

RECEIVED

Sep 09 2024

SC Court of Appeals

Case No. 2023-001733

In

The State of South Carolina
The Court of Appeals

Jian-yun (John) Dong, M.D., Ph.D., Appellant

v.

The Medical University of South Carolina, Respondent

RECORD ON APPEAL

John Dong, M.D., Ph.D.
Appellant, *pro se*
71 Delahow St.
Charleston, SC 29492
Email: johnny.dong@gmail.com
Phone: (843)-991-2332

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Switch View

Jian Yun Dong M D , plaintiff, et al VS Medical University of South Carolina The

Case Number:	2016CP1006683	Court Agency:	Common Pleas	Filed Date:	12/14/2016
Case Type:	Common Pleas	Case Sub Type:	Breach of Cont 140	File Type:	Jury
Status:	Dismissed	Assigned Judge:	Toal, Jean H		
Disposition:	Dismissed by Court - not Rule 40J	Disposition Date:	07/17/2023	Disposition Judge:	Toal, Jean H
Original Source Doc:		Original Case #:		Restore Reason:	Reopened Case
Judgment Number:		Court Roster:			

Case Parties **Judgments** **Tax Map Information** **Associated Cases** **Actions** **Financials**

Name	Description	Type	Motion Roster	Begin Date	Completion Date	Documents
Dong, Jian Yun M D	Notice of Appeal as to Order Granting Dfs Motion/Summary/Srv	Filing		11/27/2023-07:44		
Dong, Jian Yun M D	NEF(10-04-2023 11:09:06 AM) Order/Other	Filing		10/04/2023-11:09		
Dong, Jian Yun M D	Order Denying Motion f/Recusal Bases on Appearance of Bias	Order		10/04/2023-11:09		
Dong, Jian Yun M D	Motion/Recusal Based on Appearance of Bias & Crt/Sr	Motion		09/28/2023-11:53	10/04/2023-11:53	
Dong, Jian Yun M D	Reply to Defnts Response to Pltffs Motion for Amendment/Srv	Filing		09/28/2023-07:59		
Dong, Jian Yun M D	NEF(09-22-2023 09:33:43 AM) Order/Other	Filing		09/22/2023-09:33		
Dong, Jian Yun M D	Order Denying Motion for Amnd of Order Grant Defnt Sum Judg	Order		09/22/2023-09:33		
Medical University of South Carolina The	NEF(08-16-2023 04:04:36 PM) Response	Filing		08/16/2023-16:09		
Medical University of South Carolina The	Response to Motion to Amend, Crt/Svc	Filing		08/16/2023-16:04		
Dong, Jian Yun M D	Motion for Amendedment Order Granting Summary Judgment	Motion		07/28/2023-16:27	09/22/2023-16:27	
Medical University of South Carolina The	NEF(07-17-2023 03:04:50 PM) Order/Summary Judgment	Filing		07/17/2023-15:05	07/17/2023-15:05	
Medical University of South Carolina The	Order Granting Motion for Summary Judgment	Order		07/17/2023-15:04	07/17/2023-15:04	
Dong, Jian Yun M D	NEF(07-17-2023 01:23:46 PM) Order/Electronic Form 4	Filing		07/17/2023-13:24	07/17/2023-13:24	
Dong, Jian Yun M D	Order/Rehearing of Dfs Motion for Summary Judgment is Denied	Order		07/17/2023-13:23	07/17/2023-13:23	
Dong, Jian Yun M D	Motion for Rehearing on PL Response in Opposition to Summary	Motion		06/27/2023-09:39	07/17/2023-09:39	
Dong, John M D Ph D	Memo in Support of his Opposition to Summary Judgment	Filing		06/27/2023-07:50	07/17/2023-07:50	
Dong, Jian Yun M D	NEF(06-20-2023 04:33:07 PM) Order/Electronic Form 4	Filing		06/20/2023-16:33	07/17/2023-16:33	
Dong, Jian Yun M D	Order/Motion for Equal Time is Granted	Order		06/20/2023-16:33	07/17/2023-16:33	
Medical University of South Carolina The	NEF(06-09-2023 03:10:30 PM) Order/Order Cover Sheet \$25....	Filing		06/09/2023-15:48	07/17/2023-15:48	
Medical University of South Carolina The	Order/Order Cover Sheet \$25.00	Filing		06/09/2023-15:10	07/17/2023-15:10	
Dong, Jian Yun M D	Motion/Continuance & Certificate of Service	Motion		05/26/2023-16:43	07/17/2023-16:43	
Medical University of South Carolina The	NEF(05-23-2023 02:43:25 PM) Notice/Notice of Appearance	Filing		05/23/2023-14:51	07/17/2023-14:51	
Medical University of South Carolina The	Notice/Notice of Appearance	Filing		05/23/2023-14:43	07/17/2023-14:43	
Medical University of South Carolina The	Amended Notice of W/Draw as Counsel F/Defendant	Filing		05/23/2023-14:43	07/17/2023-14:43	
Medical University of South Carolina The	NEF(05-23-2023 02:06:40 PM) Notice/Other	Filing		05/23/2023-14:16	07/17/2023-14:16	
Medical University of South Carolina The	Notice of W/Draw as Counsel F/Defendant	Filing		05/23/2023-14:06	07/17/2023-14:06	
Dong, Jian Yun M D	NEF(05-08-2023 10:03:52 AM) Notice/Notice of Hearing	Filing		05/08/2023-10:04	07/17/2023-10:04	
Dong, Jian Yun M D	Notice of Hearing	Filing		05/08/2023-10:03	07/17/2023-10:03	
Dong, Jian Yun M D	NEF(05-08-2023 09:48:04 AM) Notice/Other	Filing		05/08/2023-09:48	07/17/2023-09:48	
Dong, Jian Yun M D	Notice of Trial	Filing		05/08/2023-09:48	07/17/2023-09:48	
Dong, Jian Yun M D	Motion/Protective Order & Certificate of Service	Motion		05/01/2023-07:05	07/17/2023-07:05	
Dong, John M D	Plaintiffs Opposition to Dfs Motion for Summary Judgment/Srv	Filing		04/24/2023-07:46	07/17/2023-07:46	

Dong, Jian Yun M D	Motion/Extended Time F/Response to Motion/Summary Judgment	Motion		04/21/2023-16:15	07/17/2023-16:15	
Dong, Jian Yun M D	NEF(04-20-2023 03:24:02 PM) Notice/Notice of Hearing	Filing		04/20/2023-15:25	07/17/2023-15:25	
Dong, Jian Yun M D	Notice of Hearing	Filing		04/20/2023-15:24	07/17/2023-15:24	
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Medical University of South Carolina The	Motion/Summary Judgment & Certificate of Service	Motion		03/31/2023-11:26	05/26/2023-11:26	
Medical University of South Carolina The	Memo in Support of Summary Judgment	Filing		03/31/2023-11:26	07/17/2023-11:26	
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Medical University of South Carolina The	Order/Protection from Court Appearance	Order		03/22/2023-10:29	07/17/2023-10:29	
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Medical University of South Carolina The	Order/Protection from Court Appearance	Order		03/21/2023-12:57	07/17/2023-12:57	
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Medical University of South Carolina The	Order/Order Cover Sheet \$25.00	Filing		03/16/2023-12:20	07/17/2023-12:20	
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Dong, Jian Yun M D	Order Denying Motion for Extension of Time	Order		03/01/2023-13:31	07/17/2023-13:31	
Dong, John M D Ph D	Motion/Extension of Time F/Discovery & Crt/Srv	Motion		02/22/2023-12:55	03/01/2023-12:55	
Dong, Jian Yun M D	NEF(01-31-2023 08:53:55 AM) Order/Other	Filing		01/31/2023-08:54	07/17/2023-08:54	
Dong, Jian Yun M D	Order Denying Motion for Reconsideration or Renewed f/Protec	Order		01/31/2023-08:53	07/17/2023-08:53	
Dong, Jian Yun M D	Motion/Reconsideration or Renewed Request F/Protective Order	Motion		01/23/2023-07:31	01/31/2023-07:31	
Dong, Jian Yun M D	NEF(01-04-2023 08:24:10 AM) Order/Protective Order	Filing		01/04/2023-08:27	07/17/2023-08:27	
Dong, Jian Yun M D	Order/Motion for Protective Order is Denied	Order		01/04/2023-08:24	07/17/2023-08:24	
Dong, Jian Yun M D	Motion for Protective Order,Crt/Svc	Motion		12/21/2022-15:53	01/04/2023-15:53	
Dong, Jian Yun M D	Remittitur From Court Of Appeals-Denying Motion to Compel	Filing		11/23/2022-11:09	07/17/2023-11:09	
Dong, John M D Ph D	Notice of Civil Appeal as to Judgment & Service	Filing		10/14/2022-14:41	07/17/2023-14:41	
Dong, Jian Yun M D	NEF(10-07-2022 05:26:15 PM) Order/Scheduling Order	Filing		10/07/2022-17:26	07/17/2023-17:26	
Dong, Jian Yun M D	Order/Scheduling Order	Order		10/07/2022-17:26	07/17/2023-17:26	
Dong, Jian Yun M D	NEF(09-28-2022 11:10:46 AM) Order/Electronic Form 4	Filing		09/28/2022-11:11	09/28/2022-11:11	
Dong, Jian Yun M D	Order/Motion to Reconsideration is Denied	Order		09/28/2022-11:10	09/28/2022-11:10	
Dong, Jian Yun M D	NEF(09-20-2022 04:53:52 PM) Notice/Notice of Hearing	Filing		09/20/2022-16:54	09/28/2022-16:54	
Dong, Jian Yun M D	Notice Of Status Conference	Filing		09/20/2022-16:53	09/28/2022-16:53	
Dong, Jian Yun M D	Remittitur From Supreme Court-Assigning to Judge Toal	Filing		09/20/2022-10:23	09/28/2022-10:23	
Dong, Jian Yun M D	NEF(09-08-2022 10:12:21 AM) Order/Electronic Form 4	Filing		09/08/2022-10:22	09/28/2022-10:22	
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Dong, Jian Yun M D	Motion F/Amendment Scheduling Order & Certificate of Service	Motion		08/23/2022-13:06	09/28/2022-13:06	
Dong, Jian Yun M D	Motion for Reconsideration	Motion		08/23/2022-12:59	09/28/2022-12:59	
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Dong, Jian Yun M D	Order/Motion to Reconsider is Denied	Order		08/12/2022-09:27	09/28/2022-09:27	
Cleveland, Caroline Wrenn	9/9/2022_JRY_Roster/Notice of Case Roster Publication Sent	Action		08/11/2022-12:37	09/28/2022-12:37	
Conley, Bob J.	9/9/2022_JRY_Roster/Notice of Case Roster Publication Sent	Action		08/11/2022-12:37	09/28/2022-12:37	
Dong, John M D Ph D	9/9/2022_JRY_Roster/Notice of Case Roster Publication Sent	Action		08/11/2022-12:37	09/28/2022-12:37	
Dong, Jian Yun M D	Opposition to Motion for Protective Order & Crt/Svc	Filing		06/30/2022-10:16	09/28/2022-11:36	

Medical University of South Carolina The	NEF(06-17-2022 01:33:57 PM) Motion/Other	Filing		06/17/2022-15:07	09/28/2022-15:07	
Medical University of South Carolina The	Motion for Protective Order,Crt/Svc	Motion		06/17/2022-13:33	09/28/2022-13:33	
	Miscellaneous Documents	Filing		04/28/2022-10:17	09/28/2022-10:17	
	Miscellaneous Documents	Filing		04/14/2022-07:39	09/28/2022-07:39	
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Medical University of South Carolina The	Order/Protection from Court Appearance	Order		04/07/2022-11:18	09/28/2022-11:18	
Medical University of South Carolina The	NEF(04-04-2022 10:21:39 AM) Proposed Order/Protection fr...	Filing		04/04/2022-10:32	09/28/2022-10:32	
Medical University of South Carolina The	Order/Order Cover Sheet \$25.00	Filing		04/04/2022-10:21	09/28/2022-10:21	
Dong, Jian Yun M D	Motion/Reconsideration/Interocutory Appeal of Magistrate	Motion		03/08/2022-15:11	08/12/2022-15:11	
Dong, John M D Ph D	Notice Of Appeal As To Order By Maristrate Judge Cothran/Srv	Filing		02/18/2022-08:08	09/28/2022-08:08	
Dong, Jian Yun M D	NEF(02-07-2022 04:04:17 PM) Order/Other	Filing		02/07/2022-16:04	09/28/2022-16:04	
Dong, Jian Yun M D	Order Denying Pltff 2nd Motion/Compel & Granting Expanded Ti	Order		02/07/2022-16:04	09/28/2022-16:04	
Dong, Jian Yun M D	Opposition to Proposed Order or Motion for Reconsideration	Filing		02/03/2022-10:59	09/28/2022-08:38	
Dong, Jian Yun M D	Pltff Reply to Response to Motions to Expand & Compel (Copy)	Filing		11/24/2021-16:01	09/28/2022-16:01	
Dong, John M D Ph D 23179171	12/13/2021_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/18/2021-13:52	09/28/2022-13:52	
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Dong, John M D Ph D	12/13/2021_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/18/2021-13:52	09/28/2022-13:52	
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Conley, Bob J.	12/13/2021_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/18/2021-13:52	09/28/2022-13:52	
Cleveland, Caroline Wrenn	12/13/2021_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/18/2021-13:52	09/28/2022-13:52	
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Cleveland, Caroline Wrenn	12/13/2021_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/18/2021-13:52	09/28/2022-13:52	
Medical University of South Carolina The	NEF(10-29-2021 01:11:11 PM) Response	Filing		10/29/2021-13:34	09/28/2022-13:34	
Medical University of South Carolina The	Response to Plaintiff's 2nd Motion/Compel & All Other Motion	Filing		10/29/2021-13:11	09/28/2022-13:11	
	Miscellaneous Documents	Filing		10/20/2021-10:56	09/28/2022-10:46	
Cleveland, Caroline Wrenn	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	
Cleveland, Caroline Wrenn	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	
Cleveland, Caroline Wrenn	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	
Conley, Bob J.	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	
Conley, Bob J.	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	
Conley, Bob J.	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	
Dong, John M D Ph D	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	
Dong, John M D Ph D	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	
Dong, John M D Ph D	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	
Dong, John M D Ph D 23179171	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	
Dong, John M D Ph D 23179171	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	
Dong, John M D Ph D 23179171	11/1/2021_MOTIONS_Roster/Notice of Motions Roster Publicatio	Action		10/12/2021-17:25	09/28/2022-17:25	

Dong, Jian Yun M D	NEF(10-06-2021 03:51:24 PM) Order/Electronic Form 4	Filing		10/06/2021-16:01	09/28/2022-16:01	
Dong, Jian Yun M D	Order: Stay is Lifted	Order		10/06/2021-15:51	09/28/2022-15:51	
Dong, John M D Ph D	Motion to Amend Discovery Restrictions & Schedule	Motion		09/22/2021-10:26	12/13/2021-10:26	
Dong, Jian Yun M D	Plaintiffs Second Motion to Compel For Production	Motion		01/20/2021-10:36	12/13/2021-10:36	
Dong, Jian Yun M D	Plaintiffs Motion To Expand Discovery Schedule Due To COVID-	Motion		01/11/2021-11:29	12/13/2021-11:29	
Medical University of South Carolina The	NEF(11-10-2020 01:46:42 PM) Notice/Other	Filing		11/10/2020-13:59	09/28/2022-13:59	
Medical University of South Carolina The	Notice of Withdrawal as Counsel For Defendant	Filing		11/10/2020-13:46	09/28/2022-13:46	
Dong, John M D Ph D	Notice of Address Change	Filing		09/02/2020-10:06	09/28/2022-10:06	
Dong, Jian Yun M D	2nd Requests for Production to Defendant, crt/srv	Filing		01/30/2020-11:33	09/28/2022-11:33	
Dong, John M D Ph D	Motion/Motion Filing Fee	Filing		01/29/2020-14:27	09/28/2022-14:27	
Dong, John M D Ph D	Motion/ Expand Discovery & Crt/Srv	Motion		01/29/2020-10:33	12/13/2021-10:33	
Dong, John M D Ph D	Response to Notice of Taking Deposition, crt/srv	Filing		01/27/2020-16:26	09/28/2022-16:26	
Dong, John M D Ph D	Response to Notice of Taking Deposition, crt/srv	Filing		01/27/2020-16:23	09/28/2022-16:23	
	Order on Motion to Compel	Order		10/04/2019-15:50	09/28/2022-15:50	
	Confidentiality Order	Order		10/04/2019-15:45	09/28/2022-15:45	
Dong, John M D	Response to Motion to Alter or Amend, crt/srv	Filing		07/16/2019-14:47	09/28/2022-14:47	
Conley, Bob J.	Defnt Motion/Alter and/or Amend & Crt/Srv	Motion		07/03/2019-12:28	10/07/2021-12:28	
Medical University of South Carolina The	Motion/Motion Filing Fee	Filing		07/03/2019-11:20	09/28/2022-11:20	
	Confidentiality Order	Order		06/20/2019-11:44	06/20/2019-11:44	
	Order Granting Motion to Compel & Staying Case	Order		06/20/2019-11:32	06/20/2019-11:32	
Conley, Bob J.	6/10/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		05/20/2019-14:34	06/20/2019-14:34	
Conley, Bob J.	6/10/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		05/20/2019-14:34	06/20/2019-14:34	
Cleveland, Caroline Wrenn	6/10/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		05/20/2019-14:34	06/20/2019-14:34	
Cleveland, Caroline Wrenn	6/10/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		05/20/2019-14:34	06/20/2019-14:34	
Dong, John M D Ph D 23179171	6/10/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		05/20/2019-14:34	06/20/2019-14:34	
Dong, John M D Ph D 23179171	6/10/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		05/20/2019-14:34	06/20/2019-14:34	
Ferguson, Emmanuel Joseph Sr.	6/10/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		05/20/2019-14:34	06/20/2019-14:34	
Ferguson, Emmanuel Joseph Sr.	6/10/2019_MOTION_Roster/Notice of Motions Roster Publication	Action		05/20/2019-14:34	06/20/2019-14:34	
Dong, John M D Ph D 23179171	Pltff Motion/Compel & Crt/Srv	Motion		03/05/2019-11:52	06/10/2019-11:52	
Dong, Jian Yun M D	Objection to Defnt Response & Crt/Srv	Filing		03/05/2019-11:49	06/20/2019-11:49	
Dong, Jian Yun M D	Motion/Motion Filing Fee	Filing		03/05/2019-11:20	06/20/2019-11:20	
	Plaintiffs' Change of Address	Filing		02/25/2019-13:55	06/20/2019-13:55	
Dong, John M D Ph D 23179171	Pltff Motion/Oblection & Crt/Srv	Motion		02/13/2019-12:20	06/10/2019-12:20	
Dong, John M D	Motion/Motion Filing Fee	Filing		02/13/2019-11:33	06/20/2019-11:33	
Medical University of South Carolina The	Motion/Motion Filing Fee	Filing		01/31/2019-11:07	06/20/2019-11:07	
Ferguson, Emmanuel Joseph Sr.	Defnt Motion/Status Conference & Crt/Srv	Motion		01/31/2019-09:13	02/12/2019-09:13	
Dong, Jian Yun M D	Motion/Motion Filing Fee	Filing		11/28/2018-16:08	06/20/2019-16:08	
Dong, John M D Ph D 23179171	Pltff Motion/Continuance & Crt/Srv	Motion		11/28/2018-09:06	02/12/2019-09:06	
Dong, Jian Yun M D	Request for Production to Defnt & cert/srv	Filing		01/17/2018-16:15	06/20/2019-16:15	
Dong, Jian Yun M D	Answer to First Interrogatories & cert/srv	Filing		01/02/2018-14:07	06/20/2019-14:07	
Dong, Jian Yun M D	Response to Defnts First Request of Production & cert/srv	Filing		01/02/2018-14:05	06/20/2019-14:05	
	Order/defnt's motion to compel is granted	Order		12/14/2017-11:20	06/20/2019-11:20	
Dong, John M D Ph D 23179171	12/11/2017_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/30/2017-10:38	06/20/2019-10:38	
Ferguson, Emmanuel Joseph Sr.	12/11/2017_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/30/2017-10:38	06/20/2019-10:38	
Cleveland, Caroline Wrenn	12/11/2017_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/30/2017-10:38	06/20/2019-10:38	
Conley, Bob J.	12/11/2017_MOTION_Roster/Notice of Motions Roster Publicatio	Action		11/30/2017-10:38	06/20/2019-10:38	
Conley, Bob J.	Roster/Notice of Motions Roster Publication Sent	Action		11/08/2017-08:35	06/20/2019-08:35	
Cleveland, Caroline Wrenn	Roster/Notice of Motions Roster Publication Sent	Action		11/08/2017-08:35	06/20/2019-08:35	

Ferguson, Emmanuel Joseph Sr.	Roster/Notice of Motions Roster Publication Sent	Action		11/08/2017-08:35	06/20/2019-08:35	
Dong, John M D Ph D 23179171	Roster/Notice of Motions Roster Publication Sent	Action		11/08/2017-08:35	06/20/2019-08:35	
Dong, John M D Ph D 23179171	Roster/Notice of Motions Roster Publication Sent	Action		08/17/2017-09:02	06/20/2019-09:02	
Ferguson, Emmanuel Joseph Sr.	Roster/Notice of Motions Roster Publication Sent	Action		08/17/2017-09:02	06/20/2019-09:02	
Cleveland, Caroline Wrenn	Roster/Notice of Motions Roster Publication Sent	Action		08/17/2017-09:02	06/20/2019-09:02	
Conley, Bob J.	Roster/Notice of Motions Roster Publication Sent	Action		08/17/2017-09:02	06/20/2019-09:02	
Dong, Jian Yun M D	Notice of Change of Address, crt/srv	Filing		08/08/2017-15:43	06/20/2019-15:43	
Ferguson, Emmanuel Joseph Sr.	Roster/Notice of Motions Roster Publication Sent	Action		05/04/2017-14:12	06/20/2019-14:12	
Cleveland, Caroline Wrenn	Roster/Notice of Motions Roster Publication Sent	Action		05/04/2017-14:12	06/20/2019-14:12	
Conley, Bob J.	Roster/Notice of Motions Roster Publication Sent	Action		05/04/2017-14:12	06/20/2019-14:12	
Dong, John M D Ph D 23179171	Roster/Notice of Motions Roster Publication Sent	Action		05/04/2017-14:12	06/20/2019-14:12	
Ferguson, Emmanuel Joseph Sr.	Motion/Compel & crt/srv	Motion		03/29/2017-14:43	12/13/2017-14:43	
Medical University of South Carolina The	Motion/Motion Filing Fee	Filing		03/29/2017-12:00	06/20/2019-12:00	
	Response/ First Extension Filing for Pitff	Filing		03/17/2017-10:25	06/20/2019-10:25	
	Note-no response fr Dr. Dong-Dr Dong responded with address	Filing		02/02/2017-13:39	06/20/2019-13:39	
Dong, Jian Yun M D	Order/Relieve Counsel-Holmes & Lewis	Order		01/25/2017-09:00	06/20/2019-09:00	
Holmes, Allan R. Sr.	Roster/Notice of Motions Roster Publication Sent	Action		01/09/2017-12:11	06/20/2019-12:11	
Cleveland, Caroline Wrenn	Roster/Notice of Motions Roster Publication Sent	Action		01/09/2017-12:11	06/20/2019-12:11	
Ferguson, Emmanuel Joseph Sr.	Roster/Notice of Motions Roster Publication Sent	Action		01/09/2017-12:11	06/20/2019-12:11	
Conley, Bob J.	Roster/Notice of Motions Roster Publication Sent	Action		01/09/2017-12:11	06/20/2019-12:11	
Holmes, Allan R. Sr.	Motion/Relieve As Counsel for plaintiff	Motion		01/05/2017-14:58	01/23/2017-14:58	
Dong, Jian Yun M D	Motion/Motion Filing Fee	Filing		01/05/2017-11:51	06/20/2019-11:51	
Medical University of South Carolina The	Answer to Complaint, crt/srv	Filing		12/28/2016-09:22	06/20/2019-09:22	
Dong, Jian Yun M D	Order/Order to Restore	Filing		12/14/2016-10:06	06/20/2019-10:06	

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM THE CHARLSTON COUNTY
Court of Common Pleas

Honorable Jean Toal, Circuit Court Judge

Civil Action No. 2016-CP-10-06683

FILED
2023 NOV 27 AM 11:35
JULIE J. ARMSTRONG
CLERK OF COURT
DGL

Jian-Yun (John) Dong, M.D., Ph.D., ... Appellant

v.

The Medical University of South Carolina, ... Respondent

NOTICE OF APPEAL

Appellant Jian-Yun (John) Dong, hereby submit this Timely Notice of Appeal of the Order granting Defendant's Motion for Summary Judgement issued on July 17, 2023, and the Order Denying Motion for Reconsideration/Amendment issued on September 22, 2023, by the Honorable Jean Taol.

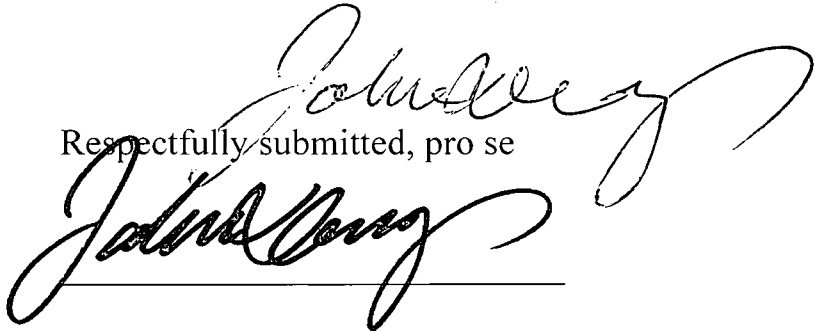
This Notice is **timely** because Appellant was not granted the access to the ECF system of the Court of Common Plea, did not receive the notice of either entry from the court electronically or by the mail. The Appellant only received the notice of the

entries forwarded by the Defendant using USPS mails on **October 5th 2023**, which was mailed on October 3, 2023 (a copy is attached).

Furthermore, Appellant filed a motion for Judicial Recusal due to the appearance of bias, which stays the time. The denial of the motion was entered on October 4th, 2023, and a notice forwarded by the Defendant was received on **October 6, 2023**.

November 3, 2023,

Respectfully submitted, pro se

A handwritten signature in black ink, appearing to read 'John Dong', is written over a horizontal line. The signature is fluid and cursive.

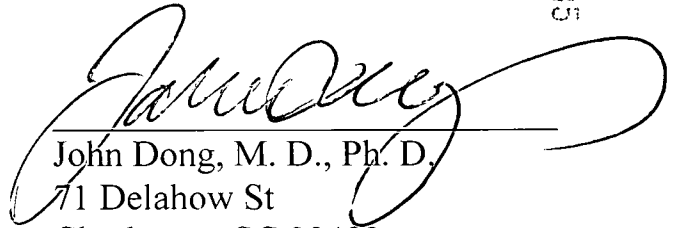
John Dong, M. D., Ph. D.
71 Delahow St
Charleston, SC 29492
Email: johnny.dong@gmail.com
Phone: 843-991-2332

CERTIFICATE OF SERVICE

This is to certify that I have, on this 22nd day of September 2023, served a copy of the Plaintiff's Notice of Appeal, which was submitted to the South Carolina Court of Appeals on the 3rd Day of September 2023, to the Court of Common Pleas, to replace the copy of the same Notice served on the 10th day of September. This Notice is sent via United States Mail Services with postage and addressed as the follows:

Julie J. Armstrong
Clerk of Court
Charleston County
100 Broad Street, suite 106
Charleston, South Carolina 29401-2258

FILED
2023 NOV 27 AM 11:35
JULIE J. ARMSTRONG
CLERK OF COURT
BY *dd*


John Dong, M. D., Ph. D.
71 Delahow St
Charleston, SC 29492
Email: johny.dong@gmail.com
Phone: 843-991-2332

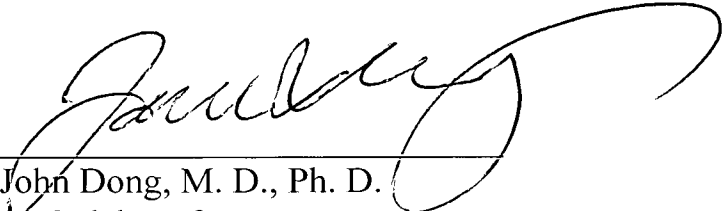
Honorable Julie J. Armstrong
Clerk of Court
Charleston County
100 Broad Street, suite 106
Charleston, South Carolina 29401-2258

Sept. 22, 2022

Dear Court Clerk,

Please find the replacement of the Notice of Appeal submitted to the court on 10 September 2023. The regional copy of the Notice was returned because I mistakenly signed and submitted two copies of the certificate of service instead of signing the second page. Therefore, I hope to keep the regional submission date.

