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Superior Court of California,
County of Los Angeles
8/20/2024 3:00 PM
David W. Slayton,
Executive Officer/Clerk of Court,
By A. Mejia, Deputy Clerk

4 Attorneys for Defendant
5 Michael Pierattini

6
7 SUPERIOR COURT OF THE STATE OF CALIFORNIA
8 FOR THE COUNTY OF LOS ANGELES

9 JOSE DECASTRO,

10 Plaintiff,

11 v.

12 KATHERINE PETER; DANIEL CLEMENT;
13 MICHAEL PIERATTINI; DAVID OMO JR.;
and DOES 1 TO 30, inclusive,

14 Defendants.

) Case No. 23SMCV00538

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

)
) **DEFENDANT MICHAEL PIERATTINI'S**
) **RESPONSE TO PLAINTIFF'S**
) **OBJECTIONS**

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

1 **I. INTRODUCTION**

2 Plaintiff’s objections to the evidence submitted in Reply is untimely as they were to be
3 submitted prior to the hearing and Plaintiff did not have leave of court to make these untimely
4 objections. Plaintiff only had leave of court to address the Request for Judicial Notice criminal
5 records. Ironically, Plaintiff authenticated every record submitted in the Request for Judicial
6 Notice in his declaration admitting the record was accurate and just providing an “explanation”
7 about the criminal record or the civil record. The records attached to the Request for Judicial
8 Notice are authenticated by Plaintiff himself and are admissible under Evidence Code Section 451.

9 Additionally, the records attached to Defendant Michael Pierattini’s (“Mr. Pierattini”)
10 declaration are admissible as well under the state of mind hearsay exception as Mr. Pierattini’s
11 state of mind is at issue.

12 Therefore, the Court should strike Plaintiff’s objections. However, if the Court is going to
13 consider the objections, then Mr. Pierattini submits this response.

14 **II. THE OBJECTIONS TO MR. PIERATTINI’S DECLARATION**

15 Plaintiff objects to Mr. Pierattini’s testimony concerning the video citing to the Best
16 Evidence Rule, which was repealed in 1998. Additionally, Plaintiff himself submitted the video
17 into evidence.

18 Plaintiff claiming that he had no criminal record is an admission of a party opponent and is
19 admissible. Also, this statement goes to Mr. Pierattini’s state of mind.

20 Plaintiff objects to exclude a statement of Mr. Pierattini concerning the characterization of
21 the content of court records. The Court records are attached to the Request for Judicial Notice and
22 this statement goes to Mr. Pierattini’s state of mind.

23 Plaintiff objects to the public records request made by Mr. Pierattini. Mr. Pierattini of
24 course has foundation to testify as to what he did. The Court records are attached to the Request
25 for Judicial Notice and this statement goes to Mr. Pierattini’s state of mind.

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1 **III. THE OBJECTIONS TO COUNSEL FOR MR. PIERATTINI'S DECLARATION**
2 **AND THE REQUEST FOR JUDICIAL NOTICE**

3 Plaintiff has admitted to the authenticity of the documents attached to the Request for
4 Judicial Notice, so there is no dispute that they are authentic and admissible. Additionally, these
5 documents are judicially noticeable as explained in the Request for Judicial Notice as follows.

6 **A. The Court Records At Issue Are Subject To Judicial Notice**

7 In California, a court has discretion to take judicial notice of “facts and propositions
8 that are not subject to dispute and capable of immediate and accurate determination by resort to
9 sources of reasonably indisputable accuracy.” Evidence Code §452 (h). This includes
10 information from reliable sources on the Internet.” See *United States ex rel. Dingle v. BioPort*
11 *Corp.* (W.D. Mich. 2003) 270 F.Supp.2d 968, 972; see also *Datel Holding Ltd. v. Microsoft*
12 *Corp.* (N.D. Cal. 2010) 712 F.Supp.2d 974, 984; Cal. Evid. Code, §452, Subd. (h); *In re*
13 *Forchion* (2011) 198 Cal.App.4th 1284, 1287; *Laborers' Pension Fund v. Blackmore Sewer*
14 *Construction, Inc.* (7th Cir. 2002) 298 F.3d 600; *Bridgeway Corp. v. Citibank* (1999) 45
15 F.Supp.2d 276.

16 Here, the records are without dispute and Plaintiff has authenticated the court records.
17 Also, the records at issue go to Mr. Pierattini's state of mind, which makes them admissible as
18 well.

