

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Mark R. Mittelman (SBN 95698)
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TELEPHONE NO.: (925) 256-0677

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E-MAIL ADDRESS (Optional):

ATTORNEY FOR (Name): 1979 Union Street Corporation, Defendant/Cross-complainant

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO

STREET ADDRESS: 400 McAllister Street

MAILING ADDRESS:

CITY AND ZIP CODE: San Francisco 94102

BRANCH NAME:

PLAINTIFF/PETITIONER: Aaron Abel

DEFENDANT/RESPONDENT: 1979 Union Street Corporation, et al.

FOR COURT USE ONLY

ELECTRONICALLY
FILEDSuperior Court of California,
County of San Francisco06/02/2016
Clerk of the Court

BY: VANESSA WU

Deputy Clerk

NOTICE OF ENTRY OF JUDGMENT
OR ORDER

CASE NUMBER:

(Check one): UNLIMITED CASE
 (Amount demanded
 exceeded \$25,000) LIMITED CASE
 (Amount demanded was
 \$25,000 or less)

CGC-15-543471

TO ALL PARTIES :

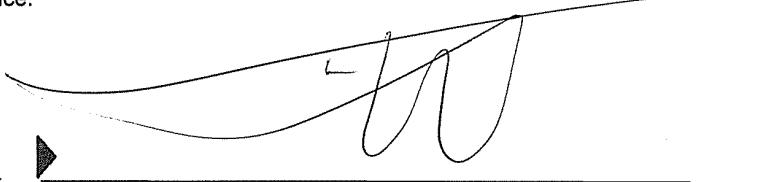
1. A judgment, decree, or order was entered in this action on (date): May 31, 2016
2. A copy of the judgment, decree, or order is attached to this notice.

Date: June 2, 2016

Mark R. Mittelman (SBN 95698)

(TYPE OR PRINT NAME OF ATTORNEY PARTY WITHOUT ATTORNEY)

(SIGNATURE)



PLAINTIFF/PETITIONER: Aaron Abel

CASE NUMBER:

DEFENDANT/RESPONDENT: 1979 Union Street Corporation, et al.

CGC-15-543471

PROOF OF SERVICE BY FIRST-CLASS MAIL
NOTICE OF ENTRY OF JUDGMENT OR ORDER

(NOTE: You cannot serve the Notice of Entry of Judgment or Order if you are a party in the action. The person who served the notice must complete this proof of service.)

1. I am at least 18 years old and **not a party to this action**. I am a resident of or employed in the county where the mailing took place, and my residence or business address is (specify):

575 Lennon Lane, Suite 150
 Walnut Creek, CA 94598

2. I served a copy of the *Notice of Judgment or Order* by enclosing it in a sealed envelope with postage fully prepaid and (check one):

- a. deposited the sealed envelope with the United States Postal Service.
 b. placed the sealed envelope for collection and processing for mailing, following this business's usual practices, with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service.

3. The *Notice of Judgment or Order* was mailed:

- a. on (date): June 2, 2016
 b. from (city and state): Walnut Creek

4. The envelope was addressed and mailed as follows:

a. Name of person served:

Joseph S. May, Law Offices of Joseph S. May
 Street address: 1388 Sutter St., Suite 810
 City: San Francisco
 State and zip code: CA 94109

c. Name of person served:

Street address:
 City:
 State and zip code:

b. Name of person served:

Thoas J. Purtell, Law Offices of Thomas J. Purtell
 Street address: 534 Pacific Ave., Suite 200
 City: San Francisco
 State and zip code: CA 94133

d. Name of person served:

Street address:
 City:
 State and zip code:

Names and addresses of additional persons served are attached. (You may use form POS-030(P).)

5. Number of pages attached 3.

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

Date: June 2, 2016

Katey Riordan

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

0037-7516 1 Mark R. Mittelman (SBN 96598)
 2 Paul A. Kanter (SBN 194596)
 2 LAW OFFICES OF MARK R. MITTELMAN
 3 A Professional Corporation
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 4 Telephone: (925) 256-0677
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 5
 5 Attorneys for Defendant and Cross-complainant
 6 1979 UNION STREET CORPORATION dba
 6 THE BLUE LIGHT
 7

FILED
 Superior Court of California
 County of San Francisco

MAY 31 2016

CLERK OF THE COURT
 BY: *[Signature]* Deputy Clerk

8 SUPERIOR COURT OF CALIFORNIA
 9 COUNTY OF SAN FRANCISCO

10 11 Aaron Abel,

12 Plaintiff,

13 vs.

