James A. Murphy - 062223 1 Jeff C. Hsu - 246125 2 MURPHY, PEARSON, BRADLEY & FEENEY 550 S. Hope Street, Suite 650 3 Los Angeles, CA 90071 Telephone: (213) 327-3500 4 Facsimile: (213) 627-2445 5 Attorneys for Defendants 6 MAIN STREET MANAGEMENT LLC and SEP 25 LU15 CECIL MAIN STREET LLC, erroneously 7 sued as CECIL HOTEL MANAGEMENT Sherri R. Carter Executive Officer/Clerk

By Sugueroa Deputy 8 Anabella Figueroa 9 SUPERIOR COURT OF THE STATE OF CALIFORNIA 10 **COUNTY OF LOS ANGELES** 11 DAVID LAM, an individual; YINNA LAM, an Case No.: BC521927 12 individual, DECLARATION OF PEDRO TOVAR IN 13 Plaintiffs, SUPPORT OF DEFENDANTS MOTION FOR SUMMARY JUDGMENT 14 Reservation No: 140902025798 15 CECIL HOTEL MANAGEMENT, INC. a California Corporation; DOES 1 through 25, Date: December 14, 2015 16 inclusive, Time: 1:30 p.m. Dept.: 93 17 Defendants. Trial Date: February 11, 2016 18 19 I, Pedro Tovar, declare that: 20 I have personal knowledge of the information set forth herein below, unless noted as 21 22 based on information and belief, all of which is true and correct of my own personal knowledge, and if called upon to testify, I could and would competently testify thereto. 23 2. I have been employed at the Cecil/Stay on Main Hotel for 30 years. I am presently the 24 Chief Engineer and was the Chief Engineer during the January/February 2013 timeframe. 25 3. The hotel is a 15 story building that is configured in an "E" shape pattern with three 26 separate wings that are connected. The picture below is a true and accurate depiction of the hotel as it 27 looked in the January/February 2013 timeframe. 28 - 1 -DECLARATION OF PEDRO TOVAR IN SUPPORT OF DEFENDANTS MOTION FOR SUMMARY JUDGMENT

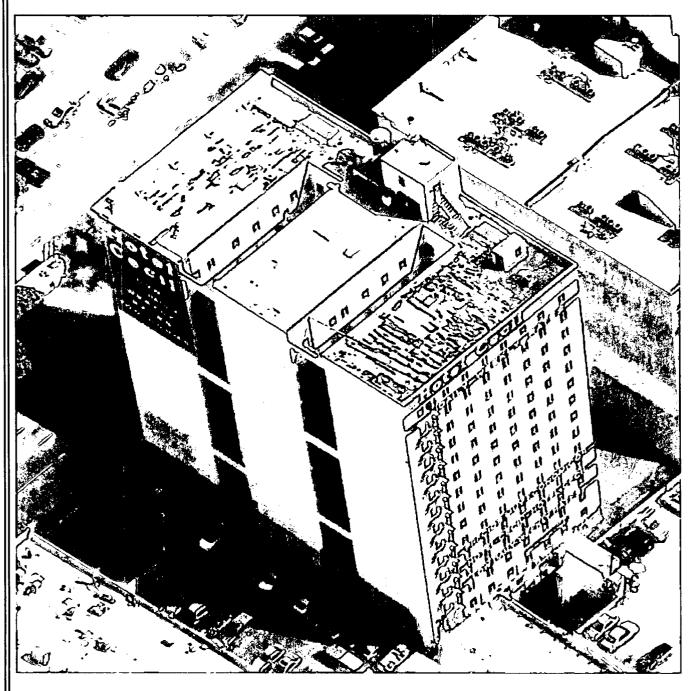
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- 4. The roof of the hotel is a restricted area where hotel guests are not allowed.
- 5. There are only four ways to gain roof access. Three of the ways are exterior fire escapes on the sides of the hotel which run the entire height of the building. There are interior doors in the corridors of the hotel upon which access can be gained to the fire escapes. For safety reasons, these doors are kept unlocked.
 - 6. The fourth and final way to access the roof is through an interior staircase leading from

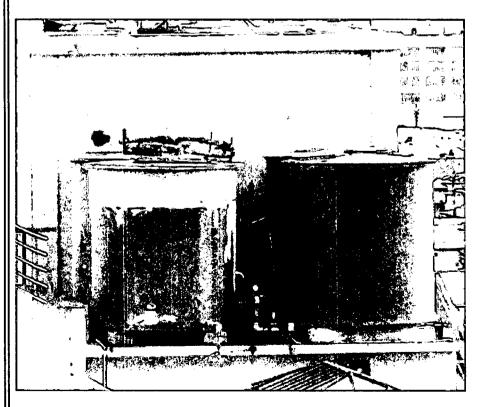
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the 14th floor to the roof. The rooftop access door is equipped with an electronic alarm system which alerts hotel employees when the rooftop access door has been opened. Whenever someone opens the door leading to the roof, it activates a very loud alarm which can be heard throughout the 14th and 15th floors and also rings separately at the front desk. The alarm can only be turned off with a key by the maintenance staff.