Sincerely,

A handwritten signature in black ink, appearing to read "John Dong", with a large, sweeping flourish extending to the right.

John Dong, M. D., Ph. D.
71 Delahow St
Charleston, SC 29492
Email: johnny.dong@gmail.com
Phone: 843-991-2332

COURT OF COMMON PLEAS
AND GENERAL SESSIONS
100 BROAD STREET, SUITE 106
CHARLESTON, S.C. 29401-2258
(843) 958-5000
(843) 958-5020 FAX
clerkofcourt.charlestoncounty.org



FAMILY COURT OF THE
NINTH JUDICIAL CIRCUIT
CHARLESTON COUNTY
100 BROAD STREET, SUITE 143
CHARLESTON, S.C. 29401-2265
(843) 958-4400
(843) 958-4434 FAX
clerkofcourt.charlestoncounty.org

JULIE J. ARMSTRONG
CLERK OF COURT
CHARLESTON COUNTY

The enclosed document is being returned for the following reason(s);

☒ The document is not signed / notarized.

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☐ The check or money order must be made payable to the Clerk of Court.

☐ This document is a copy. We must have an original.

☐ This is not a Charleston County case.

☐ The case has been transferred/remanded to: _____

☐ Inmate litigation must comply with S.C. Code of Laws, Title 24, Chapter 27.

☐ The document is refused for filing pursuant to S.C. Code of Laws §30-9-30(B)(1).

Name of submitting party: _____

☐ There is not a case listed in our system that matches this caption.

☐ Information may be obtained from our web-site at <http://clerkofcourt.charlestoncounty.org/>

☐ The required **new case** coversheet is not included. (SCCA234)

☐ The required **motion/order** coversheet is not included. (SCCA/233)

☐ The required **order (Form 4)** coversheet is not included. (SCRCP Form 4C)

☐ Effective October 21, 2019 Charleston County began accepting electronic filings from all South Carolina licensed attorneys. Please re-submit your filing electronically.

☒ Other: The Notice of Appeal is missing its second page and
signature.

Staff initials JP

Date 11/13/23

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2016-CP-10-06683
	)	
Jian-Yun (John) Dong, M.D., Ph.D.,	)	
	)	
Plaintiff,	)	ORDER GRANTING SUMMARY
	)	JUDGMENT
vs.	)	
	)	
	)	
Medical University of South Carolina,	)	
	)	
Defendant.	)	
_____	)	

This case came before the Court for hearing on May 26, 2023, regarding Defendant Medical University of South Carolina's ("MUSC") Motion for Summary Judgment (the "Motion"). In general, MUSC asserted Plaintiff Jian-Yun (John) Dong, M.D., Ph.D. ("Dr. Dong") could not show MUSC breached a contract with him and/or, even if Dr. Dong could provide evidence of a breach, Dr. Dong could not present evidence of damage and Dr. Dong did not file his Complaint before the expiration of the applicable statute of limitations. Therefore, MUSC contended summary judgment is appropriate under Rule 56, SCRPC.

Bob J. Conley appeared at the hearing on behalf of MUSC. Dr. Dong appeared pro se. Based upon the record, submissions of the parties, and the arguments made by the parties at the hearing, the Court grants MUSC's Motion for Summary Judgment.

RELEVANT FACTS

Dr. Dong and MUSC had a long professional relationship beginning in 1998 when Dr. Dong left a position at the University of California San Francisco to become a tenured Professor of Microbiology and Immunology at MUSC. With MUSC's support, Dr. Dong was successful in obtaining several large grants under the auspices of the United States National Institutes of

Health and other funding agencies to support his research. At a certain point, Dr. Dong formed an association with GenPhar, Inc., a private biotech firm, to conduct research.

Contentious disagreements arose between Dr. Dong and MUSC. On May 3, 2010, Dr. Dong and MUSC entered into a written agreement (hereinafter, the “Agreement”): “A Final Separation Agreement between The Medical University of South Carolina, including its College of Medicine, and Dr. Jian-Yun Dong, Professor of Microbiology and Immunology.” Dr. Dong, along with J. G. Reves, M.D. (“Dr. Reves”), MUSC’s then Vice President for Medical Affairs and College of Medicine Dean, signed the Agreement on May 3, 2010.

The first two paragraphs of the Agreement contain the following key provisions:

By their entering into this final agreement, the University agrees that Dr. Dong’s compensated appointment as Professor of Microbiology and Immunology will continue through March 31, 2012. Dr. Dong agrees to withdraw any and all pending or future grievance(s) for actions prior to the date of this agreement (above) and agrees that this final separation constitutes full settlement of any and all past grievances or claims that Dr. Dong may have against the University, its employees and against any and all of its affiliated entities up to and including the date of this agreement.

During the term of this final agreement, the University will continue Dr. Dong’s employment, faculty appointment and make scheduled salary payments to him. In consideration, Dr. Dong acknowledges that this final agreement constitutes his irrevocable resignation of his tenured faculty appointment to be effective no later than March 31, 2012. Dr. Dong will retain his faculty appointment, tenure and title until the effective date of his resignation.

Dr. Dong and Dr. Reves signed the Agreement on May 3, 2010, in Dr. Reves’ office. According to Dr. Dong, prior to signing the Agreement, he did not read the Agreement but, instead, Dr. Dong “scanned through” the Agreement. Dr. Dong acknowledged Dr. Reves did not pressure him to sign the Agreement.

The Agreement imposed obligations and benefits on Dr. Dong and MUSC. (A discussion of MUSC's obligations is contained in Section I.B.) According to Dr. Dong, MUSC breached the Agreement no later than June 17, 2010, no more than forty-five days after the Agreement was signed on May 3, 2010. Dr. Dong did not file his Complaint until September 2, 2014.

Approximately eighteen months after the Agreement was signed, on September 20, 2011, MUSC was notified that Dr. Dong had been indicted by the United States government for alleged misconduct in connection with his federal grants. On September 29, 2011, Dr. Dong was notified that he would be placed on administrative leave. None of his financial payments as set forth in the Agreement were affected by the administrative leave. On December 19, 2014, three months after filing the Complaint in this matter, Allen R. Holmes, attorney for Dr. Dong, and Annette Drachman, attorney for MUSC, filed a joint Motion for Stay which provided:

Plaintiff and Defendant move jointly to stay this matter until June 1, 2015, pending the criminal matters that have a direct correlation to this litigation.

This stay was granted. Over the years, this stay continued to be renewed, during which time Dr. Dong was tried and convicted in federal court, served a sentence in the federal penitentiary, and was ultimately released after service of his sentence. This case was ultimately dismissed and subsequently restored to the docket with a new civil action number. This matter was reactivated in 2019 with many disputes regarding pretrial discovery handled by several different circuit court judges. On September 20, 2022, the undersigned was assigned exclusive jurisdiction to hear and dispose of this case. On October 4, 2022, the undersigned conducted a status conference and discussed with both parties the establishment of the scheduling order. On October 7, 2022, the undersigned issued a Scheduling Order providing for deadlines for the scheduling of discovery

depositions, the filing of dispositive motions, and if necessary, the scheduling of mediation and trial.

Although this matter has had a lengthy and complicated procedural history, in the final analysis, this matter can be decided on straight forward principles of South Carolina law governing civil procedure and the law of contracts.

LEGAL STANDARD

The purpose of summary judgment is to expedite disposition of cases that do not require the services of a fact finder. Dawkins v. Fields, 354 S.C. 58, 69, 580 S.E.2d 433, 438 (2003). Summary judgment is proper where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Id. In determining whether summary judgment is appropriate, the evidence must be viewed in the light most favorable to the nonmoving party. Id. The party seeking summary judgment has the initial responsibility of demonstrating the absence of a genuine issue of material fact. Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991).

However, “[w]ith respect to an issue on which the nonmoving party bears the burden of proof, this initial responsibility may be discharged by ‘showing’ – that is, pointing out to the [trial] court – that there is absence of evidence to support the non-moving party’s case.” Baughman at 115, 410 S.E.2d at 544 (*quoting Celotex Corporation v. Catrett*, 477 U.S. 317, 325 (1986)). In that instance, the “moving party need not ‘support its motion with affidavits or other similar materials *negating* the opponent’s claim.’” Id. (*quoting Celotex*, 477 U.S. at 323) (emphasis in original). “Once the moving party has carried its initial burden, the opposing party must . . . ‘do more than simply show that there is some metaphysical doubt as to the material facts,’ and ‘must come

forward with ‘specific facts showing there is a genuine issue for trial.’” *Id.* (quoting Matsushita Electrical Ind. Co. v. Zenith Radio Corp., 475 U.S. 574, 586-87(1986)).

FINDINGS

MUSC met the burden imposed on it by Rule 56, SCRCP, and Baughman. However, Dr. Dong failed to oppose MUSC’s Motion in any meaningful, sufficient manner, and Dr. Dong failed to meet the well-recognized requirements of Baughman and Rule 56, SCRCP. Notably, and important, Dr. Dong provided no deposition transcripts, affidavits, documents or other admissible, material evidence in opposition to MUSC’s Motion.

“It is a fundamental rule that ‘if the plaintiff relies solely upon the pleadings, files no counter-affidavits, and makes no factual showing in opposition to a motion for summary judgment, the [trial] court is required under Rule 56, to grant summary judgment, if, under the facts presented by the defendant, he [it] was entitled to judgment as a matter of law.’” Higgins v. Medical University of South Carolina, 326 S.C. 592, 598, 486 S.E.2d 269, 272 (Ct. App. 1997) (quoting Humana Hospital-Bayside v. Lightle, 305 S.C. 214, 216, 407 S.E.2d 637, 638 (1991)). As a pro se litigant, Dr. Dong’s statements and argument at the hearing are not evidence in opposition to MUSC’s Motion. *See e.g.*, South Carolina Dept. of Transp. V. Thompson, 357 S.C. 101, 105, 590 S.E.2d 511, 513 (Ct. App. 2003) (recognizing “[a]rguments made by counsel are not evidence” and collecting other, similar cases).

I. Breach of Contract.

In his Complaint, Dr. Dong asserts a single cause of action for breach of contract. Dr. Dong’s Complaint contains no other causes of action, and Dr. Dong’s Complaint stands without amendment. Specifically, Dr. Dong alleges MUSC breached the Agreement.

Dr. Dong, along with Dr. Reves, MUSC's then Vice President for Medical Affairs and College of Medicine Dean, signed the Agreement on May 3, 2010. Dr. Dong filed his Complaint on September 2, 2014.

In this action for breach of contract, the burden is on Dr. Dong to prove the contract [Agreement], its breach, and damages caused to him by such breach. Maro v. Lewis, 389 S.C. 216, 222, 697 S.E.2d 684, 688 (Ct. App. 2010). Additionally, the law imposes an obligation on Dr. Dong to file and serve his Complaint alleging breach of contract within the applicable statutes of limitation. As discussed below, Dr. Dong did not present sufficient material evidence to show MUSC breached the Agreement, to show damages accrued as to him regarding alleged breaches, or to show he filed and served the Complaint within the applicable three-year statute of limitations.

A. Dr. Dong's Breach of Contract Claim is Barred by the Statute of Limitations.

The statute of limitations for actions pursuant to contract is three years. Poly-Med, Inc. v. Novus Scientific PTE. LTD., 437 S.C. 343, 347, 878 S.E.2d 896, 898 (2022) (citing S.C. Code Ann. § 15-3-530(1) (2005)). Consequently, the statute of limitations applicable to Dr. Dong's allegations regarding the Agreement is three years. Applying the three-year statute of limitations to Dr. Dong's Complaint, any breach of the Agreement is time barred for several reasons.

First, Dr. Dong did not present material evidence any alleged breach occurred after September 1, 2011 – three years prior to Dr. Dong filing the Complaint. Second, Dr. Dong did not present material evidence any alleged breach first occurred after September 1, 2011, or occurred more than three years after he knew or should have known (i.e., discovered) a cause of action for breach of contract existed. See Poly-Med at 350, 878 S.E.2d at 899 (“The limitations period begins to run when a party knows or should know, through the exercise of due diligence, that a cause of action might exist.”) (quoting Anonymous Taxpayer v. S.C. Department of Revenue, 377 S.C.

425, 439, 661 S.E.2d 73, 80 (2008)). In Poly-Med, the South Carolina Supreme Court confirmed “South Carolina does not recognize the continuing breach theory in applying the statute of limitations to breach of contract claims.” Poly-Med at 355, 878 S.E.2d at 902. Therefore, the three-year statute of limitations accrued as to each breach of the Agreement Dr. Dong alleges when Dr. Dong either knew, or should have known by exercising due diligence, MUSC breached the Agreement. For the reasons discussed below, Dr. Dong did not present material evidence to overcome application of the three-year statute of limitations and resulting bar of his claims.

1. Dr. Dong Did Not Present Material Evidence MUSC First Breached the Agreement After September 1, 2011.

According to Dr. Dong, MUSC breached the Agreement soon after entering into the Agreement. For example, Dr. Dong claims MUSC failed to meet the terms of the Agreement addressed in Section B.12 below. However, the Agreement required MUSC meet the terms of the Agreement in that respect within forty-five days of entering into the Agreement, on or before June 17, 2010. By way of further example, the Agreement required MUSC meet the terms of the Agreement addressed in Sections B.18 and B.20 below. However, the Agreement required MUSC meet the terms of the Agreement in those respects within thirty days of the effective date of the Agreement – no later than July 18, 2010.¹ Additionally, Dr. Dong testified “of course” MUSC breached the Agreement prior to March 25, 2011.

In summary, taking Dr. Dong’s deposition testimony as true, Dr. Dong knew or should have known as early as June 17, 2010, that MUSC breached the Agreement. Therefore, the three-year statute of limitations accrued and began to run as to Dr. Dong’s breach of contract claim as early as June 18, 2010, but no later than July 18, 2010. Moreover, Dr. Dong testified he believed

¹ The phrase “effective date” in the Agreement refers to June 18, 2010, because Dr. Dong had forty-five days from May 3, 2010, to revoke/rescind the Agreement. June 18, 2010, is day forty-six after May 3, 2010.

MUSC breached the Agreement prior to March 25, 2011. Regardless of which date the statute of limitations accrued as to Dr. Dong's claim MUSC breached the Agreement, Dr. Dong waiting until September 2, 2014, to file his Complaint results in his claim falling outside the statute of limitations. Consequently, Dr. Dong's breach of contract claim is time barred.

2. Dr. Dong Either Knew of or Should Not Have Known of MUSC's Alleged Breaches of the Agreement Through the Exercise of Due Diligence Prior to September 2, 2011.

See Section A.1.

B. Dr. Dong Did Not Present Sufficient Evidence MUSC Breached the Agreement.

“It is fundamental that, in the construction of the language of a contract, it is proper to read together the different provisions therein dealing with the same subject matter, and where possible, all the language used should be given a reasonable meaning.” Bluffton Towne Ctr., LLC v. Gilleland-Prince, 412 S.C. 554, 569, 772 S.E.2d 882, 890 (Ct. App. 2015) (quoting Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC, 374 S.C. 483, 498-99, 649 S.E.2d 494, 502 (Ct. App. 2007)). “In construing and determining the effect of a written contract, the intention of the parties and the meaning are gathered primarily from the contents of the writing itself, or, as otherwise stated, from the four corners of the instrument.” Silver v. Abstract Pools & Spas, Inc., 376 S.C. 585, 591, 658 S.E.2d 539, 542 (Ct. App. 2008) (quoting McPherson v. J.E. Serrine & Co., 206 S.C. 183, 204, 33 S.E.2d 501, 509 (1945)). The Agreement is unambiguous and, therefore, the Court must enforce it “according to its terms regardless of its wisdom or folly, apparent unreasonableness, or the parties' failure to guard their rights carefully.” S.C. Dep't of Transp. v. M & T Enterprises of Mt. Pleasant, LLC, 379 S.C. 645, 655, 667 S.E.2d 7, 13 (Ct. App. 2008).

It is a question of law for the Court whether the language of the Agreement is ambiguous. South Carolina Dep't of Natural Res. v. Town of McClellanville, 345 S.C. 617, 623, 550 S.E.2d

299, 302–03 (2001). After reviewing the Agreement, the Court finds the Agreement “is unambiguous, clear, and explicit, it must be construed according to the terms the parties have used, to be taken and understood in their plain, ordinary, and popular sense.” C.A.N. Enters., Inc. v. South Carolina Health and Human Services Commission, 296 S.C. 373, 377, 373 S.E.2d 584, 586 (1988). Because the Agreement is “clear and capable of legal construction,” the Court’s “only function is to interpret its lawful meaning and the intention of the parties as found within” the Agreement “and give effect to it.” Ebert v. Ebert, 320 S.C. 331, 338, 465 S.E.2d 121, 125 (Ct. App. 1995). The Court is “without authority to alter” the unambiguous Agreement “by construction or to make” a new agreement for the parties.” C.A.N. Enters., Inc., 296 S.C. at 378, 373 S.E.2d at 587.

The Court finds the Agreement contains unambiguous obligations as to both MUSC and Dr. Dong. However, Dr. Dong did not present sufficient evidence MUSC breached its obligations in the Agreement. MUSC’s obligations, as contained in the Agreement, are each addressed sequentially below:

- 1. Continue “compensated appointment [of Dr. Dong] as Professor of Microbiology and Immunology will continue through March 31, 2012.”**

Dr. Dong presented no material evidence MUSC breached this provision in the Agreement. To the contrary, the material evidence in the record shows MUSC did not breach this provision of the Agreement. First, Dr. Dong acknowledged the payments were made to him by MUSC. Second, the letter from Mark Sothmann, Ph.D. (“Dr. Sothmann”), MUSC’s then Vice President for Academic Affairs and Provost, to Dr. Dong on September 29, 2011, placed Dr. Dong on paid administrative leave, and MUSC continued to pay Dr. Dong. Third, there is no evidence Dr. Sothmann removed Dr. Dong’s faculty appointments.

2. “[C]ontinue Dr. Dong’s employment, faculty appointment and make scheduled salary payments to him [through March 31, 2012].”

See Section B.1 above. Additionally, Dr. Dong provided no evidence MUSC either failed to employ him until March 31, 2012, or make the scheduled salary payments to him through March 31, 2012. Additionally, Dr. Dong provided no evidence MUSC did not allow him to continue his faculty appointments, tenure, or title or that MUSC otherwise removed Dr. Dong’s faculty appointments, tenure, or title until after March 31, 2012.

3. Allow Dr. Dong to “retain his faculty appointment, tenure and title until the effective date [March 31, 2012] of his resignation.”

See Sections B.1 and B.2 above.

4. Allow Dr. Dong “forty-five (45) days after the execution of the agreement to revoke it [the Agreement].”

Dr. Dong provided no evidence MUSC breached the Agreement in respect to the revocation provision. Moreover, Dr. Dong acknowledged he did not request to revoke the Agreement, including within the forty-five-day period.

5. “[P]ay Dr. Dong his current level of monthly salary compensation through March 31, 2012. This amount will equal but not exceed his effective annual rate of pay (\$105,313.00/year) at November 1, 2009.”

See Sections B.1 and B.2 above.

6. “Primary [MUSC faculty] appointment will be in the Department of Biochemistry with a secondary appointment in the Department of Microbiology and Immunology [through March 31, 2012].”

See Sections B.1 and B.2 above.

7. “Dr. Dong may use the title ‘Director of Biotherapeutics and Vaccine Development’ [through March 31, 2012].”

See Section B.1 and B.2 above. Additionally, Dr. Dong acknowledged no recollection of ever using the title. Moreover, Dr. Dong provided no material evidence MUSC told him to not use the title, or otherwise prohibited or prevented Dr. Dong's use of the title, through March 31, 2012.

8. **"Any and all MUSC academic appointments are understood to be term limited, not to extend beyond March 31, 2012, or the date of his employment at another institution or company, whichever may come first."**

See Sections B.1, B.2 and B.7 above.

9. **"University [MUSC] will waive the direct charging of Dr. Dong's salary to any grants or contracts he receives during the period of this agreement. University [MUSC] will cost-share this expense in compliance with federal rules and regulation."**

Dr. Dong provided no evidence MUSC breached the Agreement in respect to this provision.

10. **"University [MUSC] will continue to provide customary fiscal support and oversight for research awards received through MUSC and the Division of Basic Science."**

Dr. Dong provided no evidence MUSC breached the Agreement in respect to the provision requiring "customary fiscal support and oversight for research awards received through MUSC and the Division of Basic Science."

11. **"University [MUSC] will pay Dr. Dong a sum of \$30,000 directly from the Chairman's budget in the Department of Microbiology and Immunology, to be paid no later than day 50 following the signing of this agreement."**

According to Dr. Dong, the amount was paid by MUSC. Consequently, Dr. Dong acknowledged MUSC did not breach this provision in the Agreement.

12. **"Mr. Scott Reid and Mr. Ronald Bycroft will attempt to locate an vectors or similar materials shared with other investigators for re-propagation by Dr. Dong and will attempt to locate written, enduring, hard-copy records which have been lost. This will occur**

in the 45-day window above. Any additional items located after that time of search will also be provided Dr. Dong.”

Dr. Dong provided no evidence MUSC, specifically its then employees Scott Reid and Ronald Bycroft, failed to “attempt” to “locate” the “vectors and similar materials.” Moreover, Dr. Dong provided no evidence MUSC failed to provide him with “additional items located after that time of search” by Mr. Reid and Mr. Bycroft or evidence such “additional items” were located at all.

13. “University [MUSC] agrees to relinquish any all active, commercially funded research awards received by Dr. Dong to Dr. Dong as permitted by the sponsor upon his resignation.”

Dr. Dong provided no evidence MUSC breached the Agreement in respect to the provision regarding relinquishment of “commercially funded research awards.”

14. “Active, federally funded research awards received will be relinquished [by MUSC] directly back to the federal agencies as obligated by the award agreements.”

Dr. Dong provided no evidence MUSC breached the Agreement in respect to the relinquishment provision.

15. “Enduring grant materials, records, lab books and any other documentation required by law or University policy, will be secured, catalogued and maintained by MUSC, in the office of General Counsel.” “Dr. Dong may make copies of his enduring grant materials, records, and lab books.”

Dr. Dong provided no evidence MUSC breached the Agreement in respect to this provision.

16. “MUSC will cover Dr. Dong’s legal fees and other costs in this matter, through a second one-time payment of \$20,000, also to be made to Dr. Dong no later than day 50 following the signing of this agreement.”

Dr. Dong provided no evidence MUSC breached the Agreement in respect to this provision. Dr. Dong acknowledged he does not have knowledge whether MUSC paid the \$20,000.00. Dr. Dong also acknowledged no recollection of incurring or claiming legal fees, including attorney fees, related to the Agreement because Dr. Dong did not have an attorney involved, and Dr. Dong did not believe he claimed the \$20,000.00 for legal fees and other costs.

17. “[A]ccess to campus facilities and to their use [by Dr. Dong] shall not be limited during his remaining years of appointment and employment.”

Dr. Dong provided no evidence MUSC breached the Agreement in respect to the access provision. Moreover, although a letter from Dr. Sothmann to Dr. Dong on September 29, 2011, placed Dr. Dong on paid administrative leave, Dr. Dong provided no evidence Dr. Sothmann prohibited him from accessing “campus facilities” or limited Dr. Dong’s use of “campus facilities.”

18. “[A]ny equipment purchased through extramural grants written by Dr. Dong as the sole PI and which was in Dr. Dong’s laboratory at the time of relocation to the 700 sf laboratory space (including freezers and refrigerators also located nearby in equipment rooms of CSB) shall be relocated to GenPhar in 30 days of the effective date.”

MUSC acknowledges it never relocated “equipment” subject to this provision of the Agreement. However, as discussed in Section I above, to the extent Dr. Dong could have asserted a claim for breach regarding this provision, the three-year statute of limitation accrued thirty days after the effective date of the Agreement – no later than July 18, 2010. Therefore, the statute of limitations expired no later than July 18, 2013 – over a year before Dr. Dong filed his Complaint.

19. “Relocate at its [MUSC’s] expenses such Exhibit B equipment as it [MUSC] may evaluate from the remaining Vector Core equipment which can be temporarily relocated without jeopardizing other on-going funded faculty researchers,” including “equipment which Dr. Dong purchased from UCSF [University of California – San

Francisco] and for grants on which Dr. Dong was the named original PI [“Primary Investigatory”] as permitted by law and University [MUSC] policy to the GenPhar location, provided that all certificates of occupancy, governmental permits and insurance coverages are in place for that site.” “All equipment shall remain within the MUSC property accounting system.”

Dr. Dong provided no evidence MUSC breached the Agreement in respect to this provision for several reasons. First, Dr. Dong provided no evidence he ever provided MUSC with an “Exhibit B” to the Agreement and no “Exhibit B” was attached to the Agreement. The Agreement required Dr. Dong provide MUSC with “Exhibit B” no later than “10 days after the date of entry into” the Agreement – by May 13, 2010. Second, Dr. Dong provided no evidence the “GenPhar location” received “certificates of occupancy, governmental permits, and insurance coverages,” as required by the Agreement.

20. “University [MUSC] agrees to relocate at its expense the equipment listed in Exhibit A.”

MUSC acknowledges it never relocated the equipment listed in Exhibit A to the Agreement. However, Dr. Dong provided no evidence the “GenPhar location” received “certificates of occupancy, governmental permits, and insurance coverages,” as required by the Agreement. In the absence of such certificates, permits, and insurance coverages, the Agreement did not require MUSC relocate the equipment listed in Exhibit A to the Agreement. Additionally, as discussed in Section I above, to the extent Dr. Dong could have asserted a claim for breach regarding this provision, the three-year statute of limitation began to run after thirty days of the effective date of the Agreement – no later than July 18, 2010. Therefore, the statute of limitations expired no later than July 18, 2013 – over a year before Dr. Dong filed his Complaint.

In summary, Dr. Dong provided no substantive, admissible, and/or material evidence sufficient to support his allegations MUSC breached the Agreement.

C. Dr. Dong Did Not Present Sufficient Evidence of Damages.

“The general rule is that for a breach of contract the defendant is liable for whatever damages follow as a natural consequence and a proximate result of such breach.” *Id.* (quoting Fuller v. E. Fire & Cas. Ins. Co., 240 S.C. 75, 89, 124 S.E.2d 602, 610 (1962)). “In a breach of contract action, damages serve to place the nonbreaching party in the position he would have enjoyed had the contract been performed.” *Id.* (quoting S.C. Fed. Sav. Bank v. Thornton-Crosby Dev. Co., 303 S.C. 74, 77, 399 S.E.2d 8, 10 (Ct. App. 1990)). “The measure of damages for breach of contract is the loss actually suffered by the contractee as the result of the breach.” S.C. Fin. Corp. of Anderson v. W. Side Fin. Co., 236 S.C. 109, 122, 113 S.E.2d 329, 335 (1960).

“Generally, in order for damages to be recoverable, the evidence should be such as to enable the court or jury to determine the amount thereof with reasonable certainty or accuracy.” Austin v. Stokes-Craven Holding Corp., 387 S.C. 22, 43, 691 S.E.2d 135, 146 (2010) (quoting Whisenant v. James Island Corp., 277 S.C. 10, 13, 281 S.E.2d 794, 796 (1981)). “While neither the existence, causation nor amount of damages can be left to conjecture, guess or speculation, proof with mathematical certainty of the amount of loss or damage is not required.” *Id.* (quoting Whisenant, 277 S.C. at 13, 281 S.E.2d at 796).

Dr. Dong did not provide any material evidence of damages associated with any alleged breach of the Agreement by MUSC.

CONCLUSION

Dr. Dong failed to present evidence sufficient to show: 1) he filed his Complaint within the applicable statute of limitations; 2) MUSC breached the Agreement; and/or 3) he incurred any damages because of alleged breaches of the Agreement. For all the noted reasons, the Court grants MUSC summary judgment as to Dr. Dong’s claims and cause of action.

IT IS SO ORDERED.



