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Attorneys for Defendant and Cross-complainant  
 1979 UNION STREET CORPORATION dba  
 THE BLUE LIGHT

ELECTRONICALLY  
**FILED**

*Superior Court of California,  
 County of San Francisco*

**06/09/2016**

**Clerk of the Court**

BY: EDNALEEN ALEGRE

**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)

Time: 9:30 a.m.

Dept: 206

Trial Date: July 5, 2016

AND RELATED CROSS-ACTIONS.

I, 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.

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

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

*Gordon Lundy*  
Gordon Lundy, M.D.

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

### PROOF OF SERVICE

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

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

**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**

☐ (BY U.S. MAIL) by placing a true copy of the aforementioned document(s) in a sealed envelope 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 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 Procedure §1013(a)(3)]

☒ (BY FACSIMILE) by causing such document(s) to be successfully transmitted via facsimile to the addressee(s) listed below. [Code of Civil Procedure §1013(e)(f)]

☐ (BY OVERNIGHT DELIVERY) by depositing a true copy thereof in a sealed envelope and depositing in a repository regularly maintained by an express service carrier with fees fully prepaid. [Code of Civil Procedure §1013(c)(d)]

☒ (BY ELECTRONIC SERVICE) by causing such document(s) to be electronically served through 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 date and time indicated on the File & ServeXpress Transaction Receipt.

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

  
Katy 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  
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