19 **B. The Court May Take Judicial Notice Of Court Records On The Internet**

20 Additionally, courts “may take judicial notice of records and reports of administrative
21 bodies.” *Interstate Natural Gas Co. v. southern California Gas Co.*, (9th Cir. 1953) 209 F.2d
22 380, 385; *Transmission Agency of Northern California v. Sierra Pacific Power Co.*, (9th Cir.
23 2002) 295 F.3d 918, 924 n.3 (taking judicial notice of FERC decision still subject to
24 administrative and judicial review); *Standard Havens Products, Inc. v. Gencor Industries, Inc.*,
25 (Fed. Cir. 1990) 897 F.2d 511, 514 n.3 (taking judicial notice of first office action in patent
26 reexamination). Also, a “court may take judicial notice of public records of governmental
27 entities[.]” *In re Ex Parte Application of Jommi*, (N.D. Cal. Nov. 15, 2013) No. C 13-80212
28 CRB (EDL), 2013 WL 6058201, at *2 n.1; *Color Switch LLC v. Fortafy Games* (E.D. Cal.

1 2019) DMCC, 377 F. Supp. 3d 1075, 1090 fn.6, aff'd, 818 F. App'x 694 (9th Cir. 2020).
2 Furthermore, a court may take judicial notice of “matters of public record[.]” *In re White Elec.*
3 *Designs Corp. Sec. Lit.*, (D. Ariz. 2006) 416 F. Supp. 2d 754, 760 (citing FED.R.EVID. 201;
4 *MGIC Indem. Corp. v. Weisman*, (9th Cir.1986) 803 F.2d 500, 504. Here, the court records are
5 public records reflecting court documents subject to judicial notice.

6 Again, the records are without dispute and Plaintiff has authenticated the court records.
7 Also, the court records go to Mr. Pierattini’s state of mind, which makes them admissible as
8 well.

9 **C. The Screenshots Of Plaintiff’s YouTube Page Are Judicially Noticeable**

10 “To this point, the Court in *Geller II* took judicial notice of the fact that she had a
11 significant online presence, with—at the time of the Court’s August 3, 2020 Opinion—
12 1,289,034 followers on Facebook, over 200,000 followers on Twitter, 108,000 followers on
13 Instagram, and 28,900 followers on YouTube, and that she has used these channels to express
14 public discontent about COVID-19 restrictions regularly. *See Geller II*, 476 F. Supp. 3d at 6,
15 19 n.26. Moreover, Geller did not dispute the City’s contention that she had not—at least as of
16 the date of the City’s moving brief—actually held a demonstration of the sort that was
17 contemplated in her complaint.” *Geller v. Hochul*, No. 20 CIV. 4653 (ER), 2021 WL 4392521,
18 at *13 (S.D.N.Y. Sept. 24, 2021), aff’d in part, appeal dismissed in part, No. 21-2514-CV,
19 2023 WL 221725 (2d Cir. Jan. 18, 2023).

20 Plaintiff’s whole case is about a YouTube video that he purports defamed him. He has
21 a YouTube channel and the information from his YouTube channel regarding followers and
22 views is highly relevant to Plaintiff’s status as a public figure, as it was relevant and admissible
23 in *Geller*. Importantly, Plaintiff is not contesting that the information is accurate and that it is
24 his YouTube channel. This information would constitute an admission by Plaintiff and would
25 be admissible as an admission as well.

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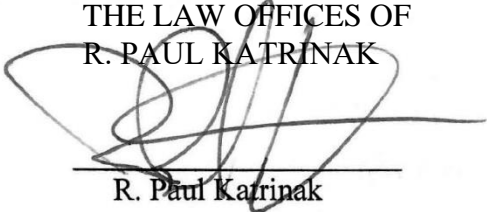
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IV. CONCLUSION

For the foregoing reasons, Mr. Pierattini respectfully requests that the Court either strike Plaintiff's objections as untimely, or overrule the objections in their entirety.

DATED: August 20, 2024

THE LAW OFFICES OF
R. PAUL KATRINAK



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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,
Suite 458, Beverly Hills, California 90210.

6 On August 20, 2024, I served the foregoing document(s) described as:

7 **DEFENDANT MICHAEL PIERATTINI'S RESPONSE TO PLAINTIFF'S**
8 **OBJECTIONS**

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

10 Steven Gebelin
11 LESOWITZ GEBELIN LLP
8383 Wilshire Blvd #520
Beverly Hills, CA 90211
12 contact@lawbylg.com

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

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

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

18 Executed August 20, 2024, at Los Angeles, California.

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

21 
22 _____
23 R. Paul Katrinak