- 7. The rooftop of the hotel has four 1000 gallon water tanks which supply the hotel with water using a gravity operated system. Water is pumped from a main water line at below street level to these four tanks. Each tank is approximately 10 feet high and 6 feet in diameter.
- 8. The tanks are on a platform approximately 4 feet above the roof. To access the tanks, someone would have to climb a ladder up the platform, and then squeeze through the tanks and plumbing equipment to reach another ladder and climb up the side of the 10 foot tall tank. The tanks are all fully covered though each has a heavy metal lid that is approximately 18" by 18". The picture below is a true and accurate depiction of the rooftop water tanks as they looked in the January/February 2013 timeframe.



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- 9. I am informed of all instances where the alarm to the roof top access door is activated. Between January 28, 2013 through February 19, 2013, I am unaware of any instances where the roof top access door alarm was activated.
- 10. Between January 28, 2013 through February 19, 2013, I am unaware of any maintenance workers being called to deactivate the roof top access door alarm.
- 11. I check the roof top access door on a weekly basis to make sure that the alarm is functioning properly.
- 12. Between January 28, 2013 through February 19, 2013, the alarm for the roof top access door was in proper working order.
- 13. I was aware that Ms. Lam was reported missing and assisted the Los Angeles Police Department and other investigators with their search of the hotel for Ms. Lam.
- 14. I accompanied the Los Angeles Police Department and other investigators as they searched the entire hotel, floor by floor with dogs.
- 15. The investigators also searched the roof, but nobody climbed up the tanks or looked inside them.
- 16. On February 19, 2013, a guest in Room 320 complained of a lack of water pressure. A maintenance employee, Santiago Lopez, was sent to Room 320 and confirmed the lack of water pressure.
- 17. Sometime thereafter, Mr. Lopez contacted me via walkie talkie to inform me that he had found a human body in one of the water tanks on the roof. We then went down to the office to advise Amy Price of my discovery and to notify the authorities.
- 18. During my 30 years of employment at the Cecil/Stay on Main Hotel, other than the incident with Ms. Lam, I am unaware of any instances of unauthorized access to any of the roof top water tanks by anyone, including hotel guests.
- 19. During my 30 years of employment at the Cecil/Stay on Main Hotel, other than the incident with Ms. Lam, I am unaware of any instances of anyone, including hotel guests, being injured at or near the roof top water tanks.
 - 20. During my 30 years of employment at the Cecil/Stay on Main Hotel, other than the

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|√ |√ incident with Ms. Lam, I am unaware of any instances of anyone, including hotel guests, drowning in one of the roof top water tanks.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed on this 25th day of February 2015, in Los Angeles, California.

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1 CERTIFICATE OF SERVICE 2 I, Teresa Harris, declare: 3 I am a citizen of the United States, am over the age of eighteen years, and am not a party to or interested in the within entitled cause. My business address is 550 South Hope Street, Suite 650, CA 5 90071. 6 On September 25, 2015, I served the following document(s) on the parties in the within action: 7 DECLARATION OF PEDRO TOVAR IN SUPPORT OF DEFENDANTS' MOTION FOR **SUMMARY JUDGMENT** 8 BY MAIL: I am familiar with the business practice for collection and processing of mail. 9 The above-described document(s) will be enclosed in a sealed envelope, with first class X postage thereon fully prepaid, and deposited with the United States Postal Service at Los 10 Angeles, California on this date, addressed as follows: 11 BY HAND: The above-described document(s) will be placed in a sealed envelope which will be hand-delivered on this same date by ________, addressed as 12 follows: 13 Thomas S. Johnston Attorney For Plaintiffs 14 Johnston & Hutchinson LLP DAVID LAM AND YINNA LAM 601 W. Fifth Street, Suite 210 15 Los Angeles, CA 90071 16 D. Scott Warmuth Attorney For Plaintiffs Law Offices of Scott Warmuth APC DAVID LAM AND YINNA LAM 17 17700 Castleton Street Suite 168 18 City of Industry, Ca. 91748 19 I declare under penalty of perjury under the laws of the State of California that the foregoing is 20 a true and correct statement and that this Certificate was executed on September 25, 2015. 21 22 23 24 25 26 27 28

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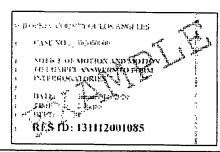
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CRS RECEIPT



Please print this receipt and attach it to the corresponding motion/document as the last page. Indicate the Reservation ID on the motion/document face page (see example). The document will not be accepted without this receipt page and the Reservation ID.



RESERVATION INFORMATION

Reservation ID:

140902025798

Transaction Date:

March 5, 2015

Case Number:

BC521927

Case Title: Party:

DAVID LAM ET AL VS CECIL HOTEL MANAGEMENT INC

CECIL HOTEL MANAGEMENT INC (Defendant/Respondent)

Courthouse:

Stanley Mosk Courthouse

Department:

093

Reservation Type:

Motion for Summary Judgment

Date: Time: 12/14/2015 01:30 pm

FEE INFORMATION (Fees are non-refundable)

Reschedule Fee - Motion for Summary Judgment

\$20.00

Total Fees:

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ID IM IM Receipt Number: 1150305K5367

\$20.00

PAYMENT INFORMATION

Name on Credit Card:

Narcy Duliere

Credit Card Number:

XXXX-XXXX-XXXX-1414

A COPY OF THIS RECEIPT MUST BE ATTACHED TO THE CORRESPONDING MOTION/DOCUMENT AS THE LAST PAGE AND THE RESERVATION ID INDICATED ON THE MOTION/DOCUMENT FACE PAGE.