Charleston Common Pleas

Case Caption: Jian Yun Dong M D , plaintiff, et al VS Medical University of South Carolina The

Case Number: 2016CP1006683

Type: Order/Summary Judgment

So Ordered

Jean H. Toal

Electronically signed on 2023-07-17 12:15:17 page 16 of 16

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2016-CP-10-06683
	)	
Jian-Yun (John) Dong, M.D., Ph.D.,	)	
	)	
Plaintiff,	)	DEFENDANT MEDICAL UNIVERSITY
	)	OF SOUTH CAROLINA'S MOTION
vs.	)	FOR SUMMARY JUDGMENT
	)	
Medical University of South Carolina,	)	
	)	
Defendant.	)	
	)	

TO: JIAN-YUN (JOHN) DONG, M.D., PH.D., PRO SE PLAINTIFF:

PLEASE TAKE NOTICE that under South Carolina Rule of Civil Procedure 56, the undersigned attorneys for Defendant Medical University of South Carolina ("MUSC") will move before the Honorable Jean H. Toal, the presiding judge, at the Charleston County Courthouse, 100 Broad Street, Charleston, South Carolina 29401, or at such other location as the Court may direct, after ten (10) days from the date of service hereof or at such time and place as the Court may direct, for an order granting MUSC summary judgment as to Plaintiff's claims based upon, in general, but not limited to, the following grounds:

1. Plaintiff's sole cause of action for breach of contract is barred by the applicable, three-year statute of limitations; and,
2. Plaintiff cannot present sufficient evidence MUSC breached a separation agreement it entered into with Plaintiff on May 3, 2010, or incur any damages if Plaintiff could present sufficient evidence of breach.

WHEREFORE, MUSC respectfully moves this Court for an order granting it summary judgment as to Plaintiff's sole claim for breach of contract and awarding MUSC such other and further relief as this Court may deem just and proper.

Counsel for MUSC submits a memorandum in support of this motion simultaneously to the filing of this motion.

s/ Bob J. Conley
Caroline Wrenn Cleveland
Bob J. Conley
CLEVELAND & CONLEY, LLC
One Seventy-One Church Street, Suite 310
Charleston, South Carolina 29401
Telephone: (843) 577-9626
ccleveland@clevelandlaborlaw.com
bconley@clevelandlaborlaw.com

ATTORNEYS FOR DEFENDANT

Charleston, South Carolina
March 31, 2023

CERTIFICATE OF SERVICE

This is to certify that on March 31, 2023, I caused to be served a copy of Defendant Medical University of South Carolina's Motion for Summary Judgment by regular mail and by email, addressed as follows:

Jian-Yun Dong, M.D., Ph.D.
71 Delahow Street
Daniel Island, SC 29492
johny.dong@gmail.com

s/ Mark Dundervill
Mark Dundervill
Paralegal

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2016-CP-10-06683
	)	
Jian-Yun (John) Dong, M.D., Ph.D.,	)	
	)	
Plaintiff,	)	DEFENDANT MEDICAL UNIVERSITY
	)	OF SOUTH CAROLINA'S
vs.	)	MEMORANDUM IN SUPPORT OF
	)	SUMMARY JUDGMENT
Medical University of South Carolina,	)	
	)	
Defendant.	)	
_____	)	

STATEMENT OF THE CASE

Plaintiff Jian-Yun (John) Dong, M.D., Ph.D. (“Dr. Dong”) filed his Complaint on September 2, 2014, alleging the Medical University of South Carolina (“MUSC”) breached a May 3, 2010, separation agreement. For the reasons discussed, MUSC requests the Court grant MUSC summary judgment.

STATEMENT OF RELEVANT FACTS

On May 3, 2010, Dr. Dong and MUSC entered into a written agreement (hereinafter, the “Agreement”): “A Final Separation Agreement between The Medical University of South Carolina, including its College of Medicine, and Dr. Jian-Yun Dong, Professor of Microbiology and Immunology.”¹ Dr. Dong, along with J. G. Reves, M.D. (“Dr. Reves”), MUSC’s then Vice President for Medical Affairs and College of Medicine Dean, signed the Agreement on May 3, 2010.²

¹ The Agreement is attached to and incorporated by reference into Dr. Dong’s Complaint (Exhibit 1).

² Exhibit 1.

Dr. Dong and Dr. Reves signed the Agreement on May 3, 2010, in Dr. Reves' office.³ Prior to signing the Agreement, Dr. Dong did not read the Agreement.⁴ Instead, Dr. Dong "scanned through" the Agreement.⁵ Dr. Reves did not pressure Dr. Dong to sign the Agreement.⁶

The Agreement imposed obligations and benefits on Dr. Dong and MUSC. (Discussion of MUSC's obligations is contained in Section I.B below.) According to Dr. Dong, MUSC breached the Agreement no later than June 17, 2010, forty-five days after the Agreement was signed on May 3, 2010.⁷

Dr. Dong filed his Summons and Complaint on September 2, 2014.⁸ MUSC now moves for summary judgment.

LEGAL STANDARD

The purpose of summary judgment is to expedite disposition of cases that do not require the services of a fact finder. Dawkins v. Fields, 354 S.C. 58, 69, 580 S.E.2d 433, 438 (2003). Summary judgment is proper where there is no genuine issue as to any material fact and the moving party is entitled to judgment as a matter of law. Id. In determining whether summary judgment is appropriate, the evidence must be viewed in the light most favorable to the nonmoving party. Id. The party seeking summary judgment has the initial responsibility of demonstrating the absence

³ Exhibit 2, P. 55, L. 19 – P. 56, L. 1.

⁴ Exhibit 2, P. 78, L. 8 - 12.

⁵ Exhibit 2, P. 57, L. 1 – 4; P. 90, L. 15 – P. 91, L. 3 (Dr. Dong states, "I cannot remember whether I read the agreement," and Dr. Dong states "scanned" means "I just read superficially, not each words.")

⁶ Exhibit 2, P. 58, L. 1 - 23.

⁷ Exhibit 2, P. 94, L. 4 – P. 95. L. 11.

⁸ Exhibit 1.

of a genuine issue of material fact. Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991).

However, “[w]ith respect to an issue on which the nonmoving party bears the burden of proof, this initial responsibility may be discharged by ‘showing’ – that is, pointing out to the [trial] court – that there is absence of evidence to support the non-moving party’s case.” Baughman at 115, 410 S.E.2d at 544 (*quoting Celotex Corporation v. Catrett*, 477 U.S. 317, 325 (1986)). In that instance, the “moving party need not ‘support its motion with affidavits or other similar materials *negating* the opponent’s claim.” Id. (*quoting Celotex*, 477 U.S. at 323) (emphasis in original). “Once the moving party has carried its initial burden, the opposing party must . . . ‘do more than simply show that there is some metaphysical doubt as to the material facts,’ and ‘must come forward with ‘specific facts showing there is a genuine issue for trial.’” Id. (*quoting Matsushita Electrical Ind. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87(1986)).

ARGUMENT

I. Breach of Contract.

Dr. Dong asserts a single cause of action for breach of contract. Dr. Dong’s Complaint contains no other causes of action, and Dr. Dong’s Complaint stands without amendment. Specifically, Dr. Dong alleges MUSC breached the Agreement.⁹

Dr. Dong, along with Dr. Reves, MUSC’s then Vice President for Medical Affairs and College of Medicine Dean, signed the Agreement on May 3, 2010. Dr. Dong filed his Summons and Complaint on September 2, 2014.

In this action for breach of contract, the burden is on Dr. Dong to prove the contract [Agreement], its breach, and damages caused to him by such breach. Maro v. Lewis, 389 S.C. 216,

⁹ Exhibit 1.

222, 697 S.E.2d 684, 688 (Ct. App. 2010). Additionally, the law imposes an obligation on Dr. Dong to file and serve his Summons and Complaint alleging breach of contract within the applicable statutes of limitation. As discussed below, Dr. Dong cannot present sufficient material evidence to show MUSC breached the Agreement, to show damages accrued as to him regarding alleged breaches, or to show he filed and served the Summons and Complaint within the applicable three-year statute of limitations. For the reasons discussed below, the Court should grant MUSC summary judgment.

A. Dr. Dong's Breach of Contract Claim is Barred by the Statute of Limitations.

The statute of limitations for actions pursuant to contract is three years. Poly-Med, Inc. v. Novus Scientific PTE. LTD., ___ S.C. ___, ___ S.E.2d ___, 2022 WL 4231301, *2 (2022) (citing S.C. Code Ann. § 15-3-530(1) (2005)). Consequently, the statute of limitations applicable to Dr. Dong's allegations regarding the Agreement is three years. Applying the three-year statute of limitations to Dr. Dong's Complaint, any breach of the Agreement Dr. Dong alleges occurred prior to September 2, 2011, are time barred for several reasons.

First, Dr. Dong cannot present material evidence any alleged breach occurred after September 1, 2011. Second, Dr. Dong cannot present material evidence any alleged breach *first* occurred after September 1, 2011, or occurred more than three years after he knew or should have known (i.e., discovered) a cause of action for breach of contract existed. See Poly-Med at *4 (“The limitations period begins to run when a party knows or should know, through the exercise of due diligence, that a cause of action might exist.”) (quoting Anonymous Taxpayer v. S.C. Department of Revenue, 377 S.C. 425, 439, 661 S.E.2d 73, 80 (2008)). In Poly-Med, the South Carolina Supreme Court confirmed “South Carolina does not recognize the continuing breach theory in applying the statute of limitations to breach of contract claims.” Poly-Med at *6.

Dr. Dong, at best, could only possibly pursue his breach of contract action for the following alleged breaches by MUSC: 1) breaches first occurring after September 1, 2011 – three years prior to filing the Summons and Complaint on September 2, 2014; and/or 2) breaches Dr. Dong did not know of and should not have known of through the exercise of due diligence prior to September 2, 2011. However, for the reasons discussed below, Dr. Dong cannot present material evidence to overcome application of the three-year statute of limitations.

1. Dr. Dong Cannot Present Material Evidence MUSC First Breached the Agreement After September 1, 2011.

According to Dr. Dong, MUSC breached the Agreement soon after entering into the Agreement. For example, Dr. Dong claims MUSC failed to meet the terms of the Agreement addressed in Section B.12 below. However, the Agreement required MUSC meet the terms of the Agreement in that respect within forty-five days of entering into the Agreement, on or before June 17, 2010. By way of further example, the Agreement required MUSC meet the terms of the Agreement addressed in Sections B.18 and B.20 below. However, the Agreement required MUSC meet the terms of the Agreement in those respects within thirty days of the effective date of the Agreement – no later than July 17, 2010. Additionally, Dr. Dong testified “of course” MUSC breached the Agreement prior to March 25, 2011.¹⁰

In summary, taking Dr. Dong’s allegations and testimony as true, Dr. Dong knew or should have known as early as June 17, 2010, that MUSC breached the Agreement. Therefore, the three-year statute of limitations accrued and began to run as to Dr. Dong’s breach of contract claim as early as June 17, 2010, but no later than July 17, 2010. Moreover, Dr. Dong testified he believed MUSC breached the Agreement prior to March 25, 2011. Regardless of which date the statute of

¹⁰ Exhibit 2, P. 139, L. 4 – P. 140, L. 21; P. 144, L. 2 – P. 145, L. 7 (indicating Dr. Dong believed MUSC breached the Agreement before March 14, 2011).

limitations accrued as to Dr. Dong's claim MUSC breached the Agreement, Dr. Dong waiting until September 2, 2014, to file his Summons and Complaint results in his claim falling outside the statute of limitations. Consequently, Dr. Dong's breach of contract claim is time barred.

2. Dr. Dong Either Knew of or Should Not Have Known of MUSC's Alleged Breach of the Agreement Through the Exercise of Due Diligence Prior to September 2, 2011.

See Section A.1.

B. Dr. Dong Cannot Present Sufficient Evidence MUSC Breached the Agreement.

“It is fundamental that, in the construction of the language of a contract, it is proper to read together the different provisions therein dealing with the same subject matter, and where possible, all the language used should be given a reasonable meaning.” Bluffton Towne Ctr., LLC v. Gilleland-Prince, 412 S.C. 554, 569, 772 S.E.2d 882, 890 (Ct. App. 2015) (*quoting* Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC, 374 S.C. 483, 498-99, 649 S.E.2d 494, 502 (Ct. App. 2007)). “In construing and determining the effect of a written contract, the intention of the parties and the meaning are gathered primarily from the contents of the writing itself, or, as otherwise stated, from the four corners of the instrument.” Silver v. Aabstract Pools & Spas, Inc., 376 S.C. 585, 591, 658 S.E.2d 539, 542 (Ct. App. 2008) (*quoting* McPherson v. J.E. Sirrine & Co., 206 S.C. 183, 204, 33 S.E.2d 501, 509 (1945)). The Agreement is unambiguous and, therefore, the Court must enforce it “according to its terms regardless of its wisdom or folly, apparent unreasonableness, or the parties' failure to guard their rights carefully.” S.C. Dep't of Transp. v. M & T Enterprises of Mt. Pleasant, LLC, 379 S.C. 645, 655, 667 S.E.2d 7, 13 (Ct. App. 2008).

It is a question of law for the Court whether the language of the Agreement is ambiguous. South Carolina Dep't of Natural Res. v. Town of McClellanville, 345 S.C. 617, 623, 550 S.E.2d 299, 302–03 (2001). MUSC asserts the Agreement “is unambiguous, clear, and explicit, it must be

construed according to the terms the parties have used, to be taken and understood in their plain, ordinary, and popular sense.” C.A.N. Enters., Inc. v. South Carolina Health and Human Services Commission, 296 S.C. 373, 377, 373 S.E.2d 584, 586 (1988). Because the Agreement is “clear and capable of legal construction,” the Court’s “only function is to interpret its lawful meaning and the intention of the parties as found within” the Agreement “and give effect to it.” Ebert v. Ebert, 320 S.C. 331, 338, 465 S.E.2d 121, 125 (Ct.App.1995). The Court is “without authority to alter” the unambiguous “by construction or to make” a new Agreement for the parties.” C.A.N. Enters., Inc., 296 S.C. at 378, 373 S.E.2d at 587.

The Agreement contains unambiguous obligations as to both MUSC and Dr. Dong. Dr. Dong cannot present sufficient evidence MUSC breached its obligations in the Agreement. MUSC’s obligations, as contained in the Agreement, are each addressed sequentially below:

1. Continue “compensated appointment [of Dr. Dong] as Professor of Microbiology and Immunology will continue through March 31, 2012.”

Dr. Dong can present no material evidence MUSC breached this provision in the Agreement. To the contrary, the material evidence shows MUSC did not breach this provision of the Agreement. First, Dr. Dong acknowledges the payments were made to him by MUSC.¹¹ Second, the letter from Mark Sothmann, Ph.D (“Dr. Sothmann”), MUSC’s then Vice President for Academic Affairs and Provost, to Dr. Dong on September 29, 2011, placed Dr. Dong on paid administrative leave, and MUSC continued to pay Dr. Dong. Third, Dr. Sothmann did not remove Dr. Dong’s faculty appointments.¹²

¹¹ Exhibit 2, P. 62, L. 25 – P. 63, L. 5.

¹² See Exhibit 2 to Dr. Dong’s Complaint (Exhibit 1).

2. “[C]ontinue Dr. Dong’s employment, faculty appointment and make scheduled salary payments to him [through March 31, 2012].”

See Section B.1 above. Dr. Dong can present no evidence MUSC either failed to employ him until March 31, 2012, or make scheduled salary payments to him through March 31, 2012. Additionally, Dr. Dong can provide no evidence MUSC did not allow him to continue his faculty appointments, tenure, or title or that MUSC otherwise removed Dr. Dong’s faculty appointments, tenure, or title through March 31, 2012.

3. Allow Dr. Dong to “retain his faculty appointment, tenure and title until the effective date [March 31, 2012] of his resignation.”

See Sections B.1 and B.2 above.

4. Allow Dr. Dong “forty-five (45) days after the execution of the agreement to revoke it [the Agreement].”

Dr. Dong can present no evidence MUSC breached the Agreement in respect to the revocation provision. Moreover, Dr. Dong acknowledges he did not ask to revoke the Agreement within the forty-five-day period.¹³

5. “[P]ay Dr. Dong his current level of monthly salary compensation through March 31, 2012. This amount will equal but not exceed his effective annual rate of pay (\$105,313.00/year) at November 1, 2009.”

See Sections B.1 and B.2 above.

6. “Primary [MUSC faculty] appointment will be in the Department of Biochemistry with a secondary appointment in the Department of Microbiology and Immunology [through March 31, 2012].”

See Sections B.1 and B.2 above.

¹³ Exhibit 2, P. 59, L. 24 – P. 60, L. 5.

7. “Dr. Dong may use the title ‘Director of Biotherapeutics and Vaccine Development’ [through March 31, 2012].”

See Section B.1 and B.2 above. Additionally, Dr. Dong acknowledges no recollection of ever using the title.¹⁴ Moreover, Dr. Dong can present no material evidence MUSC told him to not use the title, or otherwise prohibited Dr. Dong’s use of the title, through March 31, 2012.

8. “Any and all MUSC academic appointments are understood to be term limited, not to extend beyond March 31, 2012, or the date of his employment at another institution or company, whichever may come first.”

See Sections B.1, B.2 and B.7 above.

9. “University [MUSC] will waive the direct charging of Dr. Dong’s salary to any grants or contracts he receives during the period of this agreement. University [MUSC] will cost-share this expense in compliance with federal rules and regulation.”

Dr. Dong can present no evidence MUSC breached the Agreement in respect to this provision.

10. “University [MUSC] will continue to provide customary fiscal support and oversight for research awards received through MUSC and the Division of Basic Science.”

Dr. Dong can present no evidence MUSC breached the Agreement in respect to the provision requiring “customary fiscal support and oversight for research awards received through MUSC and the Division of Basic Science.”

11. “University [MUSC] will pay Dr. Dong a sum of \$30,000 directly from the Chairman’s budget in the Department of Microbiology and Immunology, to be paid no later than day 50 following the signing of this agreement.”

According to Dr. Dong, the amount was paid by MUSC.¹⁵

¹⁴ Exhibit 2, P. 108, L. 4 – 25.

¹⁵ Exhibit 2, P. 86, L. 1 – 14.

- 12. “Mr. Scott Reid and Mr. Ronald Bycroft will attempt to locate an vectors or similar materials shared with other investigators for re-propagation by Dr. Dong and will attempt to locate written, enduring, hard-copy records which have been lost. This will occur in the 45-day window above. Any additional items located after that time of search will also be provided Dr. Dong.”**

Dr. Dong can provide no evidence MUSC, specifically its then employees Scott Reid and Ronald Bycroft, failed to “attempt” to “locate” the “vectors and similar materials.” Moreover, Dr. Dong can present no evidence MUSC failed to provide him with “additional items located after that time of search” by Mr. Reid and Mr. Bycroft or evidence such “additional items” were located at all.¹⁶

- 13. “University [MUSC] agrees to relinquish any all active, commercially funded research awards received by Dr. Dong to Dr. Dong as permitted by the sponsor upon his resignation.”**

Dr. Dong can present no evidence MUSC breached the Agreement in respect to the provision regarding relinquishment of “commercially funded research awards.”

- 14. “Active, federally funded research awards received will be relinquished [by MUSC] directly back to the federal agencies as obligated by the award agreements.”**

Dr. Dong can present no evidence MUSC breached the Agreement in respect to the relinquishment provision.

- 15. “Enduring grant materials, records, lab books and any other documentation required by law or University policy, will be secured, catalogued and maintained by MUSC, in the office of General Counsel.” “Dr. Dong may make copies of his enduring grant materials, records, and lab books.”**

Dr. Dong can present no evidence MUSC breached the Agreement in respect to the revocation provision.

¹⁶ Exhibit 2, P. 94, L. 4 – P. 95, L. 18.

16. “MUSC will cover Dr. Dong’s legal fees and other costs in this matter, through a second one-time payment of \$20,000, also to be made to Dr. Dong no later than day 50 following the signing of this agreement.”

Dr. Dong can present no evidence MUSC breached the Agreement in respect to this provision. Dr. Dong acknowledges he does not have knowledge whether MUSC paid the \$20,000.00.¹⁷ Dr. Dong also acknowledges no recollection of incurring or claiming legal fees, including attorney fees, related to the Agreement because Dr. Dong “didn’t have an attorney involved”, and Dr. Dong “did not believe I [he] claimed it [\$20,000.00 for legal fees and other costs].”¹⁸

17. “[A]ccess to campus facilities and to their use [by Dr. Dong] shall not be limited during his remaining years of appointment and employment.”

Dr. Dong can present no evidence MUSC breached the Agreement in respect to the access provision. Moreover, although a letter from Dr. Sothmann to Dr. Dong on September 29, 2011, placed Dr. Dong on paid administrative leave, Dr. Sothmann did not prohibit Dr. Dong from accessing “campus facilities” or limit Dr. Dong’s use of “campus facilities.”¹⁹

¹⁷ Exhibit 2, P. 86, L. 15 – 21.

¹⁸ Exhibit 2, P. 86, L. 15 – P. 88, L. 6.

¹⁹ See Exhibit 2 to Dr. Dong’s Complaint (Exhibit 1).

18. “[A]ny equipment purchased through extramural grants written by Dr. Dong as the sole PI and which was in Dr. Dong’s laboratory at the time of relocation to the 700 sf laboratory space (including freezers and refrigerators also located nearby in equipment rooms of CSB) shall be relocated to GenPhar in 30 days of the effective date.”

MUSC acknowledges it never relocated “equipment” subject to this provision of the Agreement. However, as discussed in Section I above, to the extent Dr. Dong could have asserted a claim for breach in regard to this provision, the three-year statute of limitation began to run after thirty days of the effective date of the Agreement – no later than July 17, 2010.

19. “Relocate at its [MUSC’s] expenses such Exhibit B equipment as it [MUSC] may evaluate from the remaining Vector Core equipment which can be temporarily relocated without jeopardizing other on-going funded faculty researchers,” including “equipment which Dr. Dong purchased from UCSF [University of California – San Francisco] and for grants on which Dr. Dong was the named original PI [“Primary Investigatory”] as permitted by law and University [MUSC] policy to the GenPhar location, provided that all certificates of occupancy, governmental permits and insurance coverages are in place for that site.” “All equipment shall remain within the MUSC property accounting system.”

Dr. Dong can present no evidence MUSC breached the Agreement in respect to this provision for several reasons. First, Dr. Dong can present no evidence he ever provided an “Exhibit B” to the Agreement and no “Exhibit B” is attached to the Agreement. The Agreement required Dr. Dong provide MUSC with “Exhibit B” no later than “10 days after the date of entry into” the Agreement – May 13, 2010. Second, Dr. Dong can present no evidence the “GenPhar location” received certificates of occupancy, governmental permits **and** insurance coverages.” (emphasis added.)

20. “University [MUSC] agrees to relocate at its expense the equipment listed in Exhibit A.”

MUSC acknowledges it never relocated the equipment listed in Exhibit A to the Agreement. However, Dr. Dong can present no evidence the “GenPhar location” received certificates of occupancy, governmental permits **and** insurance coverages.” (emphasis added.) In the absence of such certificates, permits and insurance coverages, the Agreement did not require MUSC relocate the equipment listed in Exhibit A to the Agreement. Additionally, as discussed in Section I above, to the extent Dr. Dong could have asserted a claim for breach in regard to this provision, the three-year statute of limitation began to run after thirty days of the effective date of the Agreement – no later than July 17, 2010.

In summary, Dr. Dong can present no substantive, admissible, or material evidence that is sufficient to support his allegation MUSC breached the Agreement.

C. Dr. Dong Cannot Present Sufficient Evidence of Damages.

“The general rule is that for a breach of contract the defendant is liable for whatever damages follow as a natural consequence and a proximate result of such breach.” *Id.* (quoting *Fuller v. E. Fire & Cas. Ins. Co.*, 240 S.C. 75, 89, 124 S.E.2d 602, 610 (1962)). “In a breach of contract action, damages serve to place the nonbreaching party in the position he would have enjoyed had the contract been performed.” *Id.* (quoting *S.C. Fed. Sav. Bank v. Thornton-Crosby Dev. Co.*, 303 S.C. 74, 77, 399 S.E.2d 8, 10 (Ct. App. 1990)). “The measure of damages for breach of contract is the loss actually suffered by the contractee as the result of the breach.” *S.C. Fin. Corp. of Anderson v. W. Side Fin. Co.*, 236 S.C. 109, 122, 113 S.E.2d 329, 335 (1960).

“Generally, in order for damages to be recoverable, the evidence should be such as to enable the court or jury to determine the amount thereof with reasonable certainty or accuracy.” *Austin v. Stokes-Craven Holding Corp.*, 387 S.C. 22, 43, 691 S.E.2d 135, 146 (2010) (quoting

Whisenant v. James Island Corp., 277 S.C. 10, 13, 281 S.E.2d 794, 796 (1981)). ““While neither the existence, causation nor amount of damages can be left to conjecture, guess or speculation, proof with mathematical certainty of the amount of loss or damage is not required.”” Id. (quoting Whisenant, 277 S.C. at 13, 281 S.E.2d at 796).

Even if Dr. Dong could show MUSC breached the Agreement, and Dr. Dong cannot so show such breach, Dr. Dong cannot present sufficient, material evidence of damages associated with any alleged breach of the Agreement by MUSC.

CONCLUSION

For all the noted reasons, MUSC requests the Court grant MUSC summary judgment as to Dr. Dong’s claims and causes of action.

s/Bob J. Conley

Caroline W. Cleveland
Bob J. Conley
CLEVELAND & CONLEY, LLC
171 Church Street, Suite 310
Charleston, South Carolina 29401
Telephone: (843) 577-9626
ccleveland@clevelandlaborlaw.com
bconley@clevelandlaborlaw.com

ATTORNEYS FOR DEFENDANT

March 31, 2023
Charleston, South Carolina

CERTIFICATE OF SERVICE

This is to certify that on March 31, 2023, I caused to be served a copy of Defendant Medical University of South Carolina's Memorandum in Support of Motion for Summary Judgment by regular mail and by email, addressed as follows:

Jian-Yun Dong, M.D., Ph.D.
71 Delahow Street
Daniel Island, SC 29492
johny.dong@gmail.com

s/ Mark Dundervill
Mark Dundervill
Paralegal

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

John Dong, M.D., Ph.D.,

– Plaintiff,

v.

The Medical University of South
Carolina,

– Defendant,

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-10-06683

**PLAINTIFF'S OPPOSITION TO
DEFENDANT'S MOTION FOR
SUMMARY JUDGEMENT**

2023 APR 24 PM 3:42

FILED

WCL
CLERK OF COURT

TO: THE MEDICAL UNIVERSITY OF SOUTH CAROLINA, DEFENDANT:

PLEASE TAKE NOTE that Plaintiff, John Dong, M.D., Ph.D. moves before the Court for an order denying Defendant's Motion for Summary Judgement and pleads the following:

Under Rule 56, a court may grant a motion for summary judgment at the request of the moving party if there are no genuine issues of material fact, and the moving party is entitled to judgment as a matter of law.

Plaintiff, Dr. Dong, opposes Defendant's Motion for Summary Judgment on the following bases:

1. Defendant's claim of statute limitation is baseless.

The applicable statute of limitations in South Carolina for breach of contract claims is three years from the date of the breach, not the date of signing the contract. Plaintiff filed this lawsuit within three years of the alleged breach, and the Claim is

fully reinstated by the Court. Therefore, Plaintiff's Claim is not time-barred under the statute; and Defendant's argument for statute limitation lacks merit and should be denied.

2. Defendant's assumption that Plaintiff cannot present sufficient evidence has no merit.

Defendant's assumption that Plaintiff cannot present sufficient evidence for Defendant's breach of contracts or incur any damage is a misinterpretation of the facts and the law.

First, it is not a ground for summary judgment by assuming the Plaintiff cannot present sufficient evidence under Rule 56. The very question of sufficiency of the evidence is the function of a trial by jury under the Due Process Clause and Article III of the Constitution; it is not a proper question for a judge or a ground for summary judgment.

Secondly, the facts are undisputed that Defendant, MUSC, breached multiple, if not all of, the substantive terms of the contract. The breaches include but are not limited to, not transferring Dr. Dong's research materials, equipment, intellectual properties, notebooks, records, and research data, not allowing him to continue his research and teaching, and blocking his ability to find a job in his fields and to advance his academic and medical career. These breaches caused substantial damage to Plaintiff's career, income, and financial well-being.

