

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS**

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**NANCY SHNKUEN NG, individually and
Derivatively on behalf of ASQUARED GROUP, INC.
As a Successor in Interest to KYOTO
RESTAURANT INC. and KYOTO DINING GROUP
INC.,**

Index No.: 714168/2016

Plaintiffs,

- against -

**AFFIRMATION IN
OPPOSITION**

**ASQUARED GROUP, INC. as Successor in Interest to
KYOTO RESTAURANT INC. and KYOTO DINING
GROUP INC., XYZ corp. a fictitious corporation
Name intending same to be a successor in interest to
ASQUARED GROUP, INC. d/b/a MIRA SUSHI a/k/a
MIRA SUSHI & IZAKAYA, and ANDY LEE,**

Defendants.

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MAX D. LEIFER, an attorney duly admitted to practice before the courts of the State of New York, affirms, under penalty of perjury that:

I am a member of the law firm of MAX D. LEIFER, P.C., attorneys for Defendant ANDY LEE. I am fully familiar with the facts of this case and I submit this affirmation in opposition to Defendant's motion for default judgment.

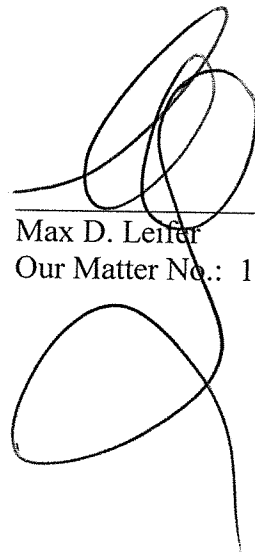
In addressing the present motion, there are several reasons why the motion should be denied and the defendant ANDY LEE given an opportunity to interpose an answer.

1. The application is defective, since the plaintiffs never received any correspondence, which is required, advising the defendants they were in default.

2. The default application had to be made within one year from the alleged date of service. This application is beyond that period.
3. The caption and the complaint are defective, because the plaintiff named in the complaint and caption are suing themselves as defendants.
4. We were actively attempting to settle the pending action and was awaiting the final decision in a pending case of Zhang Zhong Chen vs. Kyoto Sushi, Inc., d/b/a Kyoto Sushi; Asquared Group, Inc., d/b/a Kyoto Sushi; and Andy Lee, in the United States District Court, Eastern District, under Civil Action No.: 2;15-cv-07398-JMA-GRB. That case involves financial claims against the plaintiff and the defendant, and the ultimate decision would affect the final settlement between the parties.
5. The defendant ANDY LEE has a meritorious defense, since he maintained and operated the business and was designated the managing partner. The issue is the actual value of the shares, based upon the investment, the operating cost, the pending litigation in the Federal Court and the ultimate value if and when the defendants were being wound down. It also should be noted that Mr. Lee has no personal application to the plaintiffs and has a defense as to the personal application.
6. We respectfully request permission to interpose a late answer. I should also note that the Plaintiffs' counsel were fully aware that we represented the defendant Lee. See annexed hereto as Exhibit "A" copies of our correspondences to the respective plaintiffs' counsel.

For the reasons set forth, it is respectfully requested that Plaintiffs' motion be in all respects denied.

Dated: New York, N Y
January 11, 2018



Max D. Leifer
Our Matter No.: 13231-001