was “recorded and posted” fail to state whether Mr. Pierattini’s statements were published to third parties.	Sustained _____ Overruled _____

OBJECTION NO. 4.

Material Objected to:	Grounds for Objection:	RULING
¶ 3 “Because I was not there, I could not and did not touch Plaintiff or cause Plaintiff to be touched, with the intent to harm or offend him.”	Mr. Pierattini’s conclusory statement that he “could not and did not ... cause Plaintiff to be touched” lacks foundation, and is improper speculation and opinion not based on asserted	Sustained _____ Overruled _____

1		personal knowledge of the events or	
2		even of the perpetrators of the battery.	
3	<u>OBJECTION NO. 5.</u>		
4	Material Objected to:	Grounds for Objection:	RULING
5	¶ 4 “Because I was not there, I	Mr. Pierattini’s conclusory statement	Sustained _____
6			could not and did not touch
7	Plaintiff or cause Plaintiff to	Plaintiff to be touched” lacks	Overruled _____
8	be touched, with the intent to	foundation, and is improper speculation	
9	harm or offend him.”	and opinion not based on asserted	
10		personal knowledge of the events or	
11		even of the perpetrators of the battery.	
12	<u>OBJECTION NO. 6.</u>		
13	Material Objected to:	Grounds for Objection:	RULING
14	¶ 5 “Additionally, because I	Mr. Pierattini’s conclusory statement	Sustained _____
15			was not in Denver on or about
16	August 8, 2022, I also could	participate in any alleged theft” lacks	Overruled _____
17	not and did not participate in	foundation, and is improper speculation	
18	any alleged theft of Plaintiff’s	and opinion not based on asserted	
19	van..”	personal knowledge of the events or	
20		even of the perpetrators of the battery.	
21	<u>OBJECTION NO. 7.</u>		
22	Material Objected to:	Grounds for Objection:	RULING
23	¶ 7 “I did not previously and	Mr. Pierattini’s conclusory statement	Sustained _____
24			do not currently have any
25	knowledge as to the location	alleged property” lacks foundation, and	Overruled _____
26	of the property where Plaintiff	is improper speculation and opinion not	
27	alleges a trespass took place,	based on asserted personal knowledge	
28			

1 and therefore could not and	of the events, as he admits to not even	
2 did not enter the alleged	knowing where the trespass is alleged	
3 property.”	to have occurred.	

4 **OBJECTION NO. 8.**

5 Material Objected to:	Grounds for Objection:	RULING
6 ¶ 13 “any alleged use of 7 Plaintiff’s likeness or image 8 was connected to something 9 that is newsworthy, concerned 10 public affairs, or concerned a 11 political campaign.”	12 Mr. Pierattini’s conclusory statement 13 about his use of Plaintiff’s likeness 14 violates the best evidence rule about 15 the content of videos or documents not 16 before the court, lacks foundation, and 17 is improper speculation and opinion not 18 based on asserted personal knowledge 19 of the use of Plaintiff’s likeness. Mr. 20 Pierattini fails to identify a single use 21 of Plaintiff’s likeness, let alone how it 22 was “newsworthy, concerned public 23 affairs, or concerned a political 24 campaign.”	25 Sustained _____ 26 Overruled _____

20 **II. Declaration of R. Paul Katrinak in Support of Defendant Michael Pierattini’s**
21 **Motion for Summary Judgment or in the Alternative Summary Adjudication**

22 **OBJECTION NO. 9.**

23 Material Objected to:	Grounds for Objection:	RULING
24 ¶ 3 “In response to that basic 25 discovery, Plaintiff provided 26 nothing but factually devoid 27 responses and objections to	28 The Best Evidence Rule (Evid. Code § 1521, et seq.) applies to exclude all characterization of the documents.	29 Sustained _____ 30 Overruled _____

1	Mr. Pierattini’s reasonable		
2	discovery requests. These		
3	documents are incorporated		
4	herein via the Request for		
5	Judicial Notice filed		
6	concurrently..”		

OBJECTION NO. 10.

8	Material Objected to:	Grounds for Objection:	RULING
9	¶ 4 “Plaintiff’s	<u>Hearsay.</u> Any information concerning	
10	YouTube channel had over	the views, subscribers, number of	Sustained _____
11	559,000 subscribers. There	videos, or similar “statistics” is hearsay	
12	were over 2,500 videos posted	not subject to any established	Overruled _____
13	to Plaintiff’s YouTube	exception.	
14	channel, which had amassed	<u>Foundation / Lack of Personal</u>	
15	over 241,783,000 views.	<u>Knowledge.</u> Mr. Katrinack lacks	
16	Attached hereto as Exhibit	personal knowledge to authenticate the	
17	“A” are true and correct	assertions concerning the views,	
18	copies of the screenshots that	subscribers, number of videos, or	
19	I took of Plaintiff’s YouTube	similar information.	
20	webpage that confirm these		
21	statistics about Plaintiff’s		
22	YouTube channel.” and		
23	<u>Exhibit A.</u>		

OBJECTION NO. 11.