14 1979 UNION STREET CORPORATION; HO
 15 BET LEE, LAI FONG LEE, AND LEO MING
 16 LEE, as co-trustees of the Generation-Skipping
 17 Trust established under the HOM HON PING AND
 18 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,

19 Defendants.

20 AND RELATED CROSS-ACTIONS.

Case No. CGC-15-543471
LM

[PROPOSED] ORDER GRANTING
 DEFENDANT / CROSS-COMPLAINANT
 1979 UNION STREET CORPORATION
 DBA THE BLUE LIGHT'S MOTION FOR
 PROTECTIVE ORDER TO COMPEL
 CONTINUED INDEPENDENT MEDICAL
 EXAMINATION WITH SPECIFIED
 CONDITIONS OF PLAINTIFF AARON
 ABEL AND REQUEST FOR SANCTIONS
 AGAINST PLAINTIFF AARON ABEL
 AND HIS ATTORNEY OF RECORD
 JOSEPH MAY

DATE: May 24, 2016
 TIME: 9:30 a.m.
 DEPT: 302
 TRIAL DATE: July 5, 2016

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 23 On May 24, 2016, Defendant / Cross-Complainant 1979 UNION STREET CORPORATION
 24 dba THE BLUE LIGHT's motion for a protective order compelling Plaintiff AARON ABEL to
 25 submit to a continued Independent Medical Examination (IME) with specified conditions, pursuant to
 26 C.C.P. §2032.510(e), and request for monetary sanctions against Plaintiff AARON ABEL and his
 27 Attorney of Records Joseph May, jointly and severally, pursuant to C.C.P. §2032.510(f), came
 28 before this Court. Mark R. Mittelman appeared for Defendant / Cross-Complainant 1979 UNION

[PROPOSED] ORDER GRANTING 1979 UNION STREET CORPORATION'S MOTION FOR PROTECTIVE
 ORDER COMPELLING PLAINTIFF TO SUBMIT TO CONTINUED INDEPENDENT MEDICAL
 EXAMINATION

1 STREET CORPORATION dba THE BLUE LIGHT. Joseph May appeared for Plaintiff AARON
2 ABEL.

3 The Court, having considered all of the moving and opposition papers, and the arguments at
4 the hearing, hereby grants the motion and ORDERS as follows:

5 Granted and its request for monetary sanctions is denied. Defendant did not waive its right to
6 seek the relief it seeks by this motion by failing to file a motion prior to the date plaintiff Aaron Abel
7 appeared at Dr. Lundy's office, although in retrospect defendant should have raised and sought
8 resolution of this dispute before that date. There is no authority supporting Mr. Abel's waiver
9 argument and it was reasonable for defendant's counsel to assume that, notwithstanding the
10 objections asserted to the notice of the examination, Dr. Lundy would be able to conduct an
11 examination that included the asking of relevant medical history questions. Mr. May's actions at Dr.
12 Lundy's office constituted an impermissible disruption of Dr. Lundy's efforts to conduct an
13 examination of Mr. Abel. A physical examination of a party necessarily entails asking relevant
14 medical history questions, even if the answers to such questions could be found in other materials
15 such as a deposition transcript or medical records. Mr. Abel must make himself available on a date
16 convenient to Dr. Lundy within the next three weeks for a medical examination and at that
17 examination Dr. Lundy is permitted to ask Mr. Abel questions about Mr. Abel's medical history
18 relevant to the injuries claimed by Mr. Abel. Because the issue raised by this motion should have
19 been dealt with prior to the date Mr. Abel appeared at Dr. Lundy's office, there was substantial
20 justification for Mr. Abel's opposition to the motion on the grounds of waiver and thus monetary
21 sanctions are denied.

22 A medical history is part of the general procedure physicians engage in in conducting a
23 medical examination and Dr. Lundy will not be precluded from asking normal medical questions with
24 regard to the plaintiff's medical history. This includes the medical history and treatment of the
25 plaintiff with regard to the subject injuries, ~~similar~~ prior injuries to the same body parts and ~~similar~~
26 pre-existing injuries to the same body parts claimed in the subject incident, but shall not include a
27 medical history with regard to unrelated injuries to other body parts. The parties have already agreed
28 that questions with regard to the mechanics of the incident and the plaintiff's current medical

1 complaints and treatment are permissible areas of inquiry by Dr. Lundy. Dr. Lundy may also
2 question plaintiff with regard to how he allegedly fell off the step from the time that he began falling
3 and thereafter. The area of inquiry shall not include questions about the facts of the incident prior to
4 the beginning of the alleged claimed fall.

5

6 **IT IS SO ORDERED.**

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8 DATED: 5/21, 2016

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JUDGE OF THE SUPERIOR COURT

11

HAROLD KAHN

12

APPROVED AS TO FORM

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JOSEPH S. MAY
Attorney for Plaintiff

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