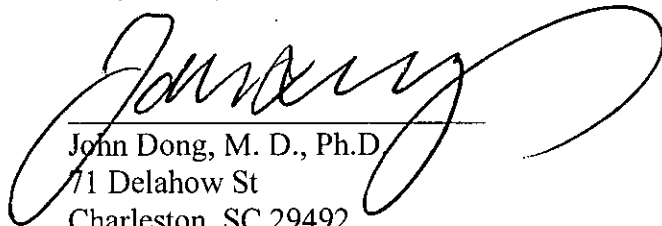
The judgments on the sufficiency of the evidence and the amount of damage are the very functions of trial by jury under the law.

WHEREFORE, Plaintiff respectfully moves this Court to deny Defendant's motion for summary judgment because Defendant failed to plead a ground for summary judgment and there are genuine issues of material fact that must be resolved at trial.

Alternatively, Plaintiff moves the Court to grant a summary judgment in favor of Plaintiff based on the undisputed facts that Defendant has breached the contract and order an arbitration or mediation to resolve the question of the amount of damage caused by the breach and the relief to be awarded to Plaintiff without a trial.

April 21, 2023
Charleston, South Carolina

Respectfully submitted, pro se,

A large, stylized handwritten signature in black ink, appearing to read 'Johnny Dong', is written over a horizontal line.

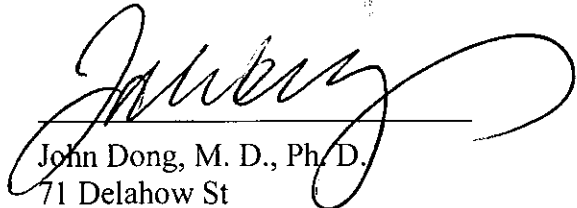
John Dong, M. D., Ph.D.
71 Delahow St
Charleston, SC 29492
Email: johnny.dong@gmail.com
Phone: 843-991-2332

CERTIFICATE OF SERVICE

This is to certify that I have on this 21st day of April 2023, served a copy of the Plaintiff's Opposition to Defendant MUSC's Motion for Summary Judgement to the ECF system, which will notify all parties electronically. In addition, a copy of this motion is served via Email at bconley@clevelandlaborlaw.com and United States Mail Services addressed to the following:

Bob J. Conley, Esq.
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401

April 21, 2023


John Dong, M. D., Ph. D.
71 Delahow St
Charleston, SC 29492
Email: johnny.dong@gmail.com
Phone: 843-991-2332

2023 APR 24 PM 3:42
JULIE J. ARMSTRONG
CLERK OF COURT

FILED

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
John Dong, M.D., Ph.D.,)
)
- Plaintiff,)
v.)
The Medical University of South)
Carolina.)
)
- Defendant,)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-10-06683

**PLAINTIFF'S MEMORANDUM IN
SUPPORT OF HIS OPPOSITION
TO SUMMARY JUDGEMENT**

FILED
2023 JUN 27 AM 9:42
JESSIE A. HARRIS
CLERK OF COURT
MCL

STATEMENT OF THE CASE

Plaintiff, John Dong, M.D., Ph.D. ("Dr. Dong") filed a Complaint on September 2, 2014, against the Defendant, the Medical University of South Carolina (MUSC), for breaching the contract and committing bad-faith fraud against Dr. Dong.

1. The Basis of the Contract

The Complaint is based on that the Chairman of the Department of Microbiology and Immunology, Dr. James S. Norris, with the help of his friend, then Vice President for Research, Dr. Stephen M. Lanier, took over Dr. Dong's entire research operations that included Dr. Dong's research funding, personnel, biological materials, reagents, equipment, research protocols, research results, and records in order to revitalize Dr. Norris' declining research operations and to advance his academic career. Eventually, Norris and Lanier conspired to completely shut down

Dr. Dong's laboratories and blocked his abilities to academic activities that included but were not limited to research, teaching, and mentoring graduate students and postdoctoral fellows. Dr. Norris' actions caused Dr. Dong's career to a dead stop.

Dr. Dong made complaints to the Administration of MUSC to resolve the illegal takeover and violations of Dr. Dong's faculty rights. However, Lanier was the Vice President for Research and was in charge of academic Affairs related to research and teaching, and he was the very person who conspired with James Norris in taking over Dr. Dong's research operations. After nearly a year of struggling with Lanier's stonewalling, Dr. Dong could not get his research materials back and research and teaching operations restarted, while time was critical in his research, competing for grant funding, and advancing his career.

2. The Terms and Conditions of the Contract

With the mediation of, then the Dean of Medical College and Vice President for Medical Affairs, Dr. Jerry G. Reves, Dr. Dong agreed to what was presented to him as a cooling period by separating the conflicting parties and allowing Dr. Dong to continue his research off campus in a company established by the MUSC's Foundation for Research and Development, (FRD), and to continue the rest of his academic activities at MUSC under the Chairman of the Department of Biochemistry, Dr. Yusuf Hannun. One of the essential components of the Agreement

is to return all Dr. Dong's research materials and equipment, which are his properties, to Dr. Dong.

Based on this spirit, Dr. Dong agreed to sign a "temporary separation agreement" to be drafted by MUSC's general counsel, Mr. Joe Good. After several revisions, Dr. Dong was informed that the "final version" with all that had been discussed was completed" and come to the Dean's office to sign the final Agreement on May 3, 2010. Out of deep respect and trust for Dr. Jerry Rese, who represented the Administration of MUSC, Dr. Dong did not scrutinize some of the words inserted or utilized by MUSC's legal counsel and agreed to the Agreement as he was explained and understood.

3. The Breaches of the Contract

In his position as the vice president for research, Dr. Lanier was in charge of the agreement implementation. However, he continued his stonewalling tactic and directed Dr. Dong to several MUSC management personnel for implementing the terms of the agreement. After numerous delays, sometimes up to several months, the general answers to Dr. Dong were that they have not received the specific authorization but would continue to make efforts to resolve the issues. Furthermore, the University blocked his access to the university email systems and all his research information stored electronically in the University homeroom without prior notice and deleted his faculty information as if Dr. Dong never existed at the University.

These not only deprived of him any research and academic documents but also blocked his communications with his colleagues at other universities and research institutes.

Without the ability to conduct his research and teaching, Dr. Dong ran out of his option to find a position at other universities but had to work with MUSC to re-establish his career. However, until the end of the agreement, nothing in the agreement that favors Dr. Dong was implemented and it became clear that MUSC had no intention to implement the terms in favor of Dr. Dong.

The breaches included, but were not limited to, the failure to transfer any of the research materials, notebooks, protocols, and equipment to Dr. Dong. Dr. Dong was also continually blocked from any academic activities at MUSC.

In contrast, MUSC implemented numerous activities detrimental to Dr. Dong's career. These included but were not limited to:

- (1) Did not transfer any of the research materials, essential documents, and equipment that are essential for Dr. Dong to continue his research and advance his career;
- (2) Withheld Dr. Dong's multiple intellectual properties;
- (3) Continually blocked from any academic activities at MUSC;
- (4) Terminated his tenure at the University;
- (5) Terminated his salary and benefits, including his and his family's health benefits;

(6) Terminated his retirement pensions;

(7) Assisted and participated in a hostile takeover by one of the company's investors who laid all the legal liability of the Company's using federal contract funds for a research facility on Dr. Dong and made him suffer all the legal consequences for what the company had done while the investors cashed out and abandoned the Company.

As a result of this breach of contract, Dr. Dong's stellar career and entire financial well-being were destroyed, and the damages were irreparable.

STATEMENT OF FACT

1. It is undisputed that from 2008 to 2009, the chairman of the Department of Microbiology and Immunology, Dr. James Norris, with the help of his friend, the newly promoted vice president for research, Stephen Lanier, illegally took over Dr. Dong's research operations, which include research materials, records, protocols, equipment, and intellectual properties for the benefit of James Norris himself.

2. After Dr. Dong filed a complaint to the administration, Lanier himself was in charge to resolve the issues because of his position. To punish Dr. Dong for filing the complaint, Lanier blatantly locked up Dr. Dong's laboratory and office and confiscated everything in them for "auditing." After months of struggling with Lanier, and failing to get his operations back, Dr. Dong agreed to a proposal mediated by Dr. Reves, the Dean of the College of Medicine, to separate the two conflicting parties for a cooling period for Dr. Dong to get back to his research.

3. After several revisions, the final version of the separation agreement outlined the terms and conditions for 18 months that allowed Dr. Dong to continue his research off-campus at a company established by the Foundation for Research of MUSC and continue his other academic activities at MUSC. Among the major terms of the Agreement are to transfer all of Dr. Dong's research material, documents, and equipment to the company, and give full access of Dr. Dong to the University for his academic activities. At the end of the 18 months, either Dr. Dong resigns from MUSC after he has obtained a position at another university, or MUSC would bring back Dr. Dong to continue his research and education at MUSC.¹ The reason for this clause was that Dr. Dong did not do anything wrong, even if he did, there is no MUSC regulation or policy or any legal basis for MUSC to take away Dr. Dong's research material and equipment and lock down his laboratory and office.

4. However, at the end of the 18 months, it became clear to Dr. Dong that MUSC had no intention to honor the Agreement, and MUSC's attorney drafted the agreement in bad faith. The MUSC admits it did not allow Dr. Dong to continue his academic activities at MUSC but only paid him a salary out of Dr. Dong's own grant funds and "did not take away his title." MUSC further admits that it did not transfer

¹. This clause was shrewdly worded by the General Counsel as: "MUSC maintains the right to rehire Dr. Dong." This was explained to Dr. Dong as MUSC has a strong wish to bring back Dr. Dong for his successful research, especially when he obtained more grant funds on behalf of MUSC.

any of the essential research material, documents, intellectual properties, and equipment to Dr. Dong, which completely blocked Dr. Dong from conducting his research off-campus.²

5. Without active research and teaching, Dr. Dong had no chance to obtain a position at another university. However, Dr. Dong did obtain research grants from NIH based on his cutting-edge research prior to his laboratory being shut down. The two grants in the total amount of \$8 million were rejected by Lanier on behalf of MUSC in order to prevent Dr. Dong from coming back to MUSC and reestablishing his research.

6. MUSC finally breached all the terms of the agreement by not exercising his right to rehire Dr. Dong, but terminated his tenure, professorship, salary, and all benefits including health insurance to his family and his retirement benefit.

The breach of the agreement, completely destroyed Dr. Dong's career, earning potential, and financial well-being.

² The defendant's attorney, without any witness, claims MUSC did not transfer the equipment because Dr. Dong did not provide copies of various permits for Dr. Dong to operate biomedical research at the company on behalf of MUSC. This is a farce because: (1) MUSC never initiated or was ready to transfer Dr. Dong's material and equipment to him and asked for or waited for the permits. (2) The permit is not required for MUSC to transfer Dr. Dong's materials and equipment to him as the owner, but only when Dr. Dong conducting the research as part of MUSC. (3) Dr. Dong did submit copies of the permit directly to Lanier and to the grant management office when he applied for NIH grants in which the company and MUSC were collaborators.

LEGAL STANDARD

THE STATUTE:

The relevant parts of the SCRCP Rule 56 state:

(c) The [summary] judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. (emphasis added)

(e) Supporting and opposing affidavits shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein. Sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be attached thereto or served therewith. The court may permit affidavits to be supplemented or opposed by depositions, answers to interrogatories, or further affidavits.

(f) **When Affidavits Are Unavailable.** Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such order as is just.

ARGUMENT

Contrary to the law, Defendant failed its burden to prove the lack of genuine issues but raised two issues, neither of which serves the basis for summary judgment. When and if a contract is breached or if the evidence presented is sufficient are questions of material fact that must be decided in a trial. See Rule 56(d).

A. Defendant's claim that Dr. Dong's breach of contract claim is barred by the statute of limitations is meritless.

1. Defendant's claim of the statute of limitations is without any evidential support.

Defendant failed to produce any witness, testimony, interrogatory, or affidavit to support his claim that the breach occurred prior to September 2, 2011, and was barred by the statute of limitations. Therefore, the claim of the statute of limitations fails on the first test.

2. Defendant's argument is false and intentionally misleading.

Defendant's claim that: "[a]ccording Dr. Dong, MUSC breached the Agreement soon after entering into the Agreement" is false. Dr. Dong maintained throughout his deposition that the agreement in its entirety was breached at the end of the specified 18 months when MUSC demonstrated it was not going to honor the terms, including did not continue his employment or excise "the right to rehire him," even he had obtained eight-million-dollar grants on behalf of MUSC, and instead, MUSC terminated his tenure, professorship, and all benefits.

In order to fabricate the support for the false statement that the breach happened early, Defendant's attorney misrepresented facts. Without a witness, Defendant's attorney falsely testifies that "the Agreement required MUSC meet the terms of the Agreement in that respect within forty-five days of entering into the Agreement, on or before June 17, 2010." Further, the Attorney misrepresented Dr. Dong's testimony by stating "Dr. Dong testified 'of course' MUSC breached the Agreement." The Attorney cited: Exhibit 2, P. 139, L. 4 – P. 140. L. 21; P. 144, L. 2 – P. 145, L. 7. However, the testimony was about MUSC wanting to conduct "an auditing" of Dr. Dong's biological research agents "in order to transfer them to Dr. Dong." Dr. Dong answered a tricky and confusing question by saying: "of course [these] have nothing to do with it." See transcript P140, L. 22. There is no such a statement as "of course, MUSC breached the Agreement prior to March 25, 2011." This statement by the attorney is simply false.

It is a fundamental principle under the law that attorneys are not witnesses and cannot testify about the fact. Furthermore, making false representation to the Court is a fraud upon the Court, and should not be tolerated by the Court under the neutrality obligation.

3. The Defendant's argument that if one of the terms could be breached at the earlier time, it constituted the date for breaching all the terms and the entire Agreement is meritless.

In addition to false representation of the facts, the defendant's counsel argues for the statute of limitations based on the theory that if one of the terms was breached at an earlier time, all the terms and the entire agreement were breached. This argument is without factual and legal support.

Foremost, the Separation Agreement is to provide a period of separation between the conflicting parties that allow Dr. Dong to conduct his research off campus and allow his other academic activities at the University. Each of the specific terms, such as transferring Dr. Dong's research materials, documents, and equipment is to assure that Dr. Dong's ability to continue his research without any obstruction and interference; at the same time, to our short Dr. Dong's ability to carry out his other academic activities within MUSC. At the end of the period, Dr. Dong either resign from MUSC after he secured a professorship at another university or continue his professorship by being rehired, especially if he can obtain federal funding on behalf of MUSC, MUSC will have the right to rehire Dr. Dong. Viewing the agreement as a whole, the final breach of the contract was when MUSC stopped deploying its delaying tactics, indicated it had no intention to honor any of the terms allowing Dr. Dong to continue his career, not rehiring him even though he obtained two multimillion dollars grants for MUSC, but terminated his tenure professorship, salaries, health and retirement benefits. These acts constituted a breach of the agreement in its entirety.

Furthermore, even to assume that violation of a single specific term were to constitute the violation of the entire agreement, but it does not, there is no evidence or testimony of a specific date for such a violation other than the willful misrepresentation of Dr. Dong's testimony by Defendant's attorney. Certainly, Defendant's attorney cannot produce an affidavit by Dr. Dong or any witness to verify the Defendant's attorney's statement.

B. Defendant's claim that Dr. Dong cannot present sufficient evidence MUSC breached the Agreement is meritless.

Here, Defendant deployed a typical tactic of "substituting principles," also known as "the strawman fallacy," to support its meritless argument.

First of all, the "sufficiency of evidence," especially, when the question is framed as "whether Dr. Dong can present sufficient evidence to prove MUSC breached the Agreement," is a question of fact and must be decided by the jury in a trial. It is not a ground for summary judgment under the law, SCRCP, Rule 56.

Second, Defendant's argument is meritless, because Defendant substituted the question of "if Dr. Dong can present sufficient evidence" with the argument of "clarity of the contract." See MUSC's memo, P6-7. Defendant went on arguing the Agreement was "unambiguous" and should be "read together with the different provisions therein dealing with the same subject matter," and the Court does not have the authority for its own interpretation. Id.

Ironically, it is Defendant who requested the Court to read and interpret each term separately in its argument for the statute of limitations, claiming if one of the terms could be interpreted as being violated at an earlier time, it would constitute the date for violation of the entire agreement.

Here, Dr. Dong agrees with Defendant's citations of the law that:

“It is fundamental that, in the construction of the language of a contract, it is proper to read together the different provisions therein dealing with the same subject matter, and where possible, all the language used should be given a reasonable meaning.” *Bluffton Towne Ctr., LLC v. Gilleland-Prince*, 412 S.C. 554, 569, 772 S.E.2d 882, 890 (Ct. App. 2015) (quoting *Ecclesiastes Prod. Ministries v. Outparcel Assocs., LLC*, 374 S.C. 483, 498-99, 649 S.E.2d 494, 502 (Ct. App. 2007)).

“In construing and determining the effect of a written contract, the intention of the parties and the meaning are gathered primarily from the contents of the writing itself, or, as otherwise stated, from the four corners of the instrument.” *Silver v. Aabstract Pools & Spas, Inc.*, 376 S.C. 585, 591, 658 S.E.2d 539, 542 (Ct. App. 2008) (quoting *McPherson v. J.E. Sirrine & Co.*, 206 S.C. 183, 204, 33 S.E.2d 501, 509 (1945)).

[Court must enforce the contract] “according to its terms regardless of its wisdom or folly, apparent unreasonableness, or the parties' failure to guard their rights carefully.” *S.C. Dep't of Transp. v. M & T Enterprises of Mt. Pleasant, LLC*, 379 S.C. 645, 655, 667 S.E.2d 7, 13 (Ct. App. 2008).

These case laws command that a contract must be read as a whole, and “the intention of the parties and the meaning are gathered primarily from the contents of the writing itself.” The Court must enforce a contract “according to its terms regardless of its wisdom....”

I. Evidence is sufficient that MUSC breached the Agreement

Here, the Agreement is clear in its entirety. It is the final version of the agreement that separates the conflicting parties for 18 months. The Agreement contained three essential clauses: (1) to allow Dr. Dong to continue his research off campus at the accompany established by MUSC through its FRD, (2) to allow Dr. Dong to continue his other academic activities at the MUSC, and (3) at the end of the 18 months if Dr. Dong obtained a position at another university, he would resign from MUSC; however, “MUSC retains the right to rehire Dr. Dong,” especially, if Dr. Dong obtained additional grants from MUSC. See Complaint, Exhibit 1.

The fact is undisputed by MUSC that each of the three essential clauses was breached by MUSC. Examples include, but are limited to:

1. MUSC did not transfer Dr. Dong’s essential materials, equipment, and grant funds to him at the company location. Therefore, MUSC blocked Dr. Dong from continuing his research off campus, as admitted by Defendant. See MUSC Memo, P13. However, Defendant argued that “Dr. Dong can present no evidence the ‘GenPhar location’ received certificates, permits and insurance coverages, the Agreement did not require MUSC relocate the equipment listed in Exhibit A to the Agreement.”

This argument is baseless because:

(1) MUSC presented no testimony or evidence that such certificates were “in the absence;” Contrarily, evidence shows that the company was in full operation under the funding of the Department of Defense and had submitted all the essential documents to MUSC for several collaborative research projects funded by NIH.

(2) MUSC presented no evidence that MUSC was ready to transfer the equipment and requested Dr. Dong to provide copies of the permits because MUSC had them in the joint grant applications.

(3) There is no such language as stated by the Defendant in the Agreement. The research materials, documents, equipment, intellectual properties were Dr. Dong’s assets and MUSC had no authority to take away his assets under any circumstances.

(4) The equipment and research materials belong to Dr. Dong. There can be no condition to transfer Dr. Dong’s belongings to him. The language about have the permits in place was explained to Dong as the protection of MUSC from violating any regulations when Dr. Dong operate outside the campus on behalf of MUSC. Because GenPhar had been fully operational under the funding of the Department of Defense, the company was fully accredited with the certificates and insurance.

The Defendant show no evidence there was a concern or a request of Dr. Dong to show the company was accredited, not any evidence that MUSC was ready to transfer or return Dr. Dong’s assets to Dr. Dong.

Defendant is the moving party for the summary judgment and has the burden to prove there are no genuine issues. Here, Defendant presents no evidence to support its argument.

2. MUSC continued blocking Dr. Dong from faculty activities by excluding him from all academic events, such as faculty meetings, teachings, and access to graduate students. MUSC also removed Dr. Dong from faculty directories, and websites, and blocked Dr. Dong from accessing the MUSC email system, digital Homeroom, library, and other MUSC facilities. Dr. Dong testified in his deposition, while Defendant provide no evidence to dispute Dr. Dong's statements under oath.

3. MUSC prevented Dr. Dong from seeking a position at other universities by blocking his research and academic activities. By blocking Dr. Dong's scientific research and academic activities, MUSC deprived Dr. Dong of any chance to obtain a tenured professorship at any other university to prevent Dr. Dong from transferring his research and teaching operations to another university. Therefore, MUSC allowed Norris and Lanier illegally take Dr. Dong's research programs and achievements for their benefits and destroy Dr. Dong's career.

4. In order to prevent Dr. Dong to come back to MUSC, Lanier rejected two eight-million-dollar grants that Dr. Dong obtained on behalf of MUSC, and eventually terminate his tenure professorship and all financial benefits after completely destroying Dr. Dong's career. These breaches were testified by Dr.

Dong in detail during his deposition. See Dr. Dong's deposition Transcript on each of the terms of the Agreement.

II. Defendant's Argument is without any evidential support and irrelevant to the fact that MUSC breached the Agreement.

Dr. Dong testified consistently throughout his deposition that MUSC breached all three clauses of the Agreement by continued blocking his research off campus, and his academic activities at MUSC, doing so prevented Dr. Dong from obtaining a position at other universities, and finally MUSC terminated his tenure professorship and all his financial benefits, by "not exercising the right to rehire Dr. Dong."³

Contrary to MUSC's argument, Dr. Dong did not allege that MUSC failed to pay him the salary or due payment during the separation period, and these payments were not MUSC's only obligations to the Agreement. Therefore, MUSC's argument about it made those payments is a typical strawman fallacy – it is irrelevant to the Complaint that MUSC breached the Agreement by continued blocking Dr. Dong's research off-campus and academic activities at MUSC.

Defendant firstly misinterprets each specific term and then, without any evidential support, argues that "Dr. Dong can present no evidence MUSC breached the Agreement." See the MUSC memo, discussing terms 1-20. Even if were

³ As a contract matter, MUSC's right to rehire Dr. Dong gives Dr. Dong the equal right to be rehired.

“whether Dr. Dong can present sufficient evidence” a question of law, it is not, the argument is without evidential support and insufficient to show there are no more genuine issues.

Furthermore, the “material evidence,” such as the letters allegedly sent by Stephen Lanier or Mark Sothmann are not verified or authenticated by any witness. They are inadmissible as evidence under the law. In contrast, Dr. Dong testified under oath that he did not remember ever seeing or receiving the letters. Dr. Dong also testified that the copy of the letter included in the Complaint was obtained by his attorney from MUSC to show the conspiracy of covering up because the event referred to in the letter happened in 2014, more than three years after the letter’s date, and both Lanier and Sothmann signed the letter in their titles in 2014, not in 2011. It is obvious that the letter was generated in 2014 and back-dated in 2011 to cover up the breach of the contract. Without Lanier and Sothmann to testify under oath, Defendant cannot prove the authenticity and truthfulness of the letter.

In summary, the question Defendant raised is whether “Dr. Dong can[] present sufficient evidence [to prove] MUSC breached of the Agreement.” By law, the sufficiency of evidence is a question of fact and must be decided by a jury at trial. SCRCP Rule 56 commands that when the party seeking the summary judgment failed this burden to prove the lack of genuine issues supported with evidence, interrogatories, testimonies, and affidavits, the court may not apply the judgment

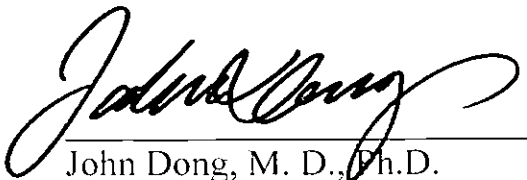
and may set a trial date to resolve the controversy by a jury. Defendant's motion for summary judgment is not supported by any of the required evidence and must be denied as a matter of law.

CONCLUSION

For the reasons stated above, MUSC failed to prove the lack of genuine issues with the required evidence under SCRPC Rule 56. Plaintiff respectfully requests the Court DENY Defendant's request for Summary Judgement as a matter of law.

Respectfully submitted, pro se,

June 16, 2023
Charleston, South Carolina



John Dong, M. D., Ph.D.
71 Delahow St
Charleston, SC 29492
Email: johnny.dong@gmail.com
Phone: 843-991-2332

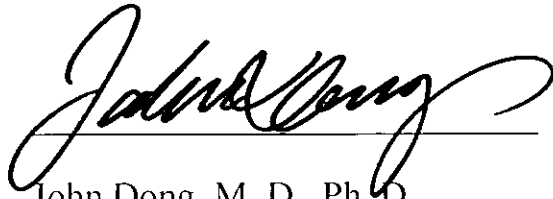
CERTIFICATE OF SERVICE

This is to certify that I have on this 26th day of June 2023, served a copy of the Plaintiff's Opposition to Defendant MUSC's Motion for Summary Judgement to the ECF system, which will notify all parties electronically. In addition, a copy of this motion is served via Email at bconley@clevelandlaborlaw.com and United States Mail Services addressed to the following:

Bob J. Conley, Esq.
 Cleveland & Conley LLC
 171 Church Street, suite 310
 Charleston, South Carolina 29401

FILED
 2023 JUN 27 AM 9:43
 JUDITH A. ARMSTRONG
 CLERK OF COURT

June 26, 2023



John Dong, M. D., Ph. D.
 71 Delahow St
 Charleston, SC 29492
 Email: johnny.dong@gmail.com
 Phone: 843-991-2332

APPENDIXES

Appendix One: John Dong's Affidavit

Appendix Two: John Dong's Deposition

Appendix Three: Final Separation Agreement

Appendix One:
John Dong's Affidavit

AFFIDAVIT

STATE OF SOUTH CAROLINA COUNTY OF CHARLESTON

I, Jian-Yun (John) Dong, do solemnly affirm, under penalty of perjury, that the following statements are true and correct based on my direct knowledge, experience, and information:

1. I was recruited to the medical University of South Carolina in 1998 from the University of California in San Francisco. I was appointed associate professor at the Department Microbiology and Immunology, with the second appointment at the Department of Medicine. Subsequently, I also became a member of the Hollins Cancer Research Institute. I led the frontier research on gene therapy for cancer and genetic diseases and established extensive collaborations with faculty members across several departments including the Department of Surgery.

2. I routinely taught graduate courses, mentored many graduate students, and trained post-doctoral fellows, and conducted leading edge research. I published about 100 articles in national and international peer-reviewed scientific journals, and was invited for over 100 seminars, speeches, and presentations at national and international scientific conferences or university symposiums. I established himself as one of the leading scientists in the field of gene therapy and was invited as reviewer or member of the editorial boards of scientific journals.

3. I obtained numerous research grants, including NIH grants totaling over ten million dollars, and was invited to serve on several NIH or DoD grant reviewing committees.

4. My research resulted several invention disclosures and United States and International patents that obtained listening agreements with companies through MUSC Foundation for Research and Development (FRD) and generated hundreds of thousands of dollars of financial payments to MUSC.

5. Because of his academic achievements, I was promoted to a tenured full professor at the Department of Microbiology and Immunology, and a joint full professorship at the Department Biochemistry and Molecular Biology.

6. During the same period of time, then, the chairman of the Department of Microbiology and Immunology, Dr. James S. Norris had his research funding and academic activities in a rapidly declining path. He wanted to transition his research into the new and rapidly developing fields of gene therapy for cancer. Norris did so by initially blocking My tenure promotion by claiming that I was required to establish more collaborations with other faculty members such as himself. Even though I had already established extensive collaborations with numerous colleagues at the university and worldwide, I had to agree to collaborate with Norris by co-mentoring Norris' graduate students and training them to conduct gene therapy research and sharing his research projects with Norris.

7. Through the initial collaboration, Norris gradually took over many of My research projects by collecting the information and the research results from not only the graduate students he co-mentored with I, but also from My graduate students, postdoctoral fellows, and junior faculties using his position as the chairman of the department. Norris published these research results as his own and only acknowledged I as his collaborator, and even sometimes failed to do so in order to get the full credit of My research for Norris himself. Norris, further used My research projects and the results to submit grant proposals to get government funding for his laboratory.

