

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

CASE NO.: 06-21748-CIV-MARTINEZ-BANDSTRA

MARK J. GAINOR and ELYSE GAINOR,

Plaintiffs,

v.

SIDLEY AUSTIN LLP, a Delaware limited liability  
Partnership, f/k/a SIDLEY AUSTIN  
BROWN & WOOD, f/k/a BROWN & WOOD,  
R. J. RUBLE, an individual, ARTHUR  
ANDERSEN, LLP, an Illinois limited liability  
partnership, MICHAEL S. MARX, an individual,  
P. ANTHONY NISSLEY, an individual,  
MERRILL LYNCH & CO., INC., a Delaware  
corporation, and MARK C. KLOPFENSTEIN,  
an individual,

Defendants.

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**DECLARATION OF RICHARD CANDELORA IN OPPOSITION TO  
SIDLEY AUSTIN LLP'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, Richard Candelora, declare as follows:

1. I am of-counsel to the law firm of Richard Benjamin Wilkes, P.A., counsel of record for Plaintiffs. I have personal knowledge of the matters stated herein, and if called and sworn as a witness, I could and would testify completely thereto.

2. Attached hereto as **Exhibit 1** is a true and correct copy of Statement of Sidley Austin LLP from May of 2007. This document was downloaded from the internet site, [http://lawprofessors.typepad.com/whitecollarcrime\\_blog/2007/week21/index.html](http://lawprofessors.typepad.com/whitecollarcrime_blog/2007/week21/index.html).

3. Attached hereto as **Exhibit 2** is a true and correct copy of the Press Release of the United States Attorney, Southern District of New York dated May 23, 2007. This document

was downloaded from the internet site,

[http://lawprofessors.typepad.com/whitecollarcrime\\_blog/2007/week21/index.html](http://lawprofessors.typepad.com/whitecollarcrime_blog/2007/week21/index.html).

4. Attached hereto as **Exhibit 3** is a document entitled, "Leveraged Distribution Phase II." This document was identified by Mr. Gainor and is attached to his deposition as Exhibit 22.

5. Attached hereto as **Exhibit 4** is a document entitled, "Disposition Planning Phase I Implementation Program." This document was identified by Mr. Gainor and is attached to his deposition as Exhibit 24.

6. Attached hereto as **Exhibit 5** is a document entitled, "Disposition Planning Phase II Implementation Program." This document was identified by Mr. Gainor and is attached to his deposition as Exhibit 25.

7. Attached hereto as **Exhibit 6** is an e-mail dated 08/05/99 from R.J. Ruble to Michael S. Marx attaching a sample opinion letter. This document was identified by Sidley Austin's corporate representative, John MacKinnon (at pages 56, 94 and 95 of his deposition, which are also attached hereto as part of Exhibit 14), and is attached to Mr. MacKinnon's depositions as Exhibit 2.

8. Attached hereto as **composite Exhibit 7** are transaction cost fee summaries. These documents were identified by Mr. Gainor and are attached to his deposition as part of Exhibit 14.

9. Attached hereto as **Exhibit 8** is the December 31, 1999 Brown & Wood opinion letter, version 3, to Bryan Medical, Inc. and Mr. Mark Gainor. This document was identified by Mr. Gainor and is attached to his deposition as Exhibit 26.

10. Attached hereto as **Exhibit 9** is the December 31, 1999 Brown & Wood opinion letter, version 3, to Lucor Special Investments, Inc., Gainor Medical USA, Inc., and Mr. Mark Gainor. This document was identified by Mr. Gainor and is attached to his deposition as Exhibit 27.

11. Attached hereto as **composite Exhibit 10** are a series of e-mails among Arthur Andersen and others, including R.J. Ruble. These documents were provided by Sidley Austin during the course of discovery.


12. Attached hereto as **Exhibit 11** is a letter to Mark Gainor from Erin Frederick of Merrill Lynch dated August 20, 1999.

13. Attached hereto as **Exhibit 12** is Brown & Wood's New Matter Sheet. This document was identified by Sidley Austin's corporate representative, John MacKinnon (at page 84 of his deposition, which is also attached hereto as part of Exhibit 14), and is attached to Mr. MacKinnon's depositions as Exhibit 5.

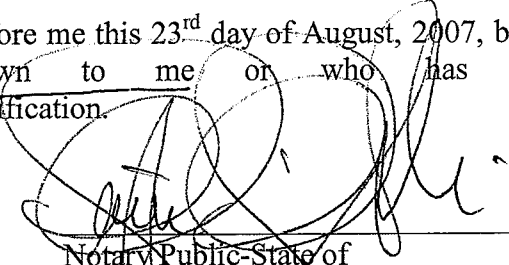
14. Attached hereto as **Exhibit 13** is IRS Notice 99-59. This document was identified by Mr. Gainor and is attached to his deposition as Exhibit 6.

15. Attached hereto as **Exhibit 14** are pages 56, 94 and 95; 84; and 17, 18 and 339 of the deposition of Sidley Austin's corporate representative, John MacKinnon.

I declare under penalty of perjury under the laws of the State of Florida that the foregoing is true and correct and that this declaration was executed this 23<sup>rd</sup> day of August, 2007, at Tampa, Florida.

  
Richard Candelora

SWORN TO AND SUBSCRIBED before me this 23<sup>rd</sup> day of August, 2007, by Richard Candelora, who is personally known to me or who has produced n/a as identification.

  
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Notary Public-State of \_\_\_\_\_  
Print type or stamp name:  
My Commission Expires:



MARGARITA M. ROMANSKI  
MY COMMISSION # DD 247602  
EXPIRES: October 20, 2007  
Bonded Thru Budget Notary Services