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9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 FOR THE COUNTY OF ALAMEDA

11 IRVIN MUCHNICK,

12 Petitioner,

13 vs.

14 UNIVERSITY OF CALIFORNIA, BOARD OF
15 REGENTS,

16 Respondent.

) Case No. RG17857115

) HAYWARD DIVISION

) SUPPLEMENTAL DECLARATION OF
) IRVIN MUCHNICK IN SUPPORT OF
) PETITIONER'S SUPPLEMENTAL
) RESPONSE BRIEF PURSUANT TO
) COURT'S NOVEMBER 21, 2018 ORDER

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21 Hearing Date: January 17, 2019

22 Time: 9:00 a.m.

23 Judge: Hon. Jeffrey Brand

24 Dep't: 511

25 Petition Filed: April 18, 2017
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1 I, Irvin Muchnick, under penalty of perjury, under the laws of California, state as follows:

2 1. Except as otherwise indicated, I make these statements based on my own knowledge. I
3 am competent to make these statements.

4 2. I obtained the transcript of the deposition of Officer Stephanie Martinez of the Berkeley
5 campus police department from the records of the Agu family's lawsuit against Respondent in
6 Alameda County Superior Court, Case no. RG14735588. Attached as Exhibit 12 is a true and
7 correct copy of this transcript (without the glossary pages).

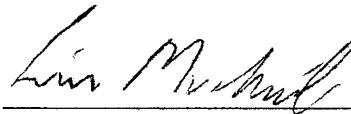
8 3. The declaration of Nils Gilman in support of Respondent's supplemental opposition brief
9 references two reports reviewing the football strength and conditioning program: one by Dr. Jeffrey
10 L. Tanji, M.D., and the other by Dr. Elizabeth Joy and the Hon. Wayne D. Brazil.

11 4. I received a copy of the Tanji report in an email from Berkeley campus spokesperson Dan
12 Mogulof on June 30, 2016. Attached as Exhibit 13 is a true and correct copy of the report, which
13 consists of four pages. In my reading, the report makes reference to the Ted Agu death only in the
14 following passage: "The level of medical monitoring and awareness of student-athlete preexisting
15 conditions, current injuries and distress are appropriate both in a general sense and in the specific
16 case of Ted Agu, the student-athlete who met an untimely death in February 2014.[...] In the
17 specific case of Ted Agu, I reviewed the sequence of events as they unfolded with the head football
18 athletic trainer, the graduate assistant athletic trainer, the strength coach and the team physician and
19 there was consistency and uniformity on their description of events. The autopsy report from the
20 County Coroner's Office became public the day I arrived for my interviews confirming the
21 diagnosis of hypertrophic cardiomyopathy (HCM) as the cause of death for Ted Agu. From the
22 perspective of a sports medicine physician who has practiced for nearly thirty years and has dealt
23 with athletes with HCM, the genetically acquired condition could result in sudden cardiac death at
24 any time, not just as the result of sport participation."

25 5. I have read the Joy-Brazil report, formally entitled "Ideas, Perspectives and Aspirations:
26 Suggestions about Ways to Further Protect the Health of Athletes in the Football Program" which
27 is published at the U.C. Berkeley website at
28 https://chancellor.berkeley.edu/sites/default/files/sc_program_review_final_report.pdf. Attached as
Exhibit 14 is a true and correct copy of the first three pages of the report: the cover and table of
contents pages. The full report consists of 43 pages and, in my reading, contains a single reference
to the Ted Agu death, in the following passage: "During the early phases of our work we also
conducted some research into the evidentiary records that were generated during the litigation that

1 followed Ted Agu's death. While the Athletic Department already had made responsible use of the
2 learning that was generated by the litigation arising out of this tragedy, reviewing this material
3 helped sensitize us, as outsiders, to some issues and challenges."

4 Executed at Berkeley, California on December 18, 2018.

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7 Irvin Muchnick
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