8. Because the research projects were developed and funded by My research funds and conducted by My employees, Dr. Norris, in fact, took over My research funding, personnel, technologies, equipment, and intellectual properties.

9. In order to further block I from conducting his research, Norris first claim that one of My deep freezers containing the biological materials was sabotaged by someone, so that he needed to transfer all the contents to his laboratory for safe keeping. After I requested Norris to return the biological materials, Norris accused me of mishandling biological materials, Norris requested and initiated a series of biosafety committee investigations of my laboratory practice looking for violation of biosafety regulations. Under this false pretense, conspired with his long-time friend, Stephen Lanier, who was newly promoted to Vice President for Research and

Academic Affairs, ordered confiscating all my essential biological research materials under the pretense of transferring them to a secured location for “evidence keeping” and “future auditing.”

10. After I made the complaint to the MUSC administration, I was informed that Lanier, in his position as the vice president for research and academic affairs, would be in charge of investigating and resolving the issues, even though Lanier was the very reason who conspired with Norris in the illegal taking over my research and shutting down my operations.

11. To punish me for complaining, Lanier ordered changing locks of my laboratories and office and completely cut me off from access to my research material, equipment, records, computers, and all the facilities essential to my research. Lanier further blocked my access to the digital information storage server, HomeRoom, where the personnel of my entire laboratory stored all the data, protocols, research documents, and grant proposals. Under Lanier’s protection, Norris openly took over my graduate students, post-doctoral research fellows, and junior faculty members who were paid with my grant money to work in his laboratory on the research projects taken over from me. Norris claimed that I was under investigation by the university.

12. Although it was evident that Lanier and Norris took all my research materials, shut down my laboratories, and locked me out of my office, Lanier

claimed that the University authorized him to investigate my claims of Norris' taking my materials and research fund.

After several months of stonewalling, Lanier finally informed me that he found no evidence that Norris took any of my biological materials or spent my research funding. However, Lanier could not show any proof that an audit was conducted. Lanier also refused to explain how and why Norris published scientific papers and applied for grant funding based on my research projects or where his funds came from for the research (his laboratory was not funded for the research projects), which in fact, was done in my laboratory, by my personnel, and with my grant funds.

13. Lanier could not explain why and under what authority he ordered transferring my biological materials to "a secured location," confiscated my documents and equipment, and eventually locked down my laboratories and office. However, Lanier refused to return my assets and allow me to return to my laboratory but claimed that he needed to conduct an audit of my assets in order to return them to me. This claim was false because he did not have any authority to take a faculty member's assets or conducting an audit, even if there were a legitimate concern.

14. After nearly a year of struggling with Lanier's stonewalling, I could not get his research materials back, and research and teaching operations restarted while

time was critical in my research, competing for grant funding, and advancing my career.

Without any other options, I agreed to an "arrangement" mediated by the Dean of Medical College and Vice President for Medical Affairs, Dr. Jerry G. Reves. Dr. Reves proposed a cooling period by separating the conflicting parties in order for me to timely resume my research. Dr. Reves proposed that MUSC would transfer all my assets and research operations to GenPhar, a company established by the MUSC's Foundation for Research and Development (FRD). During the separation, I would continue my other academic activities at MUSC under the Chairman of the Department of Biochemistry, Dr. Yusuf Hannun.

One of the essential components of the Agreement is to return all my research assets that include my biological materials, documents, protocols, technologies, equipment, and grant funds.

15, Based on this spirit, I agreed to sign a "temporary separation agreement for a period of 18 months." I also agreed to that MUSC's general counsel, Mr. Joe Good was to draft the Agreement.

After several revisions, I was informed that the "final version of the agreement with what had been discussed was completed," and an appointment was made with Dean Reves to sign the final Agreement in his office on May 3, 2010.

16. Out of deep respect and trust for Dr. Jerry Reves, I believed that MUSC was in good faith. I did not scrutinize some of the words inserted or utilized by MUSC's legal counsel, such as "Final" Separation Agreement only meant the last version, and agreed to the Agreement as I was explained and understood.

17. In his position as the vice president for research, Dr. Lanier was in charge of the agreement implementation. While promising he would fully implement the Agreement, he deployed a delaying tactic. Lanier directed me to several MUSC management personnel for implementing the terms of the Agreement. After numerous delays, sometimes up to several months, the general answers to I were that they had not received the specific authorization for what to do but would continue to make efforts to resolve the issues.

18. Furthermore, the University blocked my access to the university email systems and all my research information stored electronically in the University HomeRoom without prior notice and deleted my faculty information from the University's website as if I never existed at the University. These deprived me of any research and academic documents and blocked my communications with colleagues at other universities and research institutes.

19. Without the ability to conduct his research and teaching, I could not find a position at other universities but had to work with MUSC to re-establish my career.

20. During this time, Norris continued using my research projects, assets, and resources for his research, publications, and applications for funding.

21. Lanier, on behalf of MUSC, declined two of my grants awarded by NIH totaling eight million dollars to block me from ever coming back to MUSC.

22. Until the end of the Agreement, none of the terms in the Agreement that favored me was implemented. It became clear that MUSC made the Agreement in bad faith and did not intend to implement it.

23. The breaches included, but were not limited to, the failure to transfer any of my research funds, materials, notebooks, protocols, and equipment to me. I was also continually blocked from any academic activities at MUSC.

24. In contrast, MUSC implemented numerous activities detrimental to My career under dubious languages inserted by the MUSC legal counsel. These included but were not limited to:

- (1) Did not transfer any of the research materials, essential documents, and equipment that are essential for me to continue my research and advance my career;
- (2) Withheld my multiple intellectual properties;
- (3) Continually blocked me from any academic activities at MUSC;
- (4) Terminated my tenure at the University, which under the faculty contract, it would take seven years for MUSC to terminate my tenure by not renewing it for poor performance;

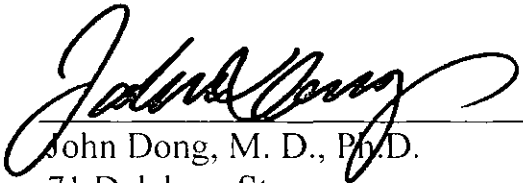
- (5) Terminated his salary and benefits, including his and his family's health benefits;
- (6) Terminated his retirement pensions;
- (7) Assisted and participated in a hostile takeover by one of the Company's investors who laid all the legal liability of the Company's using federal contract funds for a research facility on I and made him suffer all the legal consequences for what the Company had done while the investors cashed out and abandoned the Company.

25. I further state that I did not receive the letter allegedly sent to me by Lanier and Sothmann informing me that I had been put on administrative leave based on an event that happened in 2014, almost three years after the Agreement expired. Furthermore, Lanier and Sothmann signed the letter in their portion of 2014, not in 2011. These showed that the letter was generated no earlier than 2014 and backdated to 2011 to cover up their violation of the Agreement.

26. Due to these breaches of contract, my stellar career and entire financial well-being were destroyed, and the damages were irreparable.

I hereby affirm, under penalty of perjury, that the foregoing statements are true and correct to the best of my knowledge, information, and belief.

June 15, 2023
Charleston, South Carolina


John Dong, M. D., Ph.D.
71 Delahow St
Charleston, SC 29492
Email: johnny.dong@gmail.com
Phone: 843-991-2332

Appendix Two:
John Dong's Deposition

1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS
2 COUNTY OF CHARLESTON FOR THE NINTH JUDICIAL
CIRCUIT

3
4 JIAN-YUN (JOHN) DONG, M.D., Ph.D.

5 Plaintiff,

6 vs. CASE NO. 2016-CP-10-06683

7 THE MEDICAL UNIVERSITY OF SOUTH CAROLINA,

8 Defendant.

9
10
11
12 DEPOSITION OF: JIAN-YUN (JOHN) DONG, M.D., Ph.D.

13 DATE: October 18, 2022

14 TIME: 10:00 a.m.

15 LOCATION: 171 Church Street
16 Charleston, SC

17
18 TAKEN BY: Counsel for the Defendant

19 REPORTED BY: Roxanne Easterwood, RPR
20
21
22
23
24
25

Page 2

1 APPEARANCES OF COUNSEL:
2
3 PRO SE PLAINTIFF
4 JIAN-YUN (JOHN) DONG, M.D., Ph.D.:
5 [REDACTED]
6
7 ATTORNEYS FOR DEFENDANT
8 THE MEDICAL UNIVERSITY OF SOUTH
9 CAROLINA:
10 Cleveland & Conley, LLC
11 By: Bob Conley
12 171 Church Street, Suite 310
13 Charleston, SC 29401
14 bconley@clevelandlaborlaw.com
15 843-577-9626
16
17 (INDEX AT REAR OF TRANSCRIPT)
18
19
20
21
22
23
24
25

Page 3

1 PROCEEDINGS
2 * * * * *
3 JIAN-YUN (JOHN) DONG, M.D., Ph.D.
4 being first duly sworn, testified as follows:
5 EXAMINATION
6 BY MR. CONLEY:
7 Q. Good morning, Dr. Dong.
8 A. Good morning.
9 Q. Nice to see you today. You and I have
10 met on a number of occasions, so we're familiar
11 with each other.
12 A. Yes.
13 Q. Have you ever been deposed before?
14 Have you ever sat in a room with a lawyer and a
15 court reporter and had questions asked?
16 A. No. No.
17 Q. I'm going to go over a few things with
18 you that you need to know about about the process,
19 since you've never done it before. Most of these
20 things are really meant to help this lady at the
21 end of the table.
22 A. I understand.
23 Q. The reason is, Dr. Dong, is we want to
24 make sure, both you and I, that she is able to
25 make an accurate transcript of the questions I ask

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1 and, maybe more importantly, the answers you give.
2 She can only do that if you and I do a few things
3 that I'll talk to you about that are meant to help
4 to do that, okay?
5 A. All right.
6 Q. The first one is if I ask you a
7 question today that you don't understand, don't
8 hesitate to ask me to -- say, Bob, Mr. Conley, can
9 you restate that? Can you ask it again? I'm not
10 sure I understand what you were saying. Okay?
11 A. All right.
12 Q. If you will do that, I'm happy to
13 rephrase the question, break it into small parts,
14 whatever I need to do so that I don't confuse you
15 with the question, because it's not meant to
16 confuse you. That doesn't do you or I any good to
17 confuse you, all right?
18 A. All right.
19 Q. So just make sure, if you don't
20 understand something -- and I know you will
21 anyway. I just tell people, don't be bashful
22 about saying I don't understand what you're asking
23 me, and I'll try to rephrase it, okay?
24 A. Okay.
25 Q. The second one is people, when they

Page 5

1 ask and answer questions, have a tendency
2 sometimes to speak over one another. Usually
3 that's because we all start to think with our
4 brains about our answer before someone is finished
5 asking the question. So what I generally tell
6 witnesses is if you can agree to let me ask my
7 entire question before you begin to speak with an
8 answer, I will, likewise, agree I'm not going to
9 ask you another question until I'm sure you're
10 done with your answer.
11 It becomes very hard for her, if you
12 and I start to talk over one another, to get an
13 accurate record. So if from time to time I might
14 ask you, Hey, wait, let me finish asking my
15 question, I'm not doing that to be rude. It just
16 means you have done what we all tend to do, and
17 that is sometimes start to give an answer before
18 somebody is finished asking a question: is that
19 fair enough?
20 A. That's fair.
21 Q. The other item is, is that -- I don't
22 have a tendency to do this. I think, if anything,
23 I probably speak too slow, not too fast. But it
24 is important that you do talk at a sort of a
25 measured pace. Again, for the convenience of the

Page 6

1 court reporter, to make sure she gets your answers
2 correctly. It's generally helpful, too, if, you
3 know, you're in a good posture. Right now she can
4 sort of see your face. That's fine. That helps
5 her make sure she's getting correct testimony on
6 the record as well. If we can do all of those
7 things, that will really help do this efficiently;
8 is that fair enough?
9 A. All right.
10 Q. If you have any questions as we go
11 along today, don't hesitate to ask them. Meaning,
12 you're a pro se party; you have never been through
13 a deposition in this posture before, so if you
14 have a question, you're free to ask me a question
15 at any point.
16 A. All right.
17 Q. Whether I can answer it or not, I'd
18 have to know what the question is, but if you do
19 have a question, just ask. The process isn't
20 designed or meant to confuse you. It's solely a
21 discovery tool so that I can get your testimony
22 about your claims in this case, all right?
23 A. All right.
24 Q. A couple other items. One, I
25 generally take a break every hour because I get

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1 tired of asking questions, and I presume the
2 witness is probably, likewise, tired of answering
3 my questions. So I try to take a ten-minute break
4 or so every hour. However, with that said, you're
5 welcome to take a break at any time. You can look
6 at me at any moment and say, You know, can I take
7 ten minutes? That's fine, we'll take ten minutes.
8 The only thing I would ask is that if I have a
9 question I have asked you, that you go ahead and
10 finish answering before we take the break.
11 Otherwise, you can take a break whenever you want
12 all right?
13 A. All right.
14 Q. One of the things you have to agree to
15 abide by, since you're the witness that's being
16 deposed, is until the deposition is over, you're
17 not allowed to speak to anybody about your
18 testimony. Meaning, you know, if we take a break,
19 you can't call somebody on the phone and talk to
20 them about your testimony. You can't text
21 somebody about your testimony until the deposition
22 is concluded. Obviously, once it's concluded,
23 talk to whoever you want about it, okay?
24 A. I understand.
25 Q. The other thing I want to go ahead and

Page 8

1 ask you now -- I generally save this to the end of
2 the deposition to ask the witness, but I'll go
3 ahead and do this with you now because I think
4 it's more efficient to do it this way.
5 You, as the witness in the case, have
6 the option to do under the rules what's called
7 "reading and signing your deposition transcript."
8 A. Right.
9 Q. In its most simplistic terms, what
10 that means is after the deposition is concluded
11 today and the court reporter prepares a transcript
12 of it, you can elect to tell the court reporter "I
13 want to read and sign my transcript." If you do
14 that, what she will do is once it's prepared, she
15 will email it or mail it to you -- you can work
16 out with her how you want to get it -- and she
17 will provide you with a copy of it. At that point
18 in time you have 30 days to review it under the
19 rules, okay?
20 A. All right.
21 Q. I presume you probably want to read
22 and sign your transcript; is that right?
23 A. Yes, I do.
24 Q. So that's good. Once the transcript
25 is prepared, the court reporter will take care of

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1 getting that to you, and you can look at the
2 rules. The rule lays out what your obligations
3 are once you receive it, okay?
4 A. All right.
5 Q. Any questions about any of those
6 things?
7 A. No.
8 Q. Any questions before we sort of get
9 started about sort of the general methodology of
10 doing this?
11 A. No. Just remind me to silence my
12 phone.
13 Q. Yes, I have to remember to do that as
14 well.
15 Can you give me your full name for the
16 record?
17 A. It's J-i-a-n - Y-u-n. I go by John.
18 Last name, Dong, D-o-n-g.
19 Q. Can you give us your current
20 residential address?
21 [REDACTED]
22 Q. I'm not looking for exact dates,
23 Dr. Dong, but approximately how long have you
24 lived at that address, generally?
25 A. [REDACTED].

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1 Q. Do you need to finish something on
2 your phone?
3 A. I'm trying to silence it.
4 Q. So you have lived at the [REDACTED]
5 address since [REDACTED]?
6 A. Yes.
7 Q. Just prior to your address on [REDACTED]
8 [REDACTED] where did you reside? What was your
9 residential address?
10 A. I lived there briefly -- well,
11 actually, let me give you the [REDACTED]
12 [REDACTED]
13 Q. I think it's [REDACTED].
14 A. Yes, exactly right, [REDACTED].
15 Q. That is the address you were residing
16 at before you started living on [REDACTED]?
17 A. Right. I also lived briefly in
18 [REDACTED]. I could not remember the address.
19 Q. [REDACTED] being [REDACTED]
20 [REDACTED]?
21 A. Right.
22 Q. Over in [REDACTED] on [REDACTED]?
23 A. Right.
24 Q. The address or the residence you lived
25 in in [REDACTED], did you live there alone, or did

Page 11

1 someone live there with you?
2 A. I lived there alone. I was divorced.
3 Q. What about the address you gave us up
4 in [REDACTED], did you live there with someone, or
5 did you live there alone?
6 A. I lived there alone.
7 Q. What about the address on [REDACTED]
8 [REDACTED], do you live there alone, or do you live
9 there with someone else?
10 A. I live with my wife, my second
11 marriage.
12 Q. Can you give us your current wife's
13 name?
14 A. It's officially P-e-n-g. Last name
15 Z-h-a-o. She goes by Allison Dong.
16 Q. I don't need exact dates, but about
17 how long have you and your current spouse been
18 married?
19 A. 2015 or '16 -- 2016.
20 Q. I think you mentioned just a minute
21 ago that this is your second marriage; is that
22 right?
23 A. Correct.
24 Q. Can you give me the name of your first
25 spouse?

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1 A. D-a-n-h-e-r. Last name W-a-n-g.
2 Q. Any other marriages, other than the
3 two you mentioned?
4 A. No.
5 Q. That reminds me of something else I
6 need to mention to you that I didn't. Sometimes
7 when you're answering questions, we have a
8 tendency to nod our head or something. The court
9 reporter, as you might imagine, can only take down
10 verbal responses.
11 A. I see.
12 Q. So try to remember to say yes or no
13 and not nod your head. And I will remind you if
14 you nod your head, is that a yes or no. I'm not
15 doing that to be rude. I just want to make sure
16 she gets your testimony correctly.
17 A. All right.
18 Q. Your first spouse, do you remember
19 what year you were divorced?
20 A. I have a problem with my memory of
21 dates.
22 Q. Just general.
23 A. I think it was -- dates and years,
24 because I suffer from memory suppression due to
25 when I grew up under the communist rule, and my

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1 parents was persecuted all their life.
2 Q. So do you remember what year you were
3 divorced?
4 A. Because it's bad events, I think. So
5 I don't know. If I remember, I think -- let me
6 guess. It's about 2012.
7 Q. Do you remember if that divorce was in
8 [REDACTED]?
9 A. Yes.
10 Q. Did you have a lawyer who represented
11 you in that divorce?
12 A. No.
13 Q. Do you know if your ex-spouse had a
14 lawyer?
15 A. She did.
16 Q. Do you remember who her lawyer was in
17 that divorce?
18 A. No.
19 Q. You have to say no.
20 A. No. But actually, I did have a
21 lawyer, but just for the -- not for the whole
22 process. It was -- I could not remember his name,
23 but it may come back.
24 Q. That's fine. It sounds to me like
25 your memory is you had a lawyer for part of the

4 (Pages 10 - 13)

Page 14

1 divorce process, but perhaps not all of it?
2 A. Just the -- right.
3 Q. And your recollection is you don't
4 recall your ex-spouse having a lawyer at any time
5 during the process?
6 A. She had lawyer for the entire file.
7 Q. She did?
8 A. Right.
9 Q. The entire time, but you just don't
10 remember that person's name?
11 A. No, because I was completely removed
12 from the process. So basically I agreed to
13 everything they asked for. Actually, I never met
14 her lawyer.
15 Q. Do you and your first wife have any
16 children?
17 A. Yes, we have a daughter.
18 Q. Can you give us her name?
19 A. Deanna, D-e-a-n-n-a, Dong.
20 Q. Any children by your second marriage?
21 A. No.
22 Q. Your ex-spouse, does she still live in
23 the greater [REDACTED] area? Do you know where
24 she lives?
25 A. She still lives in the [REDACTED]

Page 15

1 That's [REDACTED]
2 [REDACTED].
3 Q. Is that the house in [REDACTED]?
4 A. No.
5 Q. No, it's not?
6 A. No. It's at [REDACTED].
7 Q. You describe that as the [REDACTED]
8 Is that a residence where you lived at one time?
9 A. Yes.
10 Q. The address you gave at [REDACTED]
11 [REDACTED]?
12 A. Yes, during the marriage.
13 Q. We have to be careful about talking
14 over one another.
15 A. Sorry, about that.
16 Q. That's okay. You've given me a couple
17 of addresses: the [REDACTED] address, the [REDACTED]
18 address, the address in [REDACTED] that you don't
19 remember the exact address, and then you also gave
20 us a fourth address where you've resided, which is
21 the [REDACTED] address; is that right?
22 A. Right. Correct.
23 Q. Your ex-spouse, do you know if she's
24 employed anywhere? Do you know if she works?
25 A. She should be retired, too.

Page 16

1 Q. She what?
2 A. She should have been retired, too.
3 Q. But do you know if she works anywhere?
4 You can just tell me if she doesn't or if you
5 don't know.
6 A. I do not know for sure.
7 Q. Your daughter, does she live in [REDACTED]
8 [REDACTED]?
9 A. She is a surgeon in -- somewhere in
10 [REDACTED]. I don't remember the name of the
11 hospital or the area.
12 Q. Your current wife, does she work
13 anywhere? Is she employed?
14 A. No. She's retired, too.
15 Q. She's retired?
16 A. Right.
17 Q. What did she do before she retired?
18 A. She was a teacher in medical college
19 in Beijing.
20 Q. To your knowledge, has she ever held a
21 job here in the local area?
22 A. No.
23 Q. Dr. Dong, is she a U.S. citizen? Has
24 she been naturalized? What is her status?
25 A. She's permanent resident based on

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1 marriage.
2 Q. Other than your current wife and your
3 ex-wife, anybody else in South Carolina that
4 you're related to in any way?
5 A. No.
6 Q. No other family members?
7 A. No.
8 Q. At all?
9 A. No.
10 Q. Are you currently employed anywhere?
11 A. No. I'm retired.
12 Q. When you say retired, that can mean a
13 lot of different things to different people. What
14 does that mean when you tell me you're retired?
15 A. I reached the age of retirement.
16 Q. How old are you?
17 A. I'm 65, going on 66.
18 Q. When I hear someone say they're 65 and
19 they're retired, in my mind, I'm generally
20 thinking they're drawing Social Security. Are you
21 drawing Social Security at this point?
22 A. Yes.
23 Q. Are you receiving any other retirement
24 benefits other than Social Security? Meaning, do
25 you have any other retirement benefits that are

5 (Pages 14 - 17)

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1 providing you, like most retirees, with income on
2 a monthly basis?
3 A. I've been working at many universities
4 where I've been a professor and doctor my whole
5 life.
6 Q. That's what I'm trying to find out.
7 What other sources of retirement income do you
8 have? You told me Social Security. Do you
9 receive retirement income by way of your
10 employment at the Medical University of South
11 Carolina?
12 A. Yes, I do.
13 Q. So that's probably through the South
14 Carolina Public Employee Benefits --
15 A. Deferred.
16 Q. We can't talk over each other. You
17 have to let me finish.
18 A. Sorry.
19 Q. It's okay. But just wait.
20 I presume that retirement you receive
21 in respect to your work at MUSC, you receive that
22 by way of what's called the South Carolina Public
23 Employee Benefits Association. Do you receive a
24 retirement check each month?
25 A. No, I don't. Actually, I haven't

Page 19

1 activated it yet.
2 Q. So you're not receiving any retirement
3 benefits you accrued as a result of your work at
4 MUSC?
5 A. No.
6 Q. So where are you -- what other sources
7 of income do you have right now, other than your
8 Social Security that you receive each month?
9 A. I also rented out my house in [REDACTED]
10 [REDACTED].
11 Q. The house, is that the house at the
12 address that you told us about earlier?
13 A. Right. That's my house.
14 Q. When you say you rent it, does that
15 mean -- rent nowadays can mean a lot of things.
16 It may mean you rent it Airbnb, or you can rent it
17 permanently to somebody.
18 A. No. I rent it permanently to someone.
19 Q. Your sources of income right now are
20 your Social Security, whatever rent you receive on
21 the house on [REDACTED]. Any other sources of
22 income right now.
23 A. No.
24 Q. Do you receive any sources of income
25 from any other places where you've worked in the

Page 20

1 past?
2 A. I'm not clear how the system works,
3 because I believe all the work, the pensions that
4 I had at differing universities all follow me to
5 MUSC in the end. So I worked at UCSF before. I
6 worked in California. That has the best pension
7 system nationwide.
8 Q. To your knowledge, are you receiving
9 any kind of pension through -- from California
10 right now?
11 A. I think I'm not quite sure, because I
12 never take care of my financial before, and I
13 didn't follow up. I believe it was all
14 transferred, combined into MUSC.
15 Q. So sitting here this morning, the only
16 sources of income you can identify right now are
17 your rent income from your house on [REDACTED]
18 and your Social Security income?
19 A. That's correct.
20 Q. The house on [REDACTED], is that a
21 house you own outright, or is there a mortgage on
22 it? Do you know?
23 A. Actually, that's my wife's house.
24 Q. So you don't own the house at all?
25 A. No, I don't own that house.

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1 Q. Have you ever had an ownership
2 interest in that house on [REDACTED]?
3 A. No.
4 Q. Since your employment ended at MUSC,
5 have you applied for positions at any other
6 universities or colleges?
7 A. I did not actually actively look for,
8 but I did look at -- monitor employment
9 opportunities from number of universities out of
10 science journal. The reason is I have no way
11 because I have no academic -- no more academic
12 background. I do not have academic research
13 anymore, because all my material was taken away.
14 All my research material was taken away. I have
15 no equipment.
16 Unless you start from over again, from
17 my position, if you don't have facility, research
18 materials and research -- active research projects
19 going, you do -- you are not hireable, unless I
20 want to be janitor.
21 So actually, being full professor like
22 what I did at MUSC, they recruited me from UCSF, a
23 much prestigious university. That actually was
24 done great move on my side, but I could, because I
25 have active research project and a lab full of

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1 technician, post-docs, and trainees, and I have my
2 research funding. And that's -- all the equipment
3 was transferred with me. So I have means to
4 conduct academic research. When all of those was
5 taken away from me, I have no means to conduct
6 academic research, and I have no way to apply a
7 position lab work.
8 Q. So the answer would be no, since your
9 employment with MUSC ended, you could not --
10 A. I could not.
11 Q. You have to let me finish with the
12 question. I promise you I will sit here and let
13 you give your full answer before I ask another
14 question. But for the court reporter's benefit,
15 you have to let me ask my question before you give
16 an answer.
17 So the answer would be you have not
18 applied for any other academic positions since
19 your employment at MUSC ended?
20 MR. DONG: Objection.
21 Can I give my answer instead of you
22 give me the answer and let me say yes or no?
23 MR. CONLEY: You can say whatever you
24 want, Dr. Dong.
25 THE WITNESS: I could not because of

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1 reason I stated above.
2 BY MR. CONLEY:
3 Q. Because you could not, does that mean
4 you have not?
5 A. I could not. That means I could not.
6 Q. Setting aside academic positions, have
7 you applied for any positions in private industry
8 since your employment at MUSC ended?
9 A. I'm not employable for private
10 industries because I have no, so, industrial
11 background experience.
12 Q. Can you identify any jobs you have
13 applied for anywhere with any type of employer
14 since your employment with MUSC ended?
15 A. The only option for me was to find
16 academic background, as I said. As I say, because
17 of those limitations, I could not apply for
18 academic background, academic professorship. I'm
19 not applying for trainee. I'm not applying for
20 start or technician. So I could not do anything I
21 want to do.
22 If you take away a surgeon's
23 equipment, ability to perform operation, you ask
24 the surgeon have you applied for any other jobs,
25 the answer will be, obviously, no, you cannot.