25	Material Objected to:	Grounds for Objection:	RULING
26	¶ 5 “A cursory scroll through	<u>Hearsay.</u> Any information concerning	
27	Plaintiff’s YouTube webpage	the views, subscribers, number of	Sustained _____

1 2 3 4 5 6 7 8 9 10 11 12	<p>shows that his videos garner thousands of views each, with some even having tens or hundreds of thousands of views. Attached hereto as Exhibit “B” is a true and correct copy of a screenshot that I took of Plaintiff’s YouTube webpage indicating the high viewership numbers Plaintiff’s videos garner.” and <u>Exhibit B.</u></p>	<p>videos, or similar “statistics” is hearsay not subject to any established exception.</p> <p><u>Foundation / Lack of Personal Knowledge.</u> Mr. Katrinack lacks personal knowledge to authenticate the assertions concerning the views, subscribers, number of videos, or similar information.</p>	<p>Overruled _____</p>
---	---	--	------------------------

OBJECTION NO. 12.

	Material Objected to:	Grounds for Objection:	RULING
15 16 17 18 19 20 21 22 23 24 25 26 27 28	<p>¶ 6 “I personally went onto another YouTube channel titled “Our Nevada Judges, Inc.” which posts recordings of court hearings in Nevada. I clicked on the “Popular” tab, which organizes the channel’s videos based on viewership.”</p>	<p><u>Foundation / Lack of Personal Knowledge / Improper Expert Opinion.</u> Mr. Katrinack lacks personal knowledge or expert qualifications to describe the content of all of the videos posted by third YouTube Channel, and his description does not match the information provided on Exhibit C, presumably by the channel’s owner(s). Mr. Katrinack also lacks personal knowledge or expert qualifications to explain how YouTube organized videos in response to clicking the</p>	<p>Sustained _____</p> <p>Overruled _____</p>

1		“Popular” tab.				
2	<u>OBJECTION NO. 13.</u>					
3	Material Objected to:	Grounds for Objection:	RULING			
4	<p>¶ 6 “Out of the eight most-viewed videos on this YouTube channel, five were recordings of hearings involving Plaintiff. These videos had garnered hundreds of thousands of views, with the most viewed video having over 429,000 views. Attached hereto as Exhibit “C” is a true and correct copy of a screenshot that I took of the “Our Nevada Judges, Inc.” YouTube webpage indicating the eight most viewed videos on that YouTube channel.” and <u>Exhibit C.</u></p>	<p><u>Hearsay.</u> Any information concerning the views, subscribers, number of videos, or similar “statistics” is hearsay not subject to any established exception.</p> <p><u>Foundation / Lack of Personal Knowledge / Improper Expert Opinion.</u> Mr. Katrinack lacks personal knowledge to authenticate the assertions concerning the views, subscribers, number of videos, or similar information. Mr. Katrinack also lacks personal knowledge or expert qualifications to testify as to the workings of YouTube’s response to a request to show “Popular” videos.</p>	<p>Sustained _____</p> <p>Overruled _____</p>			
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21				<u>OBJECTION NO. 14.</u>		
22				Material Objected to:	Grounds for Objection:	RULING
23	<p>¶ 7 “It is patently obvious that Plaintiff does not have a factual basis to sue Mr. Pierattini and has provided none.”</p>	<p><u>Improper Opinion.</u> Mr. Katrinack’s opinion about the factual basis for Plaintiff’s claims is improper legal opinion.</p>	<p>Sustained _____</p> <p>Overruled _____</p>			
24						
25						
26						
27						
28						

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

III. Request for Judicial Notice in Support of Defendant Michael Pierattini’s Motion for Summary Judgment or in the Alternative Summary Adjudication

OBJECTION NO. 15.

Material Objected to:	Grounds for Objection:	RULING
¶¶ 1-10 and <u>Exhibits A through J.</u>	Plaintiff generally objects to the attachments to the Request for Judicial Notice to the extent that Defendant seeks to rely on any such documents for the truth of the matters asserted therein. <i>See, e.g. Bd. of Pilot Commissioners v. Superior Ct.</i> , 218 Cal. App. 4th 577, 597 (2013) (“While judicial notice may be taken of court records (Evid. Code, § 452, subdivision (d)), the truth of matters asserted in such documents is not subject to judicial notice.” It is unclear whether any of the documents from the case file in this action have evidentiary value solely for the fact of their existence.	Sustained _____ Overruled _____

DATED: July 23, 2024

LESOWITZ GEBELIN LLP

By: 

Steven T. Gebelin

Attorneys for Plaintiff Jose DeCastro

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

DeCastro v. Peter, et al., Los Angeles County Superior Court Case No 23SMCV00538

I am employed in the County of Los Angeles, State of California. I am over the age of 18 years and not a party to the within action; my business address is 8383 Wilshire Blvd., Suite 800, Beverly Hills, CA 90211.

On July 24, 2024, I served the following document(s) on the interested parties in this action:
PLAINTIFF JOSE DECASTRO'S OBJECTIONS TO EVIDENCE SUBMITTED BY DEFENDANT MICHAEL PIERATTINI IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT OR, IN THE ALTERNATIVE, SUMMARY ADJUDICATION
by placing true copies thereof enclosed in sealed envelopes addressed as follows:

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

Attorneys for Defendant
Michael Pierattini

(BY E-MAIL) Pursuant to CCP § 1010.6, based on the named party's electronic filing in this case being deemed assent to electronic service under the local rules, I sent such document to the individual(s) identified at the email address referenced above.

(STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct

Executed on July 24, 2024, at Los Angeles, California.


Steven T. Gebelin