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CECILIA LEE, LTD.
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E-filed October 13, 2009

Attorney for Nevada Mutual Insurance Company

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:
ENDOSCOPY CENTER OF SOUTHERN
NEVADA LLC,
Debtor.

Case No. 09-22780-MKN (Lead Case)
Jointly Administered with Case Numbers
BK-S-09-22776-MKN and
BK-S-09-22784-MKN
Chapter 7 Case

**DECLARATION OF SANDRA KRAUSE IN
SUPPORT OF OPPOSITION TO
CHAPTER 7 TRUSTEE'S MOTION FOR
DETERMINATION THAT INSURANCE
POLICIES [NEVADA MUTUAL
INSURANCE COMPANY] ARE NOT
EXECUTORY CONTRACTS OR, IN THE
ALTERNATIVE, AN ORDER PURSUANT
TO 11 U.S.C. § 365(a) TO ASSUME
INSURANCE POLICIES**

Hearing Date: October 23, 2009
Hearing Time: 2:30 p.m.

I, Sandra Krause, do hereby depose and say under the penalties of perjury:

1. I am over the age of 18 years, am mentally competent and have personal knowledge of the matters set forth in this declaration. If called upon as a witness, I could and would competently testify to these matters. I am the Assistant Vice President for Nevada Mutual Insurance Company.

2. On July 23, 2009, I provided a copy of the Policy that is attached as Exhibit A to

1 Nevada Mutual's Limited Opposition to Motions for Order Authorizing Employment of Defense
2 Counsel, Docket No. 177, to the Trustee as an attachment to an email.

3 3. In connection with the State Court Litigation for which the automatic stay has
4 been lifted, I have demanded that the Chapter 7 Trustee produce certain documents from the
5 Debtors' patient records, to investigate any medical incident or claim, as is Nevada Mutual's
6 right. The Trustee has refused to produce the documents.


7
8 4. In addition, the Trustee has refused to file a motion for relief from stay with
9 regard to a pending appeal regarding the State Court's denial of a motion to change venue.

10 5. Similarly, the Trustee has refused to retain a witness to testify on behalf of the
11 Debtors as the person most knowledgeable, as required by State Court order, and has instead
12 asserted that it is the obligation of Nevada Mutual to retain and pay for the witness.

13 6. Nevada Mutual takes the position that the Trustee's refusals are part of his
14 ongoing failure to cooperate and assist in the defense of the State Court Litigations.

15 7. The Trustee has been candid since the beginning of these bankruptcy cases in
16 stating that neither he nor his counsel are experts in insurance law or familiar with medical
17 malpractice litigation. He has failed to adequately inform himself about the State Court
18 Litigation, despite being provided copies of summaries and access to electronic databases with
19 all of the pleadings. He has failed to retain counsel who specialize in insurance law or medical
20 malpractice. The Trustee has inserted himself in motions regarding a settlement on behalf of a
21 non-debtor who is also an insured with separate policy limits under the Policy.
22
23

24 DATED this 13th day of October, 2009.

25
26 
27 SANDRA KRAUSE, R.N., M.S., CPCU
28

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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify under penalty of perjury that I am an employee of the law offices of Cecilia Lee, Ltd., 510 W. Plumb Lane, Ste. A, Reno, Nevada 89509, and that on this 13th day of October, 2009, I served the foregoing document described as follows:

**DECLARATION OF SANDRA KRAUSE IN SUPPORT OF
OPPOSITION TO CHAPTER 7 TRUSTEE'S MOTION FOR DETERMINATION
THAT INSURANCE POLICIES [NEVADA MUTUAL INSURANCE COMPANY]
ARE NOT EXECUTORY CONTRACTS OR, IN THE ALTERNATIVE, AN ORDER
PURSUANT TO 11 U.S.C. § 365(a) TO ASSUME INSURANCE POLICIES**

on the party(s) set forth below by:

 X Electronic mailing via the United States Bankruptcy CM/ECF System to all those persons listed on the ECF Confirmation Sheet.

DATED this 13th day of October, 2009.

/s/ Cecilia Lee
CECILIA LEE, an employee of
CECILIA LEE, LTD.