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1 Q. I'm going to ask you about --
2 generally, about the eleven people you have asked
3 to depose in the case. Mark Sothmann, can you
4 tell me just generally? I'm looking for a rough
5 idea so I have some knowledge of what connection
6 Mr. or Dr. Sothmann has to your claims against
7 MUSC in the case.
8 A. Basically there's no connection. MUSC
9 limited my discovery only to Mark Sothmann, and I
10 think he was interim provost or whatever for brief
11 period of time. He was not involved before or
12 after the real events, what happening -- what
13 happened. He was not involved.
14 I never met him before. I don't
15 remember. He was not -- I did not remember -- I
16 do not remember. He might be copied on some
17 emails. I do not remember actually seeking him
18 out for the problems I had at MUSC.
19 Q. Do you remember having any meetings
20 with Mr. Sothmann or him being involved in any
21 meetings before you signed the agreement --
22 A. No.
23 Q. -- with MUSC?
24 A. No.
25 Q. Do you ever remember meeting with him

Page 25

1 after you signed the agreement in regard to
2 anything related to it?
3 A. No.
4 Q. Beth Gladden, can you give me a
5 general idea of what it is you believe she knows
6 about your claims in the case?
7 A. She should have known everything
8 because she's the business administrator for
9 Dr. James Norris, who was the chairman at the
10 time, and she basically included James Norris on
11 everything they done to me. I don't know if she's
12 honest or not, if she can tell the truth, or
13 whether she will be a material witness.
14 Q. Do you recall ever having any
15 conversations with Ms. Gladden in regard to the
16 agreement that you entered into with MUSC?
17 A. No. She wasn't at that level.
18 Q. Do you remember her ever being
19 involved in any meetings or conversations leading
20 up to you entering into that agreement with MUSC?
21 A. She was involved, deeply involved, in
22 the events taking away my research material,
23 spending my money by Dr. James Norris. And
24 actually, she was there when I was blocked from
25 entering my laboratory, and she was claiming --

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1 she was claiming there was a criminal
2 investigation because somebody stole my genetic
3 material.
4 That was the excuse at the time to
5 block me entering my lab, tell me there was an
6 auditing ongoing. So, therefore, I could not
7 enter my lab. That's the first event I find that,
8 really, Dr. Norris basically just stop from
9 hiding, basically wanted to take away my genetic
10 material, my money and equipment for his own use.
11 Q. Thank you for telling me that. Do you
12 remember Ms. Gladden ever being involved in
13 discussions about the written agreement that you
14 signed with MUSC?
15 A. No, she wasn't.
16 Q. That's all I'm asking. You don't
17 remember her being involved in that agreement?
18 A. No, I do not. But she is behind all
19 the events that's transpired to the agreement
20 which compromised between the administration and
21 me regarding to -- to prevent me from actually
22 reporting to what James Norris did.
23 What he did was he -- actually what
24 I've been accused of and charged with, because he
25 misusing contract grant fund of another person for

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1 his own use. That can trigger the auditing in all
2 of the MUSC grants, as well as disqualify MUSC
3 from applying for federal grants if that's
4 actually been proven.
5 That's why I have intention not to
6 harm MUSC, not to harm all my colleagues. So
7 that's a compromise position to reach the
8 agreement so I can get my research material and
9 lab equipment back quickly, because I have a
10 career to follow, instead of fighting with MUSC at
11 the time and also causing severe damage to MUSC.
12 Q. What about Michael G. Schmidt? He's
13 someone you indicated you wanted to take his
14 deposition. What does he know, or what is it you
15 believe he knows that has some connection to your
16 claims in this lawsuit?
17 A. Of course, he knows the actual events.
18 At least he knows some of the actual events. He
19 was vice president -- no, no -- vice chairman of
20 the department, and I believe he let James Norris
21 did what he did, but he wasn't helping me in any
22 way. But he knows a lot of details.
23 Also, he was on the biosafety
24 committee and being used against me to auditing me
25 for biosafety violations. So I was put through

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1 many, many of the biosafety committee auditing
2 examination and filing reports, and in the end I
3 did not violate anything.
4 Q. Was Dr. Schmidt involved, to your
5 recollection, in any way in the agreement that you
6 reached -- entered into with MUSC?
7 A. It's not agreement per se, but it was
8 the old events transpired the agreement. The
9 agreement is, retrospect, is in bad faith, just
10 try me get off MUSC. So that's why the
11 agreement -- actually, the discussion and
12 background of the agreement was way beyond the
13 agreement, which at the time I was just
14 desperately trying to get my research projects
15 going, because in my career if you stop doing
16 research, and your career will be severely
17 damaged.
18 Q. Do you recall ever having any
19 discussions with Dr. Schmidt about that written
20 agreement?
21 A. No.
22 Q. Dr. Stephen -- Stephen, with a P-h,
23 Tomlinson, he was someone else. You indicated you
24 wanted to take Dr. Tomlinson's deposition. Can
25 you tell me why it is you want to take

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1 Dr. Tomlinson's deposition, including what it is
2 you think he knows that relates to your lawsuit?
3 A. He knows -- well, he was one of the
4 collaborators of mine. He definitely knows the
5 event and also all the activities transpired to
6 the agreement.
7 Q. Do you recall ever having any
8 conversations with Dr. Tomlinson about the actual
9 written agreement you entered into with MUSC?
10 A. No. He doesn't have the -- any part
11 in the written agreement, but it was -- he have
12 significant knowledge of the events that have
13 transpired to the agreement, and also he was one
14 of my scientific collaborators when I was the
15 professor at the department, and he was actually
16 -- I was on his recruitment committee when I was
17 at the department.
18 And his career was not impacted,
19 because I do not believe Dr. Norris was interested
20 in his research. And he also very experienced.
21 He will protect his money from being abused by Dr.
22 James Norris.
23 Q. What about Christina Voelkel-Johnson,
24 Dr. Voelkel-Johnson? Can you give me some idea of
25 what it is you believe she may know that pertains

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1 to your lawsuit, Dr. Dong?

2 A. Also involved in the activities, and

3 she used to be a trainee of Dr. James Norris.

4 Actually, Dr. James Norris take my material and

5 giving to one of the person in his laboratory.

6 Christy or Christina, sorry, and she will get the

7 benefit of obtaining my material, conducting her

8 research, advance her career while -- without

9 giving me credit.

10 So she was the one in a way indirectly

11 benefitted from Dr. James Norris taking my genetic

12 material and research resources and for her to

13 advance her career, which will be under James

14 Norris. So when she had publication, James Norris

15 will be the correspondent author, who will be the

16 ultimate person in charge on the research projects

17 and obtain federal funding based on those

18 research.

19 And she was one of them took my

20 research material and my research projects for her

21 benefit as the beneficiary or recipient of

22 Dr. Norris illegally and immorally taking my

23 genetic material and lab research, as well as

24 equipment for his own use.

25 Q. Do you know of any involvement that

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1 Dr. Johnson directly had in the agreement that you

2 entered into with at MUSC?

3 A. This is not only agreement. This is

4 the event taking my genetic material and research

5 projects and research funding from me and research

6 equipment from me and block my research advantage,

7 block my career in order to advance James Norris's

8 career, funding. So that's -- actually, the

9 agreement is one small part of the equation.

10 Q. I understand that's your position.

11 I'm just asking if Dr. Johnson, to your knowledge,

12 had any involvement in the written agreement.

13 That's all I'm asking.

14 A. She does not.

15 Q. You also indicated you wanted to

16 depose Lisa Saladin. That's S-a-l-a-d-i-n. Can

17 you give me a general idea of what you believe

18 Dr. Saladin may know about your lawsuit and the

19 claims you make?

20 A. She's current provost, if I'm correct,

21 and she will have to -- I assume, because I never

22 met her before -- assume she will know the general

23 policy of MUSC.

24 The administration policy of MUSC, the

25 faculty handbooks was governed -- governed the

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1 relationship between the Medical University and

2 all of the faculty members. And she will also

3 have knowledge, direct knowledge, of how a

4 tenureship worked at MUSC.

5 Q. Have you ever met Dr. Saladin?

6 A. No, I have not.

7 Q. I don't believe she was the provost

8 when your time at MUSC ended; is that right? She

9 wasn't the provost then, was she?

10 A. No, she wasn't. She is now. The

11 provost at the time was John Raymond.

12 Q. To your knowledge, did Dr. Saladin

13 have any involvement in the written agreement you

14 reached with MUSC?

15 A. She represented MUSC, now. She

16 actually should be able to testify about the --

17 how the -- as I said, how the MUSC system works as

18 a continuous process between a faculty member and

19 MUSC.

20 Q. Do you recall ever having any

21 communications with Dr. Saladin prior to entering

22 into the --

23 A. No.

24 Q. -- agreement with MUSC?

25 A. No.

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1 Q. You have to let me finish my question,

2 Dr. Dong.

3 A. All right.

4 Q. David J Cole, current president at

5 MUSC, can you give me some idea of why you

6 identified Dr. Cole as someone who you want to

7 depose?

8 A. He was one of my close collaborator on

9 assignment of projects, and we have joined the

10 research projects. I also trained his graduate

11 student as post-doc fellows, and he intimately

12 knows my -- the value of my research and, in

13 general, how research and medical practice was

14 conducted as a professor, as a faculty member, and

15 he has certain knowledge of the importance of the

16 biomedical research materials and projects taken

17 away from me.

18 And so actually, he was one of my

19 close -- closest collaborators and one of the

20 close collaborators at MUSC, and so he will be

21 able to shed some lights on how the events

22 transpired.

23 Q. To my knowledge, Dr. Cole was not the

24 president of MUSC when your time there ended; is

25 that right?

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1 A. No. I wasn't depose him as a
2 president. I would depose him as one of my
3 colleagues, close -- had a close relationship with
4 me during my research, during my tenure at MUSC
5 and all of the research events and the importance
6 of my materials and was taken away from me by
7 Dr. James Norris.
8 Q. Dr. Jerry Reves, can you tell me why
9 he's someone that you had -- or you want to depose
10 in the case and what he may know about your
11 lawsuit?
12 A. Actually, he was the one single person
13 negotiated with me on the so-called compromised
14 position, and he made a lot of -- sorry, I
15 probably used she. He.
16 Q. It's okay.
17 A. He promised me a lot, but it was not
18 in the final agreement. And he was the one tends
19 to be, for lack of better way, the good one, good
20 person, wearing the white hat during the
21 negotiation.
22 Q. I think what you just said to me is
23 your impression was he was playing what we might
24 call "the good guy" during his negotiation with
25 you?

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1 A. Yes. Basically he was explaining to
2 me this is just provide a mechanism to hold down
3 so I can continue my research at different
4 location, one I -- if I can prove I can do good
5 research, especially get funding to MUSC -- get
6 more funding to MUSC, and MUSC will bring me back.
7 And also he promised me to continue my
8 research, as well as teaching graduate students,
9 training post-docs fellows, do all the academics
10 research as I have done before.
11 Q. You also indicated you wanted to take
12 the deposition of somebody by the name of Scott
13 "Reid or "Reids."
14 A. Scott Reids (sic).
15 Q. Can you tell me, in general, what -- I
16 don't know if it's Mr. or Dr. Reid may know about
17 your claims in the lawsuit?
18 A. He was in charge to implement the
19 material transfer. He was the business manager.
20 the counterpart of Beth Gladden, but he was in the
21 department of biochemistry and more like biology.
22 He was under Dr. Yusuf Hannun, which is my second
23 appointment.
24 But one of the piece of equipment
25 missing, not on the list, he was the go-to person

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1 to find out if that piece of equipment exists,
2 where it was located, and he was given -- on the
3 paper, he was given the authority to oversee the
4 smooth transfer my laboratory documents, my
5 genetic material, my lab equipment, and doing all
6 the administrative matters during my research,
7 so-called, off campus.
8 Q. Dr. Steven Lanier, he's also someone
9 who you indicated you wanted to take Dr. Lanier's
10 deposition. Can you, like you've been good enough
11 to do with the other witnesses, give me a general
12 idea of what you believe Dr. Lanier may know about
13 the claims in your lawsuit?
14 A. Dr. Lanier was the, ultimately,
15 responsible person, because he was close friend of
16 Dr. James Norris while he was the chairman -- no,
17 he was not the chairman. He was a faculty of
18 department of biochemistry while he was competing
19 for the chairmanship of biochemistry, which
20 eventually given to Yusuf Hannun, and he left
21 university, moved to --
22 Q. Wayne State maybe?
23 A. No. He was -- at that time he left
24 for Tulane or university somewhere Louisiana, and
25 he was recruited back when Dr. John Raymond left

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1 or somewhere about and become the executive vice
2 president for research. Maybe he had other title,
3 but he was ultimately in charge of the research
4 activities at the MUSC, and he backed up for
5 Dr. James Norris.
6 He was the one, as vice president,
7 block me from entering my laboratory. He was the
8 one actually take away from my research
9 laboratory, my office using his authority as the
10 vice president of the university, and he was the
11 one I reported to administration what Dr. Norris
12 was doing to me, as well other problems Dr. Norris
13 may have in terms of misusing grant money of other
14 people, and he was appointed to be the person in
15 charge.
16 And I'll skip that. I don't want to
17 give that. He was the one ultimately tricked me
18 into the agreement and eventually breached the
19 agreement and benefitted, actually, for MUSC, as
20 well as for James Norris, to take my research
21 projects, technologies, and research documents and
22 lab equipment.
23 Q. Dr. Dong, in the lead-up to you
24 entering into the written agreement with MUSC, did
25 you have a lawyer representing you?

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1 A. No, I did not.
2 Q. You did not?
3 A. No. I understand there was a sentence
4 slipped into the agreement before I signed it, but
5 at the time I was more anxious to -- I believed
6 Dr. -- Dean Reves or -- because I have tendency to
7 believe every -- my colleagues, because they are
8 doctors, they are all highly ethical
9 professions -- professionals, with the exception
10 of James Norris and Steven Lanier.
11 I can't remember if I also noticed Dr.
12 Rosen.
13 Q. Can you spell the last name? I'm not
14 sure I caught that.
15 A. Rosen, R-o-s-e-n. Ken Rosen.
16 Q. Dr. Rosen?
17 A. Right. He is the director of FRD,
18 Foundation For Research and Development, of MUSC.
19 Q. What is it Dr. Rosen knows about your
20 lawsuit or the claims you made?
21 A. He was involved actually, as well as
22 Dr. John Raymond, involved in setting up the
23 company, GenPhar, with New York investors, and he
24 was also involved -- played a part recruiting me
25 from UCSF to specifically help MUSC to develop

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1 biotech industries for MUSC under the mandate of
2 State of South Carolina.
3 So he will know how the interplay
4 works between the company which lend me the lab
5 space and also the -- how I actually got involved
6 with the biotech company on behalf of MUSC.
7 Q. Is Rosen R-o-s-e-n?
8 A. R-o-s-e-n, or I think R-o-s-o-n. But
9 he was director FRD for a long time, and anybody
10 will know his...
11 Q. There are some other people you listed
12 in responses to our interrogatories. I want to
13 ask you about a few of these people. You listed
14 Dr. John Raymond --
15 A. He was the provost, sorry.
16 Q. That's all right. So Dr. Raymond was
17 the provost at the time you entered into the
18 agreement -- the signed agreement?
19 A. That's where the -- because that's my
20 report to administration started that -- when John
21 was the provost, and -- but I had a good
22 collaboration relationship with Dr. Raymond. But
23 once I started the complaint, that potentially can
24 cause serious problem for MUSC, and so he -- and
25 we did not have any communications, but I think he

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1 was involved in my complaint and also tried to
2 follow the process before he actually transferred
3 to become the president or vice president of
4 another university.
5 Q. Do you have any recollection of
6 Dr. Raymond being involved with the written
7 agreement you entered into in this --
8 A. He was not.
9 Q. You have to let me finish.
10 Do you have any recollection of
11 Dr. Raymond being involved in the written
12 agreement that you entered with MUSC?
13 A. He was not directly involved in the
14 written agreement. Only person directly involved
15 in written agreement was Joe Goodman, was the
16 general counsel of MUSC, and Dean Reves and Steven
17 Lanier, but Steven Lanier is kind of in the shadow
18 because he knows he was -- he is the one that was
19 the dirty work.
20 Q. You mentioned the name at the hearing
21 two weeks ago of Samyon Rubinchick. Samyon is
22 S-a-m-y-o-n, and Rubinchick is
23 R-u-b-i-n-c-h-i-c-k.
24 Can you tell me what Dr. Rubinchick
25 knows or you believe he knows about the claims

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1 you're making?
2 A. He knows all of the actual events. He
3 was the assistant professor, work under me in my
4 laboratory. But because Dr. Norris hold the
5 bacon, in a way, to promote him any further, so he
6 was basically using Dr. Rubinchick to do his work
7 while Dr. Rubinchick was on my payroll and
8 using -- have access to all my research materials.
9 And also the words that Dr. Norris
10 once said, "I like this because I can take money
11 out of one pocket, put into the other; I got all
12 the work done."
13 Guess who was the one being taken
14 advantage of? That was me.
15 So actually, Dr. Rubinchick did all,
16 everything, including doing the auditing, transfer
17 my genetic material, and he was involved at the
18 time.
19 Q. Do you know if Dr. Rubinchick had any
20 involvement in the agreement you reached with
21 MUSC, the written agreement?
22 A. He does not have the agreement. The
23 agreement only small part of it. It's not the
24 whole thing. The agreement covers a lot, which is
25 because that's the compromise for what Dr. Norris

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1 did to me so I can start my research at a 2 different -- continue my research at a different 3 location, while the breach of the agreement 4 completely stop me from conducting my research, 5 stopped my career cold because I have no genetic 6 material, no research equipment, no personnel and 7 no documents. 8 Because research is not done by one 9 person. It's all of the lab notes and everything, 10 everything done by the people working for you. So 11 I will not enter lab notes. So without lab notes 12 I will not know what happen, and I will not know 13 how to repeat some of the experiments. So I'm the 14 scientific engineer in a way, but I do not do the 15 construction. I do not do the work. 16 Q. To go back to my question: Do you 17 know of any involvement Dr. Rubinchick had in the 18 written agreement? That's all I'm asking. 19 A. That's -- the answer is no. 20 Q. What about Dr. Brian Hole, H-o-l-e? 21 You listed him. Can you tell me who Dr. Hole is 22 and what you believe he may know about your claims 23 in this lawsuit? 24 A. He does not. He's one of the graduate 25 students sent to my lab by Dr. Norris as a	1 into with MUSC? 2 A. No. 3 Q. You also listed a Dr. Jennifer 4 Schepps, S-e-h-c-p-p-s. 5 A. Yes. 6 Q. Do you know what she may know about 7 your lawsuit and the claims in it? 8 A. She does not know lawsuit, but she was 9 my graduate student. She will know what events 10 transpired before the agreement was signed, why 11 actually I signed the agreement, and what's the 12 agreement for. 13 Q. I'm not going to be able to pronounce 14 this last name. I'll do the best I can. Dr. 15 Woratanadham? 16 A. Woratanadham. 17 Q. It's spelled 18 W-o-r-a-r-a-t-a-n-a-d-h-a-r-m. Do you know who 19 I'm speaking about? 20 A. She involved with -- 21 Q. Can you tell me what you believe she 22 may know about the claims in the lawsuit, 23 Dr. Dong? 24 A. She was also one of my graduate 25 students. So she knew what I went through.
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1 condition for my promotion, and basically that -- 2 so legitimize he using my research material to 3 Dr. Hole's research project, graduation project, 4 which become Dr. Norris project. So that's the 5 setup. 6 Q. You have a Dr. Kenneth Roozen, 7 R-o-o-z-e-n. Who is that? 8 A. I think that's what I'm saying. 9 Q. That must have been the "Rosen" or 10 "Roson" we were talking about earlier? 11 A. Roozen. 12 Q. I don't know how you spell it either, 13 but we know who we're taking about. 14 Then you have Mr. Chip Hood listed in 15 your interrogatories, too. Can you tell me what 16 Mr. Hood knows about your claims in this lawsuit? 17 A. He was the director of our FRD 18 following Dr. Roozen left. He has intimate 19 knowledge of my research project and technologies, 20 and he was trying to ask me to file patent 21 disclosures so he will know the value of the 22 technologies and the importance of the technology 23 I had that was being taken by Dr. Norris. 24 Q. Do you know if Mr. Hood was involved 25 at all in the written agreement that you entered	1 Q. You also listed a Dr. Stephanie 2 Smith-Johnson. Do you know, or can you tell me 3 what you believe she knows about your lawsuit and 4 the claims in it? 5 A. Stephanie. 6 Q. It says "Stephanie Smith-Johnson." 7 A. I think that's a misspelling. I think 8 that's Christy Johnson. 9 Q. The same person we talked about 10 earlier? 11 A. Yes. 12 Q. Very good. 13 A. Sorry. 14 Q. That's fine. Dr. Steve London is 15 someone you listed in your interrogatories. Can 16 you tell me, in general, what it is you believe 17 that Dr. London may know about the claims in your 18 lawsuit? 19 A. He was one of my colleagues. He 20 actually had a dispute with Dr. Norris on the same 21 or similar issues, and, basically, I think the 22 university covered it up and promoted him to, I 23 think, even the vice president. So put him away 24 from the department. 25 I think for the same issue that what

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1 James Norris did, could have a major impact on the 2 overall funding of MUSC, but I wasn't ready to be 3 a whistleblower. I wasn't going to do anything to 4 harm the university or harm any of my colleagues, 5 opposite from what they did to me. 6 Q. Did Dr. London, to your knowledge, 7 have any involvement with the written agreement 8 you entered into with MUSC? 9 A. No. No. 10 Q. Looks like the last person I have here 11 is a Dr. Lucile "Landon," L-u-c-i-l-e, 12 "L-a-n-d-o-n." 13 A. That's the husband, sorry. 14 Q. Can you tell me, in general, what 15 Dr. Landon may know about your lawsuit and the 16 claims in it? 17 A. Lucile, actually, is Dr. London's 18 wife, and she also -- I think she went to 19 professor. 20 Q. So this should be Lucile London, not 21 Landon? 22 A. Right. Same person. 23 Q. So that's Dr. Steve London's spouse? 24 A. Wife, right. 25 Q. Tell me what you believe she may know	1 he meant was on behalf MUSC, but now I think back, 2 that may not be true. 3 Q. Did you and Dr. Norris ever have any 4 conversations about the written agreement you 5 entered into at MUSC? 6 A. He was the target. He was the 7 transpirer(sic). That's how the -- that agreement 8 was reached. 9 Q. I understand that. My question was 10 did you ever have any conversations with 11 Dr. Norris about the written agreement? 12 A. I have all the conversations regarding 13 to the problems I had, and that was transpired to 14 the agreement. So how -- he was the -- intimately 15 involved with the agreement was about. 16 That's actually -- he probably set up 17 the -- he would be the one provide the list of 18 equipment, and there is many pieces missing from 19 the list. And also actually, he took some of the 20 equipment and my contract, but -- and over -- so 21 for center grant, and he considered that was his. 22 Yet he wasn't signing any part of it. 23 He was intimately involved, because 24 Dr. Reeves doesn't know anything directly. He was 25 just the representative MUSC to do the -- also was
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1 about your lawsuit and the claims in it. 2 A. She actually work next door with me in 3 the laboratory position, and actually, she -- 4 Dr. Norris actually tried to start some dispute 5 over equipment, over sharing facilities between me 6 and Dr. Lucile London and to distract me from 7 actually reporting what he did. 8 So Dr. London will have knowledge what 9 transpired during the process, what the problem 10 had with Dr. James Norris, which he eventually 11 transpired to or lead to me to signing the 12 agreement. 13 Q. Was Dr. Norris directly involved, to 14 your knowledge, in the written agreement that you 15 entered into with MUSC? 16 A. He didn't actually -- he cannot sign 17 agreement with me because he is the target of my 18 complaint, and I think he was taken off the 19 picture, but he worked closely with Steve London 20 -- Steve Lanier. Actually, the two conspired to 21 took my material, research material, equipment, 22 everything for his own use. 23 And Dr. Steve Lanier actually came to 24 GenPhar, talk to me, wanted me to give him 25 something. I did not know what. I thought what	1 the dean of medical school. So he was the one 2 actually presented as white hats, being good 3 person, and try to calm down the situation and so 4 I can quickly continue my research instead of go 5 through the process at the time which will be -- 6 end up with serious damage to my career. 7 Because research is a competition, 8 that 100-meter dash. If you stop in the middle 9 working on the logistics, you will -- for sure 10 will be losing. 11 Q. You also listed -- the last person is 12 Joe Good. Obviously, I know Mr. Good. He was the 13 former in-house counsel at MUSC. 14 Did you have conversations with 15 Mr. Good about the written agreement before it was 16 entered into? 17 A. I do not have direct conversation, but 18 I had some emails copying him. I believe he was 19 the one drafted the agreement, and he also had a 20 close communication with James Norris. So there 21 are a lot of things sort of sneaked into the 22 agreement before I sign it, and that is -- all the 23 legal languages, that is all from Dr. Joe Good -- 24 Mr. Good. 25 Q. But you understand what I'm asking?

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1 Have you had any direct conversations with
2 Mr. Good? Did you --
3 A. I -- I did not. I did not have direct
4 conversation with him.
5 Q. Thank you.
6 A. I don't remember. I might, but I
7 don't remember.
8 MR. CONLEY: This is a good place to
9 take ten minutes and get some more coffee.
10 (A recess was taken.)
11 MR. CONLEY: Back on the record.
12 (Exhibit 1, Civil Action, Dong v. MUSC,
13 marked for identification.)
14 BY MR. CONLEY:
15 Q. Dr. Dong, I'm going to hand you what I
16 have marked as Exhibit 1 to your deposition. And
17 I'll just represent to you that is the lawsuit
18 that you filed, including the two exhibits that
19 were attached to the last. You can take a minute
20 to look at it, though, before we talk about it at
21 all.
22 A. Yes.
23 Q. Just keep it in front of you.
24 Dr. Dong, I asked you earlier if you
25 were represented by a lawyer before you signed the

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1 written agreement with MUSC, and you indicated, I
2 think, that you did not have a lawyer; is that
3 right?
4 A. Correct.
5 Q. Obviously, at the time you filed the
6 lawsuit initially in 2014, you did have a lawyer,
7 which was Mr. Holmes, directly down below us?
8 A. Yes.
9 Q. Do you remember when in that time span
10 you actually hired Mr. Holmes to represent you? I
11 mean, obviously, it was sometime before
12 September 2, 2014, when the lawsuit was filed. Do
13 you remember if it was days before the lawsuit was
14 filed, months before it was filed, that you hired
15 Allen?
16 A. It was almost a year or maybe even
17 more than a year.
18 Q. Meaning you think it might have been a
19 year or more before you filed the lawsuit that you
20 retained Mr. Holmes's law firm?
21 A. Correct.
22 Q. Nonetheless, Mr. Holmes did not
23 represent you at the time you entered into that
24 written agreement with MUSC?
25 A. That's correct.

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1 Q. Before you signed that written
2 agreement with MUSC that we'll talk about in a
3 minute, did you take it to a lawyer to review with
4 you and discuss at all?
5 A. No. I was being a good faculty
6 member. I didn't want to cause any problems for
7 MUSC, also any of my colleagues. I was going to
8 resolve the problem so I can -- I have a career to
9 take care of at the time. So I wasn't interested
10 in getting in a dispute with my employer, with the
11 university.
12 Q. After you entered into the written
13 agreement with MUSC, was Mr. Holmes the first
14 lawyer you took the agreement to?
15 A. Yes.
16 Q. In other words, other than Mr. Holmes,
17 you never took it to any other attorney to review
18 or discuss with you after you signed it?
19 A. Right. I do not -- I could not
20 remember how I ended up with Mr. Holmes. I think
21 maybe at the suggestion of Mr. Joe Good. I think
22 that the delay was -- I should probably not have
23 read it at the time (sic), and Mr. Joe Good was
24 leaving, and Holmes actually put his hat into the
25 ring for potential general counsel for MUSC. So

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1 he did not tell me at the time, but he keep
2 delaying, delaying, delaying it until he knew he
3 was out of the competition, and then he filed the
4 lawsuit for me.
5 Q. Can you turn to Exhibit 1 that's a
6 part of Defendant's Exhibit 1? Just turn back to
7 it and go to Exhibit 1.
8 A. Oh, Exhibit 1?
9 Q. Yes. You just went by it, Dr. Dong.
10 A. Oh, here?
11 Q. Yes.
12 A. I have early stage of cataracts, so I
13 have my glasses, but I have hard time to read it.
14 Q. That's fine. You take your time.
15 Defendant's Exhibit 1 contains Exhibit 1 that
16 we're looking at right now. That is a five-page
17 document that's entitled "Final Separation
18 Agreement between the Medical University of South
19 Carolina, including its College of Medicine, and
20 Dr." -- I'll just say -- "Dr. Dong, professor of
21 microbiology and immunology," correct?
22 A. Correct. That's my first appointment.
23 Q. If you look back on the fifth page of
24 that document, Dr. Dong, there is a signature line
25 with your name below it and then a signature above

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1 it. Is that your signature?
2 A. Yes.
3 Q. Do you recall if May 3rd, 2010, is the
4 date you signed it?
5 A. I can't recall, but this is --
6 clearly, that's the date, 2010, yes.
7 Q. The rest of my questioning, to make it
8 simple for the record, I'm going to refer to this
9 five-page document as the agreement, all right?
10 A. Okay.
11 Q. So if I reference the agreement, I'm
12 talking about this five-page document, all right?
13 A. All right.
14 Q. And you can use the same label for it.
15 If you would also look at each page of
16 the five-page document, Dr. Dong. Other than the
17 last page where your signature appears, in the
18 other preceding four pages there are some initials
19 down in the bottom right-hand corner of each page.
20 Can you tell me if any of those initials on each
21 page are yours?
22 A. Yes.
23 Q. Is that your initials that appear on
24 each page?
25 A. Yes.

