

Mark R. Mittelman (SBN 96598)
Paul A. Kanter (SBN 194596)
LAW OFFICES OF MARK R. MITTELMAN
A Professional Corporation
575 Lennon Lane, Suite 150
Walnut Creek, California 94598
Telephone: (925) 256-0677
Facsimile: (925) 256-0679

**ELECTRONICALLY
FILED**

**Superior Court of California,
County of San Francisco**

06/09/2016

Clerk of the Court
BY: EDNA LEEN AL ECDE

Deputy Clerk

SUPERIOR COURT OF CALIFORNIA

COUNTY OF SAN FRANCISCO

Aaron Abel

Plaintiff.

VS.

1979 UNION STREET CORPORATION; HO BET LEE, LAI FONG LEE, AND LEO MING LEE, as co-trustees of the Generation-Skipping Trust established under the HOM HON PING AND KAI TAI LEE REVOCABLE TRUST U/A dated December 2, 1976, as amended May 10, 1989; MAY LEE; LEO M. LEE; LEO Y. LEE; and DOES 1 to 50, inclusive.

Defendants.

Case No. CGC-15-543471

**DECLARATION OF GORDON LUNDY,
M.D. IN SUPPORT OF DEFENDANT /
CROSS-COMPLAINANT 1979 UNION
STREET CORPORATION DBA THE
BLUE LIGHT'S MOTION TO
CONTINUE TRIAL AND MANDATORY
SETTLEMENT CONFERENCE**

Date: June 28, 2016 (per OST of 6/9/16)

Date: June 26, 19

Dept: 206

Trial Date: July 5, 2016

AND RELATED CROSS-ACTIONS.

J. Gordon Lundy, declare:

1. I have been a licensed physician in the State of California since 1987 and a board-certified orthopedic surgeon since 1993. I am a treating orthopedic surgeon with a substantial patient practice. As another part of my practice, I do medical-legal consulting. I have personal knowledge of the below matters and I could and would testify thereto in a court of law if called upon to do so.

2. On or about February 26, 2016, I was retained by the Law Offices of Mark R. Mittelman, P.C., on behalf of Defendant 1979 Union Street Corporation dba The Blue Light, to provide opinions regarding the physical injuries allegedly sustained by Plaintiff Aaron Abel during an

1 incident the allegedly occurred at The Blue Light on September 29, 2013.

2 3. As part of my assignment in this matter, the Law Offices of Mark R. Mittelman, P.C.
3 arranged for me to conduct an Independent Medical Examination (IME) of Plaintiff on April 15,
4 2016 at my medical office located at 2100 Webster Street, Suite 117, San Francisco, California
5 94115.

6 4. On April 15, 2016, at approximately 11:45 a.m., Plaintiff presented to me for his IME
7 with his attorney Joseph May.

8 5. During the IME, I sought a description of the injuries and intended to ask questions
9 about medical history, medical treatment, mechanics of injury, current condition, and intended future
10 treatment. As is my custom, I started out with an open-ended question and intended to follow-up
11 with specific questions. Mr. May refused to allow his client to answer any questions at all other than
12 questions about Plaintiff's current condition and the mechanics of the injuries.

13 6. Absent plaintiff's medical history and medical treatment, I did not believe that I could
14 conduct a thorough examination. Plaintiff's counsel continued to refuse to allow plaintiff to provide
15 any medical history or any description of his medical treatment. I had no choice but to suspend the
16 IME.

17 7. Mr. May was disrupting the examination and I therefore stated that I would be
18 suspending the IME so that the Law Offices of Mark R. Mittelman could take whatever legal steps it
19 believed to be necessary.

20 8. After I suspended the IME, I consulted with the Law Offices of Mark R. Mittelman,
21 about this matter. I understand that it will be filing a motion for a protective order to compel the
22 continued IME with specified conditions, and that is why I am submitting this declaration.

