

1 R. Paul Katrinak, State Bar No. 164057  
LAW OFFICES OF R. PAUL KATRINAK  
2 9663 Santa Monica Blvd., 458  
Beverly Hills, California 90210  
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Electronically FILED by  
Superior Court of California,  
County of Los Angeles  
5/22/2024 1:54 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 III, Dept. O  
**DEFENDANT MICHAEL PIERATTINI'S  
EX PARTE APPLICATION TO AMEND  
NUNC PRO TUNC THE COURTS ORDER  
OF MAY 16, 2024**  
Date: May 24, 2024  
Time: 8:30 a.m.  
Dept: O

15 )  
16 )  
17 [Declaration of R. Paul Katrinak and [Proposed]  
Order filed concurrently]

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

1 TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on May 20, 2024 at 8:30 a.m., or as soon thereafter as is  
3 possible, in Department 47 of the above-entitled court located at 1725 Main Street, Santa  
4 Monica, California 90401, Defendant Michael Pierattini (Mr. Pierattini) will and do hereby  
5 move the Court for an order amending Nunc Pro Tunc the Order entered in this matter on May  
6 16, 2024.

7 Counsel for Defendant Michael Pierattini ("Mr. Pierattini") hereby moves the Court to  
8 amend the Court's May 16, 2024 Order Nunc Pro Tunc as it appears that the clerk made a  
9 clerical error in the order. The Court indicated at the hearing that it was adopting its tentative  
10 ruling as the final order of the Court. In issuing the Minute Order, the portion of the tentative  
11 ruling addressing Plaintiff's Motion for Sanctions/Motion to Compel was inadvertently not  
12 included. The last page of the order refers to the sanctions awarded to Mr. Pierattini, but  
13 unfortunately there is no discussion regarding the Court's reasoning for issuing the sanctions  
14 and denying Plaintiff's motion which was in the Tentative Ruling. At the hearing, the Court  
15 ordered counsel for Mr. Pierattini to prepare an order on the sanctions and attach to that order  
16 the Court's Minute Order as well as to give Notice. Counsel for Mr. Pierattini was only able to  
17 retrieve the Minute Order on May 20, 2024 and brings this application as quickly as possible.

18 Due to this inadvertent oversight, Mr. Pierattini respectfully requests that the Court  
19 amend its May 16, 2024 Order Nunc Pro Tunc to include the entire Tentative Ruling.

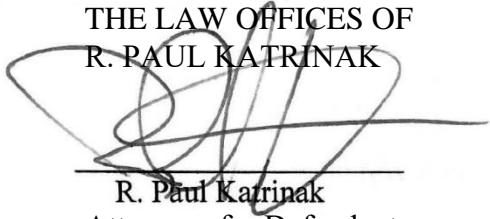
20 Notice of this Ex Parte Application was given to Plaintiff on May 22, 2024 at 12:12  
21 p.m. by email. (Katrinak Decl., ¶ 6, Ex. "C").

22 This Ex Parte Application will be based upon this Application, the accompanying  
23 Memorandum of Points and Authorities, the Declaration of R. Paul Katrinak submitted  
24 herewith, as well as all records and files in this matter, and any and all further evidence or  
25 argument that may be presented at or before the hearing on this Application.

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27  
28

1 DATED: May 22, 2024

THE LAW OFFICES OF  
R. PAUL KATRINAK



\_\_\_\_\_  
R. Paul Katrinak  
Attorneys for Defendant,  
Michael Pierattini

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 Counsel for Defendant Michael Pierattini ("Mr. Pierattini") hereby moves the Court to  
4 amend its May 16, 2024 order Nunc Pro Tunc as it appears that the clerk made a clerical error in  
5 the order. The Court indicated at the hearing that it was adopting its tentative ruling as the final  
6 order of the Court. In issuing the minute order, the portion of the tentative ruling addressing  
7 Plaintiff's Motion for Sanctions/Motion to Compel was inadvertently not included. The last page  
8 of the order refers to the sanctions awarded to Mr. Pierattini, but unfortunately, there is no  
9 discussion regarding the Court's reasoning for issuing the sanctions and denying Plaintiff's motion  
10 which was in the tentative ruling. At the hearing, the Court ordered counsel for Mr. Pierattini to  
11 prepare an order on the sanctions and attach to that order the Court's Minute Order as well as to  
12 give Notice. Counsel for Mr. Pierattini was only able to retrieve the Minute Order on May 20, 2024  
13 and brings this application as quickly as possible.

14 Due to this inadvertent oversight, Mr. Pierattini respectfully requests that the Court  
15 amend its May 16, 2024 Order Nunc Pro Tunc to include the entire Tentative Ruling.

16 **II. THE COURT HAS THE AUTHORITY TO AMEND THE COURT'S MAY 16, 2024**  
17 **ORDER NUNC PRO TUNC TO INCLUDE THE ENTIRE TENTATIVE RULING**  
18 **OF THE COURT**

19 California Code of Civil Procedure Section 473(d) provides in relevant part that:

20 The court may, upon motion of the injured party, or its own motion, correct  
21 clerical mistakes in its judgment or orders as entered, so as to conform to the  
22 judgment or order directed ....

23 Cal. Code Civ. Proc. § 473(d) (2001).

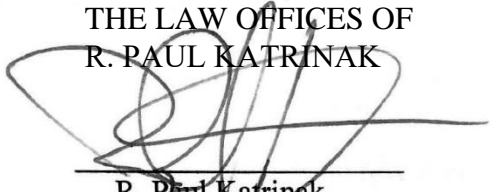
24 The purpose of post-judgment correction of clerical errors is to ensure that the court's  
25 records speak the truth. *Tokio Marine & Fire Ins. Corp. v. Western Pacific Roofing Corp.*  
26 (1999) 75 Cal. App. 4th 110. When the signed judgment does not reflect the express judicial  
27 intention of the court, the signing of the judgment involves clerical rather than judicial error.  
28 *Marriage of Kaufman* (1980) 101 Cal. App. 3d 147, 151.

1 Here, the May 16, 2024 Minute Order is missing the portion of the Court's Tentative  
2 Ruling addressing Plaintiff's Motion for Sanctions/Motion to Compel. The last page of the order  
3 that refers to the sanctions awarded to Mr. Pierattini. There is no discussion regarding the Court's  
4 reasoning for issuing and denying Plaintiff's motion which was in the tentative ruling. In order to  
5 avoid any issues with Plaintiff, Mr. Pierattini is bringing this ex parte application for the Court to  
6 amend the Court's May 16, 2024 Order Nunc Pro Tunc, so that the record is complete concerning  
7 the ruling and the award of sanctions.

8 **III. CONCLUSION**

9 For the foregoing reasons, Mr. Pierattini respectfully requests that the Court amend the May  
10 16, 2024 Minute Order Nunc Pro Tunc to include the entirety of the Court's Tentative Ruling.

11 DATED: May 22, 2024

12 THE LAW OFFICES OF  
13 R. PAUL KATRINAK  
14   
15 R. Paul Katrinak  
16 Attorneys for Defendant  
17 Michael Pierattini  
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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,  
6 Suite 458, Beverly Hills, California 90210.

7 On May 22, 2024, I served the foregoing document(s) described as:

8 **DEFENDANT MICHAEL PIERATTINI'S EX PARTE APPLICATION TO AMEND  
9 NUNC PRO TUNC THE COURTS ORDER OF MAY 16, 2024; DECLARATION OF R.  
10 PAUL**

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](mailto: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 May 22, 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

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