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1 Q. Do you recall how this agreement was
2 given to you to sign? What I'm asking in that
3 regard, for clarity, Dr. Dong, so I don't confuse
4 you, is I'm really asking how did you physically
5 get it? Was it emailed to you? Was it given to
6 you in hard copy by somebody to sign? Do you
7 remember how you got the copy that you actually
8 signed?
9 A. I could not remember, but likely to be
10 email.
11 Q. If it was emailed, I presume you would
12 have then printed it out in order to sign it?
13 A. I could not remember I printed out or
14 Dr. Reves printed out. I think I was asked to
15 sign, so I went to Dr. Reves's office. I believe
16 I signed -- was on the -- was print out, official
17 print out by Dr. Reves. I believe there was two
18 copies on the MUSC paper, not the white paper.
19 Q. Did I understand you correctly,
20 correct me if I'm wrong, that your recollection is
21 you actually signed it in Dr. Reves's office?
22 A. I believe so, yes. I was specifically
23 went to Dr. Reves's office.
24 Q. Was Dr. Reves there when you signed
25 it?

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1 A. I believe so, yes.
2 Q. Do you remember if anybody else was
3 there, Dr. Dong, or just the two of you?
4 A. Of course, his secretary.
5 Q. Other than his -- what I might call
6 his administrative staff, anyone else who was
7 there, other than you and Dr. Reves, that you
8 remember?
9 A. No, I don't believe there was anybody
10 else.
11 Q. Do you remember if Dr. Reves signed it
12 during the same meeting?
13 A. I could not remember. Must be
14 actually, this -- it was quite formal.
15 Q. Let me ask a follow-up to that that
16 might help. When you left Dr. Reves's office that
17 day, do you remember leaving with a fully-signed
18 copy of it just as it appears in front of you
19 today?
20 A. I could not remember. What I can
21 remember was print out two copies. I think I
22 might have an original copy. I believe I give to
23 Mr. Holmes, and then he could not find it anymore
24 and give me a scanned copy. I remember that all
25 the papers then was MUSC official paper.

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1 Q. Before you signed this agreement in
2 Dr. Reves's office on that day, did you read it
3 before you signed it?
4 A. I probably scanned through. I was
5 more interested looking to the equipment. I find
6 a few missing. Actually, I did talk to Scott
7 Reid, and he eventually located those equipment
8 that was not on list and still after signing. So
9 the equipment, he find them. He said he was going
10 to work on it, and never got anything back from
11 Reid -- Reid, Scott.
12 At the time my focus, everything is
13 how to -- because I was extremely anxious to get
14 my research started, and that completely block my
15 ability to do research. So I wasn't paying much
16 of interest -- attention to the formality or even
17 reading documents because I was not an order. I
18 was a faculty member, a professor, and I was more
19 interested to research, and I believe Dr. Dean
20 Reves, and I believe all my colleagues, except
21 James Norris and Steve Lanier.
22 Q. Do you remember, do you have any
23 substantive memory of any conversation you and
24 Dr. Reves had that day in his office before you
25 signed the agreement?

15 (Pages 54 - 57)

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1 A. Before I signed agreement I had
2 extensive discussion with Dr. Reves.
3 Q. That day in his office?
4 A. On that day I do not think so. I
5 thought he had reached agreement. I am not very
6 clear, but I remember I walked into his office and
7 he was -- and I was waiting in the room, and he
8 was -- his secretary brought two copies, identical
9 copies. I signed, I believe, and I -- based on my
10 memory, he signed, initial everything else, and he
11 said that's he's glad to get everything put behind
12 us and let's continue and he believe that I have a
13 bright career and that I continue my research.
14 Q. Anything else you remember about the
15 meeting with Dr. Reves that day?
16 A. No. I just remember he was -- I still
17 believed Dr. Reves is a good dean. Actually,
18 people say Dean Reves, Dean Reves. I think here
19 is also vice president of medical affairs.
20 Q. What I was going to ask you was --
21 this may sound weird, but was Dr. Reves mean that
22 day when you met with him? I mean --
23 A. No. No.
24 Q. -- was he congenial? Nice?
25 Professional?

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1 A. Never.
2 Q. If you look on the first page of the
3 treatment, Dr. Dong, and if you go down to the
4 fifth paragraph on the first page, and you see
5 that paragraph? You can take a minute to look at
6 it.
7 (The witness reviews the document, as
8 requested.)
9 THE WITNESS: Right. I did not read
10 this, but at the time I think it was somebody --
11 actually, I did. I was told I have a right to
12 seek legal advice. I didn't think I needed to
13 because it's just an internal matter with MUSC,
14 and I didn't pay much attention to this, but I
15 did -- also did not have any attorney.
16 BY MR. CONLEY:
17 Q. Am I correct that --
18 A. I believe this Dr. Joe Good is
19 responsible, too, for everything.
20 Q. Am I correct that within the 45 days
21 after you signed the agreement you did not take it
22 to a lawyer to have any lawyer look at it?
23 A. No.
24 Q. I haven't seen this anywhere, but is
25 it also correct that in the 45 days after you

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1 signed the agreement you didn't ask to revoke it
2 or rescind it?
3 A. No, because, actually, I was just
4 waiting for them to transfer my material, continue
5 my research.
6 Q. If you go up to the second paragraph
7 on that first page -- and you can read the whole
8 thing. I just have a couple of questions for you
9 on it.
10 (The witness reviews the document, as
11 requested.)
12 THE WITNESS: Yes, I read.
13 BY MR. CONLEY:
14 Q. A couple of questions about that
15 paragraph. Was your official title or position at
16 MUSC at the time you entered the agreement,
17 Dr. Dong, "Professor of "Microbiology and
18 Immunology"?
19 A. I'm just a professor. Actually, the
20 department is microbiology and immunology. So I
21 had the second -- actually, I could not remember
22 which one, second appointment at department of
23 medicine, and also have a more active role in
24 department of biochemistry and microbiology. I
25 was also member -- full member of Strom Thurmond

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1 Cancer -- Hollings Cancer Research in the Strom
2 Thurmond Building.
3 Q. Did you have any kind of formal
4 written grievance pending at the time that you
5 entered into this agreement? I haven't seen one,
6 so I'm asking.
7 A. No. Actually, in my emails -- we only
8 communicate through emails. But my email was
9 turned off abruptly, and also I was deleted from
10 the website. That's the whole violation of the
11 agreement for me to continue my research and
12 teaching.
13 So actually, they also shut off my
14 Homeroom, which is all the storage, equipment
15 storage. So it's internal storage. It's called
16 "Homeroom." So all my communication, everything
17 would be stored in the Homeroom. So the acting --
18 Steve Lanier ordered everything was turned off.
19 Q. I probably didn't ask the question
20 well. I'm just trying to find out did you have
21 any kind of formal written grievance pending at
22 the time that you signed the agreement?
23 A. No, I did not. If you -- actually, if
24 you -- including the complaint to the
25 administration of MUSC, yes, I do. But if you

Page 62 1 think other legal agreements, no. 2 Q. I didn't see where you had filed -- 3 had yet filed a formal grievance, for instance, 4 under the faculty handbook at that point. Had you 5 done that at that point? 6 A. What is formal? Once you send emails? 7 I communicated with the administration, yes. 8 Those considered formal. 9 Q. Nonetheless, any form of grievance 10 that you had pending at the time you signed this 11 agreement would have been in the form of your 12 email communications with -- 13 A. Right. 14 Q. -- MUSC personnel? 15 A. Right. You write to administration. 16 Those would not be included with Steve Lanier. 17 Probably would be John Raymond, and maybe include 18 Ray Greenberg at the time. 19 Q. If you go down to the last paragraph, 20 Dr. Dong, on the first page. Last paragraph on 21 the first page, Dr. Dong, I'm still on the first 22 page. I'll try to go page by page so you don't 23 have to flip back and forth. 24 A. All right. 25 Q. Did MUSC pay you your monthly	Page 64 1 That actually, in a way, kept me close by. It 2 would be to the benefit of the company, because I 3 was the one providing technology, advice on behalf 4 of MUSC to the company. That would be the company 5 GenPhar. 6 Q. At the time you signed this agreement, 7 which we're in May of 2010, Dr. Dong, where was 8 GenPhar's facility here locally? 9 A. It's just in Mount Pleasant, Sea Coast 10 Parkway. 11 Q. That's where GenPhar would have 12 been -- 13 A. Physically located. 14 Q. -- physically located in May of 2010? 15 A. Yes, the research lab. 16 Q. Of 2010? 17 A. Yes. It has been all the time until 18 it was closed 2018. 19 Q. At the time you signed this agreement 20 in May 2010, Dr. Dong, what was your position with 21 GenPhar? 22 A. Official position, I was the 23 consultant on behalf of MUSC, but I was also the 24 principal investigator of the contracts based on 25 the technologies. I was consulting with
Page 63 1 compensation all the way through March 31, 2012? 2 A. That's my salary. 3 Q. Yes. Did they pay that through 4 March 31, 2012? 5 A. Yes. 6 Q. We can go over to Page 2 now. I think 7 I'm done with Page 1 for now. 8 A. All right. 9 Q. Let's look at the first paragraph. 10 You can read it first. 11 (The witness reviews the document, as 12 requested.) 13 THE WITNESS: Yes. 14 BY MR. CONLEY: 15 Q. The last sentence, Dr. Dong, says: 16 "The university, in turn, acknowledges that 17 Dr. Dong will work predominantly offsite in the 18 Charleston area and will travel for academic and 19 commercial purposes." 20 When this says "work predominantly 21 offsite," where was that? What was your 22 understanding of where that work was to 23 predominantly occur? 24 A. I think they reached agreement 25 with the company, FRD, established with GenPhar.	Page 65 1 Department of Defense. 2 Q. Did you have any other title at 3 GenPhar? President? Anything like that? 4 A. They give you empty title at the time, 5 president, because the company is run by CEO and 6 the chairman of the board. So just make me feel 7 good, but I didn't feel good or anything about it 8 because my -- if I was interested in company, I 9 would have done so in California, San Francisco, 10 which funding was plentiful, and the company get 11 full support from the state, eventually become 12 public companies, and here it was basically a 13 desert of biotech companies and funding. 14 Q. Were you on the GenPhar board in 15 May 2010? 16 A. Yes, I was board, because I was 17 assigned it. There was five members. Five board 18 members has to be investors except the -- me was 19 the exception, because I was -- would present what 20 the -- the technical directions for the companies. 21 Q. In May of 2010, you were both the 22 president -- 23 A. No, I wasn't that. Actually, I 24 probably jumped too early. I wasn't anything 25 other than consultant.

17 (Pages 62 - 65)

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1 Q. In May 2010? 2 A. Right. I do not know when. I could 3 not remember the time. All of the executives 4 resigned, and then I was given the -- so-called, 5 the titles. They have to actually have somebody 6 to... 7 Q. Were you on the board in May 2010 at 8 GenPhar? 9 A. I could not remember. I could not 10 remember when, but I will also say so. Mostly 11 they question me about the technologies and what 12 is the potentials and everything by the board 13 members, because they are the one actually own the 14 company and invested over \$13 million their own 15 money, not institution money, to own the company. 16 Q. In May 2010, were you an employee of 17 GenPhar? 18 A. No. I was a consultant. 19 Q. So in May of 2010, it's your 20 recollection you didn't hold any particular title 21 or position with GenPhar, you weren't employed by 22 GenPhar, and you weren't on the GenPhar board; is 23 that right? 24 A. That's my best recollection, but I was 25 also asked by the board to answer questions, and I	1 A. Yes. 2 Q. What you just told me? 3 A. Yes. 4 Q. Did you testify at either criminal 5 trial you were involved in? Did you testify at 6 those trials? 7 A. Yes. 8 Q. You testified at both of them? 9 A. No. One. 10 Q. Which one, the first one or the second 11 one? 12 A. The second one, the bench trial. 13 Q. The bench trial with Judge Norton? 14 A. Yes. 15 Q. You actually testified at that trial? 16 A. Yes, but they -- well, hopefully, this 17 is irrelevant. But I was convicted because Judge 18 Norton's law clerk was negotiating U.S. attorney's 19 position in the U.S. Attorney's Office during the 20 time while she was doing everything for Judge 21 Norton, and Judge Norton recuse himself 22 afterwards, and they transferred to another judge. 23 And the judge basically wasn't involved in the 24 trial and everything else. 25 Q. If you turn over to the third page of
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1 did attend some of the board meetings. But mostly 2 I do not have a say-so about financials in-house, 3 other than they ask me about the technology. So I 4 basically -- I was basically -- I still a 5 scientist, not for the company -- to the company. 6 Q. Were you ever on the GenPhar board? 7 A. Later. As I said, later. I could not 8 remember when. There was a board split, and the 9 company -- I think there is a agreement 10 settlement, actually, both sides, there is -- 11 basically the investors divide into two, and both 12 sides basically make the executive resign, so 13 basically make the company to only exclusively 14 operate -- provide contract service to the 15 Department of Defense. 16 So there's no more investment money 17 coming in. So they can't be paid with DoD 18 contract funds, and also their share disagreement 19 of who was in control of the company with one of 20 the now deceased local billionaire, Jerry Zucker. 21 That's all above my involvement how 22 the company run, how the investor runs. So I 23 don't know. 24 Q. That's the full extent of your 25 involvement with GenPhar?	1 the five-page agreement, please. 2 A. Sorry? 3 Q. Turn to the third page of the 4 five-page agreement, please, Dr. Dong. So we're 5 on Page 2. I'm asking you to turn over to the 6 third page of it. The next page, Dr. Dong. 7 A. All right. 8 Q. Let's take a look at the first 9 paragraph. If you can read that first paragraph, 10 and I'll ask you some questions about it. 11 (The witness reviews the document, as 12 requested.) 13 THE WITNESS: Yeah, but that's already 14 taken away from me. 15 BY MR. CONLEY: 16 Q. The agreement says: "Dr. Dong agrees 17 to relinquish his future use of approximately 700 18 square foot of laboratory space." 19 What 700 square feet is this talking 20 about? Is that a specific place down at MUSC? 21 A. That's my -- 22 Q. Your lab? 23 A. -- lab and the -- 24 Q. Where was that? Do you remember the 25 building?

18 (Pages 66 - 69)

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1 A. Second floor, BHS.
2 Q. And it says: "Dr. Dong agrees to
3 relinquish his future use of approximately
4 700 square feet of laboratory space after the
5 listed equipment and materials" -- and in parens
6 it says "(inventory list is attached as Exhibit
7 A) has been transferred to his new space."
8 A. Right.
9 Q. My question is do you know what the
10 reference to new space is? Do you know what new
11 space that's referencing?
12 A. That's actually transfer the new space
13 to GenPhar.
14 Q. At that point in time that would be
15 GenPhar's facility on Sea Coast Parkway?
16 A. Yes. But it was taken away from me,
17 but the material was never transferred. So this
18 is -- this is also one of the breach. At the time
19 back then they already took away from me.
20 Q. Let's go to the second paragraph.
21 Dr. Dong. Actually, let me take that back. The
22 first paragraph references "attached Exhibit A."
23 which is an inventory list. If you turn over to
24 Exhibit A, Exhibit A is attached to the agreement
25 we're talking about.

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1 A. Right.
2 Q. I think, if you look on the inventory
3 list, which is four pages long, down in the bottom
4 right-hand corner it has a set of initials. Are
5 those your initials? Are one of those sets of
6 initials yours?
7 A. Right, it has my initials.
8 Q. On all four pages, right?
9 A. Right.
10 Q. Did you review this inventory list at
11 the time you signed the agreement?
12 A. I did not, but I think I just trusted
13 it was generally accurately based on the record.
14 And I was also later find out some of the
15 equipment was not included, and then I called --
16 because Scott Reid was the person appointed to
17 administratively take charge of the transfer of
18 equipment and material.
19 So I contacted him and had a
20 conversation. I pointed out one of the -- some of
21 the material -- the equipment, where it was, and
22 he went to verify that. He said, "Those will be
23 moved to you."
24 Q. Did you prepare this list of equipment
25 that's a four-page exhibit to the agreement, or

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1 did somebody else prepare it?
2 A. Somebody else prepared it. I didn't
3 do any administrative work at MUSC. I believe
4 actually at the time this, the equipment I
5 transferred with me from UCSF. So the only listed
6 equipment transferred from UCSF they put in a box
7 with my grants at MUSC.
8 They all considered equipment MUSC.
9 which is not -- no, but there was a small room for
10 them to claim that. In general, as principle, all
11 equipment follow the faculty members, because the
12 grants awarded through the institution to the
13 faculty members.
14 Q. If you go to the second paragraph on
15 Page 3 of the agreement. We just talked about the
16 first paragraph, so now I've moved down to the
17 second paragraph. So it's Page 3 of the
18 agreement, Dr. Dong, second paragraph from the
19 top.
20 (The witness reviews the document, as
21 requested.)
22 THE WITNESS: I believe I did provide a
23 list through the emails. That's all the Vector
24 Core facility, and also they wanted to keep the
25 Vector Core facility at MUSC because based on that

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1 will not disvalue MUSC. It turn out, actually, my
2 money, Vector Core facility, everything was used
3 James Norris.
4 BY MR. CONLEY:
5 Q. Let me ask a question about that
6 second paragraph. I have never seen it, and it
7 wasn't attached to the agreement that's attached
8 to your complaint, which is what we're looking at
9 right now, any kind of Exhibit B approved by the
10 university.
11 A. It's just what -- it disappeared,
12 actually. That's why they breach the entire
13 contract once it done. Basically giving a person
14 to direct contact was Scott Reid, and that he said
15 he was not authorized to do this and do that. So
16 basically, I run into a stonewall.
17 Q. My question is, is it your testimony
18 today that you did submit an additional list of
19 this Vector Core equipment?
20 A. Yes.
21 Q. You submitted it within ten days of
22 May 3rd, 2010?
23 A. I could not remember the date I submit
24 it, but I did submit it with the email. And
25 actually, I was asking for the Vector Core

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1 facilities, and I think at the time I was told do
2 not interrupt Vector Core facility operation. So
3 actually, I was allowed to continue Vector Core
4 operation at MUSC. I think that was the
5 communication to me, so, based on the Vector Core
6 facility was essential for the funded products,
7 which I was the director.
8 So actually, I don't know how they
9 took away my Vector Core facility and kick me out
10 of MUSC. At beginning, as it says, I will
11 continue in my function research actually using
12 the Vector Core facility as here. So this only
13 can be transferred, but not to interrupt the
14 operation and the damage to the function Vector
15 Core facility.
16 Q. I'm asking about Exhibit B. Do you
17 have an Exhibit B that you can produce to me?
18 Have you ever seen it?
19 A. Because they actually locked down
20 my -- completely locked down my emails and block
21 my Homeroom. At the time that's the only way of
22 communication I had. I don't actually write
23 physical letters. No faculty members does that at
24 the time.
25 Q. Do you have any recollection of

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1 whether you submitted this within ten days of
2 May 3rd, 2010?
3 A. I do not have recollection of exact
4 date.
5 Q. Do you have any recollection of if you
6 did submit it within ten days that the university
7 actually approved it?
8 A. The university did not respond.
9 Actually, after the signing they basically become
10 stonewalling.
11 Q. If you look down at the third
12 paragraph on that page, you can go ahead and read
13 it. I have a couple of questions for you about
14 it.
15 (The witness reviews the document, as
16 requested.)
17 THE WITNESS: Yes.
18 BY MR. CONLEY:
19 Q. The first sentence says: "In lieu of
20 rental payments for space in the GenPhar building"
21 -- in parens, it says "(once occupied)."
22 Do you know why it says "once
23 occupied"? Weren't y'all already occupying the
24 building on Sea Coast Parkway?
25 A. Once the equipment, everything been

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1 transferred. So actually, I will occupy that part
2 on behalf MUSC. So actually, right now -- before
3 that MUSC is still charging costs into my contract
4 while not providing me nothing.
5 Q. I'm just trying to figure out what
6 GenPhar building this is referencing in the
7 contract or the agreement.
8 A. It's development. GenPhar actually
9 loan me a space.
10 Q. I'm asking if you know. Do you know
11 --
12 A. GenPhar is not a party.
13 Q. Dr. Dong, I understand that. My
14 question is what's your understanding of what
15 GenPhar building that is referencing; the GenPhar
16 building on Sea Coast Parkway or the GenPhar
17 building that was under construction?
18 A. It could not be under construction
19 because it was not finished.
20 Q. Was it under construction? Was there
21 another GenPhar building under construction?
22 A. It's not GenPhar -- the space GenPhar
23 was operating out of.
24 Q. So GenPhar -- did GenPhar lease or own
25 the building on Sea Coast Parkway?

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1 A. GenPhar leased.
2 Q. Did GenPhar have another building that
3 it was building in Mount Pleasant in May 2010?
4 A. Yes. That's how the problems started
5 with GenPhar, because they -- actually, the
6 investor put in \$13 million, including the
7 facility, and the facility cost \$5 million.
8 Q. Did you believe that your equipment
9 was supposed to be transferred to the Sea Coast
10 Parkway location, or was it supposed to be
11 transferred to the new building that was under
12 construction?
13 A. That's not material with regard to the
14 contract.
15 Q. I'm asking you what your understanding
16 was. I'm not asking whether it was material or
17 not.
18 A. My understanding, it was transferred
19 to GenPhar, the space we already used.
20 Q. Which was where at the time?
21 A. Have nothing to do where, which would
22 be at Sea Coast, where GenPhar operating. They
23 transfer me to a parking lot.
24 Q. Did you read that paragraph at the
25 time you signed this agreement?

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1 A. I did not read it very carefully in
2 any of the so-called legal jargons and all the
3 details, but I signed it based on spirit they
4 allowed me to quickly restart my research in the
5 other space in GenPhar, transfer all the materials
6 timely so I can continue my research. That's all
7 I cared about.
8 Q. How much time do you think you spent
9 reading this five-page agreement before you signed
10 it?
11 A. I can't remember, but I probably
12 scanned it through. It sounds all right in the
13 superficially. I don't want to dig in too much
14 into one specific words. In the context, I think
15 this is all consistent with what Dr. Reves
16 presented to me.
17 Q. If you look down at the fifth
18 paragraph, Dr. Dong, you can read that whole fifth
19 paragraph, and I've got a few questions to ask
20 you.
21 (The witness reviews the document, as
22 requested.)
23 THE WITNESS: Yes.
24 BY MR. CONLEY:
25 Q. If you look down at the very -- the

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1 last full sentence of that paragraph, Dr. Dong, it
2 says: "Likewise, any equipment purchased through
3 extramural grants written by Dr. Dong as the sole
4 PI and which was in Dr. Dong's laboratory at the
5 time of relocation to the 700 square foot
6 laboratory space, including listed freezers and/or
7 refrigerators also located in nearby equipment
8 rooms of CSB, shall be relocated to GenPhar in
9 30 days from the effective date."
10 A. They didn't do that.
11 Q. That's what I was going to ask you. I
12 think you are already told me that. They did
13 not -- they -- I shouldn't say "they."
14 MUSC did not relocate the equipment in
15 Exhibit A within 30 days of May 3, 2010?
16 A. Correct. Also did not relocate the
17 research grants, including the Vector Core. Very
18 specific, Vector Core they were talking about it.
19 Q. We'll get to those things. I'm
20 talking about the equipment right now.
21 Your testimony is that MUSC within
22 30 days of May 3, 2010, did not relocate the
23 equipment in Exhibit A?
24 A. And B.
25 Q. Per the agreement?

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1 A. And the contract money.
2 Q. Correct, they also --
3 A. They relocated nothing.
4 Q. They also didn't relocate any other
5 equipment, to the extent it would have been listed
6 in Exhibit B, right?
7 A. Which should be Vector Core facility.
8 Q. So you and I would agree that within
9 30 days of May 3rd, 2010, MUSC did not relocate
10 any equipment, as required by this agreement?
11 A. Correct.
12 Q. That's your testimony, correct?
13 A. That's correct.
14 Q. Is it, likewise, your position that
15 the agreement required MUSC to relocate all of
16 this equipment, both the equipment listed in
17 Exhibit A, and to the extent there was Vector Core
18 equipment, they were required to do that within 30
19 days of May 3rd, 2010?
20 A. That's what the agreement.
21 Q. That's what the agreement requires,
22 right?
23 A. Yes. And I was presented they will do
24 it as soon as they can, as soon as they can, and
25 also was -- Scott Reid was in charge of the

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1 logistics.
2 Q. I'm trying to find -- just make sure I
3 understand that -- strike that. Better way to
4 ask.
5 I think I understand you correctly
6 that one of the breaches of this agreement, just
7 one, that you claim MUSC engaged in was failing to
8 relocate this equipment within 30 days of May 3rd
9 of 2010?
10 A. One of them.
11 Q. That's what I said. I said "one." I
12 didn't say "all." I said "one." That is one of
13 the breaches, right?
14 A. Correct. As well as none of my
15 research material, documents, and funding. It was
16 a complete breach. After that was the, basically,
17 stonewalling. I could not reach anybody, and
18 nobody respond to my emails other than at the time
19 they want to send me.
20 Q. If you go up to the fourth paragraph
21 on that same page -- so we're going to go back up
22 one paragraph. It's actually just a one-sentence
23 paragraph, Dr. Dong.
24 A. One, two, three, four.
25 Q. Exactly. It's very short.

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1 (The witness reviews the document, as 2 requested.) 3 THE WITNESS: Yes. Actually, MUSC -- 4 MR. CONLEY: Let me ask you -- 5 Dr. Dong, part of the deposition is I'm going to 6 ask you questions, and you can give me answers. 7 It's not an opportunity for you just to go on 8 narratives. I'll ask you a question, and you can 9 then give me as lengthy of an answer as you want, 10 but -- 11 THE WITNESS: Ask a question. 12 MR. CONLEY: -- there needs to be a 13 question before we just go with some narrative. 14 THE WITNESS: You ask me if I see the 15 paragraph. I'm telling you I see the paragraph, 16 what it means. 17 MR. CONLEY: I haven't asked you what 18 it means. I've just asked you to take a look at 19 -- 20 THE WITNESS: Strike my answer. 21 MR. CONLEY: -- look at it, and then 22 I'll ask you some questions. 23 THE WITNESS: Please do. 24 BY MR. CONLEY: 25 Q. Did you have any grants, active	1 A. I was the PI. I was the director. 2 Q. I'm no expert on grants, but my 3 presumption is on -- to your recollection, on 4 May 3rd, 2010, there was still existing funding to 5 be spent under this Vector Core grant or grants, 6 right? 7 A. Yes. 8 Q. Because you were the -- I'm just 9 trying to understand. Because you were the PI on 10 the Vector Core grants, in my mind that would 11 indicate you were also the person who applied for 12 those grants? 13 A. Yes. 14 Q. Is that right? 15 A. Correct. 16 Q. It wasn't somebody else at MUSC who 17 applied for them and they just got assigned to 18 you? You actually applied for and were awarded 19 those grants? 20 A. Correct. No one else can assign 21 someone else's grants to you, or you can't use 22 anyone else's grants. 23 Q. Was anybody else a co-PI on those 24 grants, or was it just you as the sole PI, if you 25 remember? I don't know. I'm just asking you.
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1 grants, on May 3rd, 2010, when you signed this 2 agreement? 3 A. Yes, the Vector Core grants. And also 4 I actually start a fund as reserve. I never had 5 to need to dip into it. 6 Q. So what active grants did you have at 7 the time you signed this on May 3rd? 8 A. The Vector Core grants. 9 Q. Any others? 10 A. I could not remember, but also I had 11 my start-up fund. 12 Q. The Vector Core grants, where are 13 those grants provided by? Are those provided by 14 the federal government somehow? NIH? 15 A. Correct. 16 Q. Was there more than one Vector Core 17 grant, or was there just one? You used plural. 18 I'm just trying to find out. I don't know. Was 19 there, like, one Vector Core grant, or were there 20 multiple Vector Core grants? 21 A. I could not remember, but actually, 22 Vector Core can be used in multiple grants, but I 23 was the -- I think there was a center grant or 24 program project grants. 25 Q. Do Vector Core grants have a PI?	1 A. I don't remember, because I'm the 2 person. 3 Q. Turn over to the fourth page, 4 Dr. Dong. We'll skip around on this page. Not to 5 confuse you, but -- 6 A. Here is -- 7 Q. -- if you can go down to the bottom of 8 Page 4, the next-to-last paragraph, where it 9 starts off with: "MUSC will cover." Do you see 10 that paragraph? 11 A. Last paragraph? 12 Q. Next-to-last paragraph, Dr. Dong. 13 Excuse me. Take a look at that for me for a 14 minute. 15 (The witness reviews the document, as 16 requested.) 17 THE WITNESS: Yes. 18 BY MR. CONLEY: 19 Q. Did MUSC ever make this one-time 20 \$20,000 payment? 21 A. I could not remember. 22 Q. Then if you look up at the third 23 paragraph on the page, Dr. Dong. So if you count 24 three down. 25 A. Right.