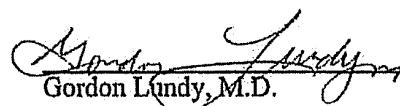
23 9. I have since been advised by the Law Offices of Mark R. Mittelman that the Court
24 granted its Motion for Protective Order and has compelled plaintiff to appear at his continued IME.

25 10. I have been contacted by the Law Offices of Mark R. Mittelman regarding my
26 availability to conduct plaintiff's continued IME.

27 11. I am a practicing treating orthopedic surgeon with a substantial patient practice. Due
28 to the demands of my practice, I am only available to conduct one IME per week.

1 12. The first date that I have available to conduct plaintiff's continued IME is August 19,
2 2016.

3
4 I declare under penalty of perjury of the laws of the State of California that the foregoing is
5 true and correct. Executed on this the 7th day of June 2016, in San Francisco, California.

6
7 
8 Gordon Lundy, M.D.

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Abel v. 1979 Union Street Corporation, et al.
2 San Francisco County Action No. CGC-14-543471

2 **PROOF OF SERVICE**

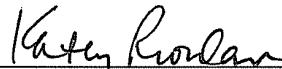
3 I do hereby declare that I am a citizen of the United States employed in the County of Contra
4 Costa, over 18 years old and that my business address is 575 Lennon Lane, Suite 150, Walnut Creek,
5 California 94598. I am not a party to the foregoing action.

6 On June 9, 2016, I served the following document(s):

7 **DECLARATION OF GORDON LUNDY, M.D. IN SUPPORT OF DEFENDANT / CROSS-
8 COMPLAINANT 1979 UNION STREET CORPORATION DBA THE BLUE LIGHT'S
MOTION TO CONTINUE TRIAL AND MANDATORY SETTLEMENT CONFERENCE**

- 9 **(BY U.S. MAIL)** by placing a true copy of the aforementioned document(s) in a sealed envelope
10 and deposited same in the United States mail at Walnut Creek, California, addressed as set forth
below. I am readily familiar with this firm's practice of collecting and processing documents for
11 mailing. Under that practice, it would be deposited with the U. S. Postal Service on that same
day, with postage thereon fully prepaid, in the ordinary course of business. [Code of Civil
12 Procedure §1013(a)(3)]
- 13 **(BY FACSIMILE)** by causing such document(s) to be successfully transmitted via facsimile to the
14 addressee(s) listed below. [Code of Civil Procedure §1013(e)(f)]
- 15 **(BY OVERNIGHT DELIVERY)** by depositing a true copy thereof in a sealed envelope and
16 depositing in a repository regularly maintained by an express service carrier with fees fully
prepaid. [Code of Civil Procedure §1013(c)(d)]
- 17 **(BY ELECTRONIC SERVICE)** by causing such document(s) to be electronically served though
18 File & ServeXpress for the above-entitled case to the parties on the Service List maintained on
the File & ServeXpress website for this case. The transmission was reported as complete on the
19 date and time indicated on the File & ServeXpress Transaction Receipt.

20 I declare under penalty of perjury that the foregoing is true and correct. Executed on the date
21 first set forth above, at Walnut Creek, California.

22 
23 _____
Katey Riordan

1

2 Joseph S. May
3 Law Offices of Joseph S. May
4 1388 Sutter Street, Suite 810
5 San Francisco, CA 94109

6 Thomas J. Purtell
7 The Law Offices of Thomas J. Purtell
8 534 Pacific Avenue, Suite 200
9 San Francisco, CA 94133

10 Attorneys for Plaintiff Aaron Abel
11 Tel: (415) 781-3333
12 Fax: (415) 707-6600
13 Email: joseph@josephmaylaw.com

14 Attorneys for Cross-Defendant/Cross-complainant
15 GIOVANNI NAVARRETTE
16 Tel: (415) 722-6291
17 Fax: (415) 834-5591
18 Email: tpurtell@thomaswjpurtell-law.com

19

20

21

22

23

24

25

26

27

28