22 (Pages 82 - 85)

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1 Q. Take a minute and read that paragraph. 2 I have a couple of quick questions. 3 (The witness reviews the document, as 4 requested.) 5 THE WITNESS: Yes. 6 BY MR. CONLEY: 7 Q. Do you have any recollection of 8 whether that \$30,000 payment was ever made? 9 A. I think so. Actually, but that's less 10 than my salary portion in Vector Core, which is 11 funded by NIH, not the department. 12 Q. My question is was the \$30,000 payment 13 made? 14 A. I believe so, yes. 15 Q. Just to go back to make clear, you 16 don't know, sitting here today, if the \$20,000 17 payment was made in that -- towards attorneys' 18 fees or legal fees in that paragraph down towards 19 the bottom of Page 4? 20 A. Correct, because I did not believe I 21 claimed it. I didn't have attorney involved. 22 Q. That was going to be my next question 23 about that. You had earlier told me that you 24 wouldn't have had any legal fees at this point in 25 time because you never obtained --	1 within 45 days of signing it. 2 Do you have any recollection of taking 3 it to a lawyer within 50 days of signing it? 4 A. No. I never took it to any lawyer or 5 anything for almost a year later or over a year 6 later. 7 Q. That would have been when you took it 8 to Mr. Holmes? 9 A. Correct. He's the first lawyer I 10 talked to. 11 Q. If you can go up to the paragraph 12 above the next paragraph, directly above that, 13 that says: "Enduring grant materials." Take a 14 minute to read that, Dr. Dong. 15 (The witness reviews the document, as 16 requested.) 17 THE WITNESS: Right. 18 BY MR. CONLEY: 19 Q. Did you ever -- have you ever -- well, 20 before you brought the lawsuit, did you ever ask 21 the office of general counsel, the legal office at 22 MUSC, if you could see or make copies of, you 23 know, lab books and things like that? 24 A. Actually, that is verbally presented 25 to me, they will provide all the document --
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1 A. That's what I'm saying. 2 Q. -- never obtained a lawyer? 3 A. That's what they write in -- written 4 in. So actually, I have no involvement. I did 5 not claim legal fees from them. 6 Q. That's because you didn't incur any 7 legal fees, right, because you didn't take it to a 8 lawyer before you signed it? 9 A. No, I didn't. Correct. 10 Q. And you didn't take it to a lawyer -- 11 we've already talked about you didn't take it to a 12 lawyer for much, much later after you had signed 13 it, which would have been when you took it to 14 Mr. Holmes? 15 A. Right. Correct. 16 Q. You didn't take it to a lawyer within 17 50 days of signing this agreement, did you, to 18 review the agreement with you? 19 A. I'm sorry? 20 Q. We've already talked about that. 21 You -- 22 A. I think you already asked me the 23 question. 24 Q. I mean, you indicated earlier that you 25 don't have recollection of taking it to a lawyer	1 copies of the documents. Didn't say I have to go 2 to copy myself. So that would be too cumbersome 3 for me to make copies, because, actually, it says 4 by law. Actually, there's no law suggest that 5 general counsel keep my scientific notebooks. 6 Q. My question is simply this -- 7 A. No law, no regulation to allow general 8 counsel to keep my scientific notebooks, and they 9 should provide me the copy, based on my reading 10 this paragraph. So if there was a law, there was 11 regulations, yes, they can keep it. But if 12 there's no law, no regulations to allow MUSC to 13 keep my notebooks, that is especially after 14 repeated requests, did not provide my copies. 15 So without the scientific documents, 16 without notebooks, I will not be able to continue 17 my research. 18 Q. Did you ever ask MUSC if you could 19 make copies? 20 A. I asked MUSC provide me the copies. 21 Actually, they did not say I have -- they give me 22 the notebook, I made copy myself. They said copy 23 will be provided to me. I agreed, but at least 24 that allow me to continue my research. 25 And I did not think the legal office

23 (Pages 86 - 89)

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1 have any use of the document, and if there -- and 2 I didn't have no -- I did not believe -- I still 3 don't believe there was any law or regulations to 4 allow general office to keep my scientific 5 documents. 6 Q. Did you read that document on Page 4 7 before you signed the agreement? 8 A. I signed the agreement with 9 understanding there has to be law and regulation. 10 They have law and regulation to keep it. When 11 there is no law, no regulation, they should not 12 keep my scientific notebooks, and they should also 13 at least provide me copies of my scientific 14 notebooks. 15 Q. My question is simply this: Did you 16 read that paragraph on Page 4 of the agreement 17 before you signed the agreement? 18 A. I cannot remember whether I read the 19 agreement. It was a long time ago. But as I 20 said, I scanned through the entire document. 21 Q. What does scanned mean when you use 22 the word "scan"? 23 A. I just read superficially, not each 24 words, like what you did as a lawyer. So I 25 basically, general understanding, the spirit of	1 received will be relinquished back to the federal 2 agencies as obligated in the award agreements." 3 A. That should not be the language, 4 because -- and also, I do not believe they were 5 ever relinquished back to the funding agencies, 6 but they spent them themselves -- not themself, 7 but James Norris. 8 Q. Did you read that paragraph before you 9 signed the document? 10 A. As I said, I only read the spirit of 11 the entire agreement. I did not split hair on any 12 phrases. Also, I do not believe they relinquish a 13 penny back to funding agencies, but spent the 14 money by James Norris. If you want to split hair, 15 those are just plain lies. 16 Q. Go up to the paragraph above that one, 17 Dr. Dong. 18 A. Above? 19 Q. Yes, the next paragraph up. It says: 20 "At the direction of." 21 A. Dr. Yusuf Hannun. 22 Q. Correct. 23 THE WITNESS: Mr. Scott Reid, that's 24 another person we were talking about, and Mr. 25 Ronald Bycroft. I don't even -- they didn't do
Page 91	Page 93
1 the agreement. So I don't want to split hairs 2 with one phrase, one terminology. You probably do 3 as a professional, but that's not my profession. 4 Q. If you look up at the next paragraph 5 above that, where it says: "The university agrees 6 to relinquish," next paragraph right above the one 7 we were just speaking about, Dr. Dong. 8 (The witness reviews the document, as 9 requested.) 10 THE WITNESS: Right. 11 BY MR. CONLEY: 12 Q. At the time you -- so I asked you 13 about grants you had at the time you signed the 14 agreement. Did you have any commercially-funded 15 research awards at the time you signed this 16 agreement, if you recall? 17 A. I believe there was some funding from 18 GenPhar to MUSC and FRD. Actually, those funding 19 I never see a penny. Those GenPhar agreed to 20 funding my research in the laboratory in exchange 21 for me being the consultant at the GenPhar. I 22 think either FRD, I believe is mostly Steve -- 23 sorry, James Norris spent all the money. 24 Q. The second sentence in that paragraph 25 says: "Actively federally-funded research awards	1 any of those. Also Yusuf Hannun was- -- 2 MR. CONLEY: Again, Dr. Dong, I need 3 to ask you a question. This isn't an opportunity 4 for you just to sit in a deposition and tell me 5 everything you want to say. I haven't even asked 6 you a question yet. 7 THE WITNESS: You asked me if I see 8 this. I tell you what I see. 9 MR. CONLEY: I asked you to review the 10 paragraph, and then -- 11 THE WITNESS: Yes, I did. I told you 12 what my impression was. 13 MR. CONLEY: I didn't ask you your 14 impression. I haven't asked you your impression. 15 I haven't asked you a single question. 16 THE WITNESS: Ask me a question. 17 MR. CONLEY: The way the deposition 18 works, Dr. Dong -- 19 THE WITNESS: Don't give me lessons. 20 MR. CONLEY: I'm not giving you 21 lessons. There is a set of rules that apply, and 22 it requires that I ask you a question. I'll ask 23 you a question, and you can give an answer. 24 THE WITNESS: Go ahead. 25 THE REPORTER: I can only get one

24 (Pages 90 - 93)

Page 94 1 person at a time, please. 2 THE WITNESS: So he speak too fast. 3 BY MR. CONLEY: 4 Q. Dr. Dong, this paragraph says: "At 5 the direction of Yusuf and Mr. Scott Reid and 6 Mr. Ronald Bycroft will attempt to locate any 7 vectors or similar materials shared with other 8 investigators for repropagation by Dr. Dong, and 9 will attempt to locate written enduring hardcopy 10 records which have been lost?" 11 Did you read that sentence before you 12 signed the agreement? 13 A. As I said, you are splitting hair 14 again. I do not know other than the spirit of the 15 agreement is they're going to locate the vectors 16 and give me back for propagation. 17 Q. Does that paragraph say they're going 18 to locate or they're going to attempt to locate? 19 A. As I said, it's not my profession to 20 split the hairs. I think that means they going to 21 locate it. 22 Q. That paragraph goes on to say: 23 "This" -- meaning the attempt to locate this 24 information -- "will occur within the 45-day" -- 25 "within the 45-day window above."	Page 96 1 they had fallout with James Norris. 2 I do not know who is Ronald Bycroft. 3 Q. If you go up to what would be, 4 Dr. Dong, the second paragraph on that page, so 5 the second paragraph from the top. It starts 6 with: "Dr. Dong." If you could read that, and 7 then I'll have some questions for you about it. 8 (The witness reviews the document, as 9 requested.) 10 THE WITNESS: Right. 11 BY MR. CONLEY: 12 Q. Have you read it, sir? 13 A. Yes. 14 Q. That paragraph says: "You will 15 transfer any research material, including genetic 16 materials, DNA constructions, viral and plasma 17 vectors, antibodies, and enzymes to Dr. Dong's new 18 research location for his continued research, 19 including the materials which were provided by 20 Dr. Dong to the Vector Core for services while 21 Dr. Dong was the director." 22 Did you do that? Did you make -- did 23 you transfer those material? 24 A. They took the material from me. They 25 locked me from the lab. Are you going to split
Page 95 1 A. They didn't do it. 2 Q. It would be one of your contentions in 3 this lawsuit that that is another -- that is one 4 of another -- of other breaches of the agreement, 5 right? 6 A. Anything in the agreement they 7 breached will be point of complaint. 8 Q. Correct. But that's one of them. 9 correct? They didn't do this within this 45-day 10 window, right? 11 A. They didn't do any of those. 12 Q. And then it says: "Any additional 13 items located after that time and search will also 14 be provided to Dr. Dong." 15 Do you know if any of those three 16 gentlemen ever located any information after the 17 45-day period ran? 18 A. I don't know if they did or didn't do. 19 Actually, I did contact Scott Reid a number of 20 times. He was the chairman, so he would be very 21 busy. I didn't think it would be proper to bother 22 him for the details. But Scott Reid is very 23 capable person, and he is also the base manager. 24 He was a good person. He used to be the business 25 manager at the department of biochemistry until	Page 97 1 words again? How do I transfer when they took the 2 position, lock me out of my lab? Those my 3 materials should be transferred. 4 Q. So, again, I wasn't there when any of 5 this happened, so I'm just asking you. Do I 6 understand you correctly that you couldn't 7 transfer it yourself because they locked you? 8 A. Out of my office. 9 Q. They locked it in a fashion that you 10 couldn't access it, right? 11 A. Correct. They changed the lock. They 12 never done nothing in the history of United States 13 in any universities, certainly not in the history 14 of MUSC. That's completely illegal. Actually, I 15 was funded by NIH. That's complete violation of 16 NIH rules. If I was any administrator, I was part 17 of NIH. 18 Q. As I understand what you're telling me 19 is you couldn't transfer it yourself because you 20 couldn't even access it; is that correct? 21 A. Yes. 22 Q. Did you ask for access to it? 23 A. Of course. That's the whole thing 24 I've been asking for. That's whole agreement. It 25 was in order for me to get access to my research

25 (Pages 94 - 97)

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1 materials to continue my career. 2 Q. What were you told when you asked for 3 access to it so you could move it? What were you 4 told? 5 A. After I signed this agreement, 6 everything will be available, everybody will 7 cooperate with me to make the transfer. Once this 8 signed, it become a stonewall. I could not 9 contact anybody. Nobody respond to me. 10 And I talk to Scott Reid. He is going 11 to ask for my permissions, and then there is no 12 response. 13 Q. If you go up to the top paragraph, 14 first paragraph, you can read it, and I'll have a 15 few questions for you about it. 16 (The witness reviews the document, as 17 requested.) 18 THE WITNESS: Correct. 19 BY MR. CONLEY: 20 Q. Again, same question: Did you read 21 that paragraph before you signed the agreement? 22 A. I as -- again, I did not -- I read in 23 the context of the agreement. I did not try to 24 split the meaning of each specific words. 25 Q. That paragraph says: "Equipment	1 those equipment as well as my equipment never been 2 transferred. 3 Q. If you can look at what is Exhibit A 4 to the agreement, which is the list of equipment. 5 A. Right. 6 Q. I have a couple of questions about the 7 middle column, Dr. Dong. I don't know if you can 8 shed some light on this or not. But the middle 9 column is titled "Funding." Do you see that? 10 A. Right. 11 Q. Then it's got various labels, as I 12 read under here. So I see one says "Startup." Do 13 you know what that references? Why it says 14 "Startup"? What does that mean, if you know? 15 A. It's the startup funds. 16 Q. I don't know what those are. Maybe 17 you can explain? 18 A. As a condition to recruit me from 19 MUSC, I think MUSC offer me -- I could be wrong -- 20 \$65,000 startup funds. That means the money for 21 me to spend. 22 Q. On equipment? 23 A. On equipment, set up lab, everything 24 else, and also the expenses of transfer my 25 equipment, laboratory, personnel, and everything
Page 99	Page 101
1 relocated to GenPhar under this agreement," which 2 would, apparently, be everything listed in Exhibit 3 A or Exhibit -- 4 A. No, actually -- 5 Q. Let me finish my question. 6 A. Sure. 7 Q. -- which, apparently, would be 8 everything listed in Exhibit 1 to the agreement -- 9 or A to the agreement, excuse me, and presuming 10 there were or was an Exhibit B, would be returned 11 to MUSC at its expense at the end of your 12 appointment in March 2012, right? 13 A. That's not right. My understanding 14 is, based on otherwise permitted by existing 15 university policy or extra -- sorry, external 16 sponsor policies and approvals. 17 So actually, there is no university 18 policy or external sponsor policy, especially NIH, 19 they will not allow to take my equipment back to 20 university. However, there is a narrow gap; if 21 the Vector Core continues and function at MUSC, 22 those equipment should be returned to MUSC to 23 continue any funded research. I will not be able 24 to take them away from MUSC, which is consistent 25 with external policies, which I agreed. However,	1 for you to start a new location. 2 Q. Then there is another label under that 3 same "Funding" column. Some of them say "No 4 Tags." Do you know what that means? 5 A. It's because those are my equipment, 6 and it's already lost track where the funding come 7 from, but those are my equipment. 8 Q. Everything that says "No Tags"? 9 A. Correct. It's just that no longer 10 have track where it -- the initial funding was 11 from. 12 Q. Then there is another label under that 13 column that says "UCSF." I assume that's 14 equipment you brought from the University of 15 California, San Francisco when you moved to MUSC? 16 A. I think all of the equipment, 17 including no tag, was transferred from -- either 18 from MUSC or the university before that. 19 Q. I'm asking -- we have talked about no 20 tag. I'm asking you about the UCSF tag now. Is 21 that tag -- where it says "UCSF" under that 22 "Funding" column, Dr. Dong, does that mean that 23 that's a piece of equipment that came from UCSF 24 when you moved to MUSC? 25 A. That means, actually, that tag was not

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1 removed. So UCSF tag was still on it.
2 Q. But you brought it here with you from
3 UCSF?
4 A. All of the equipment I brought with me
5 from UCSF, because actually when they transfer to
6 you, relinquish the right to the PIs, which most
7 universities would do. They remove the tag.
8 However, one of the equipment they forgot to
9 remove or failed to remove, the tag will still be
10 on the equipment.
11 Q. The startup equipment you would not
12 have brought here with you? That's something you
13 would have gotten once you got here?
14 A. Awarded to me as a condition for me to
15 transfer.
16 Q. I get that. But I'm just asking,
17 startup equipment would be equipment that you got
18 once you got here by way of startup funds?
19 A. Yes.
20 Q. What is "Paddock"? There is a label
21 under this that says "Paddock" on some of the
22 equipment.
23 A. Actually, those are -- I bought from
24 Dr. Paddock. Dr. Paddock also let me have -- he
25 actually had his own company as a faculty of MUSC.

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1 So that's James Norris himself. So when he left,
2 the equipment move with him. However, he retire.
3 He has no use of it. And actually, he sold to me.
4 So that was...
5 Q. So Paddock just means that's from a
6 former professor at MUSC?
7 A. Correct.
8 Q. That you bought the equipment from
9 him?
10 A. Correct.
11 Q. I'm just trying to figure out what the
12 label is.
13 A. That's what tells you the equipment
14 follows the person. It belongs with a person.
15 Q. What about "Arrigo"? So there's some
16 on there that say -- I assume that's like Paddock.
17 It's A-r-r-i-g-o.
18 A. Where?
19 Q. If you read on down that "Funding"
20 column, you see some that say "Arrigo,"
21 A-r-r-i-g-o. Is that a former MUSC professor,
22 like Paddock?
23 A. No. Arrigo is -- I think was -- I do
24 not remember. Actually, I can't remember, but I
25 don't think Arrigo was a person at MUSC.

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1 Q. Then some are labeled "Vector Core."
2 I presume that means they were --
3 A. Vector Core equipment.
4 Q. -- that equipment -- let me finish my
5 question, Dr. Dong.
6 I presume that is equipment that was
7 purchased with Vector Core grant funds?
8 A. Correct.
9 Q. Do you have any idea why the Vector
10 Core equipment all seems to have an MUSC tag
11 number and most of the other stuff doesn't? Any
12 idea?
13 A. Because I applied Vector Core on
14 behalf of MUSC. I was at MUSC. For example, you
15 apply the grant at UCSF; in addition to my name,
16 there's also UCSF on it.
17 Q. If you go over to the second page of
18 this list, Dr. Dong, there's some on there that
19 say "GenPhar." So under that same column, the
20 "Funding" column, there are some that show
21 GenPhar.
22 A. Right.
23 Q. I don't know. So that's why I'm
24 asking. Why would some of them be labeled
25 GenPhar?

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1 A. Some of them, actually, the funding is
2 provided by GenPhar on my behalf. For example,
3 computer is most difficult equipment to adjust --
4 to justify in the academic grant because most
5 people like to buy computers actually. So
6 instead, simplify the process, GenPhar provide the
7 money for me to buy the computer. So that's one
8 of the top-line computer at the time.
9 Q. If I see GenPhar, that, to me, as a
10 layperson, not knowing how grants work, that would
11 indicate to me that that piece of equipment was
12 purchased by way of monies given to MUSC by
13 GenPhar --
14 A. Under my name, correct.
15 Q. -- correct?
16 A. Yes.
17 Q. On that same page, if you go down
18 about the middle of the page, Dr. Dong, there's
19 some that have a very weird tag that say "TOR
20 Core=3," and then "DongNIH=4."
21 Do you know -- I'm on the second page.
22 A. Those are -- that's what I'm saying.
23 Vector Core is for several grants. So actually,
24 this is internal designation which grants coming
25 from. Regardless, those my money, my funding

Page 106 1 bought under my name. 2 Actually, so there is meaningless for 3 you or any layman. It's -- the equipment is mine, 4 bought under my name, but originally there may be 5 designation to trace which grant that money coming 6 from. So you are not supposed to mix the grants 7 by spending grants on different research projects. 8 That's just a designation at that time. 9 For the purpose of this contract, it 10 is meaningless. But at that time, yes, there is 11 meaning for which grants that equipment came from, 12 so that equipment will be charged to that grant 13 and serve the purpose for that grant specifically, 14 predominantly. 15 Vector Core is generally used on 16 facilities, or can be served for multiple grants. 17 MR. CONLEY: Let's take about 18 45 minutes for lunch, and then we'll come back. 19 This is a good point to take a break. 20 (A lunch recess was taken.) 21 MR. CONLEY: Back on the record. 22 BY MR. CONLEY: 23 Q. Do you still have the exhibit in front 24 of you, Dr. Dong? 25 A. Yes, I do.	Page 108 1 and also blocked my email, Homeroom. So I 2 completely blocked from my function as a 3 professor. That's part of the breach. 4 Q. The next paragraph down is a 5 one-sentence paragraph that says: "During this 6 period, Dr. Dong may use the title, quote, 7 'Director of Biotherapeutics and Vaccine 8 Development,'" end quote. 9 After you entered into this agreement 10 with MUSC did you use that title any longer? 11 A. I don't remember, but that's the part 12 of the agreement. Because as a condition, 13 actually have to expand my research area, and, in 14 a way, actually for the benefit of MUSC, so I can 15 differentiate my research area from those being 16 taken away from me by James Norris. 17 Q. Sitting here today, do you ever recall 18 using that title after you entered into the 19 agreement? 20 A. I can't remember, but I did get, in 21 fact, research grant in the amount of \$4.5 million 22 by MUSC and was denied by Steven Lanier, which 23 actually one of the conditions, at least presented 24 to me, if I get more grants, I would be back for 25 MUSC.
Page 107 1 Q. Great. We're going to go back to 2 Exhibit 1, which is the agreement itself, not the 3 list of property, Dr. Dong. I'll skip through 4 here and ask you a few questions that I jumped 5 over initially. 6 So if you can first go to Page 2 of 7 the agreement, the second paragraph on that page 8 says: "Dr. Dong agrees to carry his customary 9 share of teaching, lecturing, and instructional 10 responsibilities as assigned and communicated to 11 him in writing by the chairman of each 12 department." 13 My question is after you entered into 14 this agreement with MUSC, did you do any more 15 teaching, lecturing, or what you and I might call 16 instruction down at MUSC? 17 A. I was blocked. Actually, that was 18 part of the violation of the agreement, because I 19 was presented I could continue my research, 20 teaching, because my whole career was being a 21 professor, and then I was deleted from the 22 department website, and I was given no access to 23 any graduate students or candidates. 24 I blocked from attending any of the 25 faculty meetings and any function, for example,	Page 109 1 Q. If you look down at the fifth 2 paragraph, it starts with: "Dr. Dong agrees and 3 commits." 4 It says: "Dr. Dong agrees and commits 5 to submitting an irrevocable letter of resignation 6 no later than March 31, 2021." 7 You and I would agree that letter -- 8 such a letter was never submitted by you, right? 9 A. No, because I could not apply for any 10 job. I had been professor, and entire ability of 11 my scientific career had been abruptly stopped. 12 Q. Go over to the next page, Page 3. The 13 next page, Dr. Dong, Page 3. I think you're still 14 on Page 2, sir. Page 3, fourth paragraph down. I 15 asked you about this earlier, but I'll circle back 16 to it. It's a one-sentence paragraph. 17 It says: "The university will 18 continue to provide the customary physical support 19 and oversight for research awards received through 20 MUSC in the division of basic science?" 21 A. They never did. 22 Q. My question is you just mentioned some 23 type of one -- excuse me, \$4.5 million grant you 24 received. Is that something that MUSC agreed to 25 provide physical support and oversight for, or did

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1 they say they would not do that?

2 A. They agreed to support and provide.

3 And actually, it was one of the conditions

4 presented to me: If I get more grant for MUSC,

5 they will definitely support.

6 Q. My question is the \$4.5 million grant

7 you mentioned, was that an NIH grant?

8 A. Yes.

9 Q. Were you actually awarded the grant?

10 A. Yes.

11 Q. Do you remember what year and month it

12 was, Dr. Dong?

13 A. I could not. That's why, actually, I

14 wanted the more material, discovery material.

15 None of this I could give you the exact date.

16 Q. I presume it was after you entered

17 into the agreement, you were awarded this NIH

18 grant, correct?

19 A. Yes. As a part of the agreement, they

20 will provide -- basically, not only accept the

21 grants, but they provide administrative management

22 of grants. That's part of the essential

23 components for anybody, professor, to receive NIH

24 grants.

25 Q. Go to the bottom paragraph on the same

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1 page, Dr. Dong. It says: "Dr. Dong's access to

2 campus facilities and their use shall not be

3 limited during his remaining years of employment."

4 I think you've already told me earlier

5 they did limit your access to campus facilities

6 and such, right?

7 A. They didn't give me any access.

8 Q. Just so I know the timeline, when you

9 say they didn't give you any access, did they cut

10 your access off immediately upon you signing this

11 agreement, or was it sometime after --

12 A. They -- they --

13 Q. Let me finish. You will get to

14 answer.

15 -- or was it sometime after -- weeks

16 or months after you signed the agreement that they

17 cut off all your access to facilities and email?

18 A. They cut off my -- all my access to my

19 research laboratory, to my office, to my material,

20 to my personnel basically by locking me out and

21 changing the locks. Never done to any faculty

22 member at MUSC, not -- there was a precedence at

23 any university, especially funded by -- faculty

24 member is funded by NIH.

25 They are obligated to support me, to

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1 support my research. As part of my agreement, I

2 was receiving NIH grants. Actually, that's not

3 only violation of all faculty rules; they also

4 violate the regulations with NIH, the admission.

5 If I was mean-spirited, I would file

6 report with NIH, and all of their grants will be

7 under review and would be freeze. So actually, I

8 was never intending to harm MUSC in any way. I

9 was only interested to continue my research.

10 Q. My question was when did they cut off

11 your access? You said they cut it off. I'm just

12 trying to figure out when, Dr. Dong. Was it

13 immediately upon you signing the agreement, or was

14 it weeks or months after that they cut off your

15 access to your lab and to email? I'm trying to

16 figure out when it occurred, not why or how, but

17 when.

18 A. That was before we sign agreement.

19 That's why, actually, I reached the agreement, try

20 to reinstate my research.

21 Q. Maybe this will help me. Before you

22 signed the agreement, had you already been -- I'll

23 use the word "locked out" --

24 A. Yes.

25 Q. Dr. Dong, you've got -- for the court

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1 reporter's benefit, you have to let me finish my

2 questions. You're going to know when I finish my

3 questions.

4 A. Go ahead.

5 Q. Let me finish. I'll let you give

6 whatever answer you want to give. But you have to

7 let me -- it's becoming very difficult for the

8 court reporter. I'm not going to interrupt you.

9 Just don't interrupt me.

10 Was it before you signed the agreement

11 that they -- I'll use the word "locked" you out of

12 your lab?

13 A. Yes.

14 Q. Before May 3rd, 2010, you had already

15 been locked out of your laboratory?

16 A. Correct.

17 Q. After you signed the agreement, they

18 never gave you renewed access to your laboratory?

19 A. Correct.

20 Q. It continued? In other words, the

21 lack of access continued?

22 A. Right. Part of the agreement is to

23 give me back my research ability, give me access

24 to my equipment, personnel, funding, but they

25 actually continued the lockout. Once the signed

Page 114 1 agreement, that they -- they thought they were 2 done, actually they asked me to chasing -- 3 whatever, chasing tails, and I go around, talk to 4 everybody supposedly being charged, and they will 5 say I will report. I will do -- I'll find out 6 what I need to do next. 7 So they were basically stonewalling 8 me. They did not give me any access to my 9 research laboratory, and I was -- happen before, 10 actually. 11 Q. After you signed the agreement, were 12 you ever given access to your office again? 13 A. No. 14 Q. Was your access to your office cut off 15 before you signed the agreement? 16 A. Yes. The agreement, it was to 17 re-allow me to enter my office and my research 18 material. They never did. 19 Q. I wasn't there when all of this 20 happened, so I'm trying to educate myself here a 21 little bit by way of this. 22 What I hear you telling me is after 23 you signed this agreement on May 3rd, 2010, MUSC 24 never allowed you access again ever to your office 25 or your lab space?	Page 116 1 also protocols and everything was stored. 2 Q. What I hear you saying is you're 3 unsure whether your email was cut off before you 4 entered the agreement or sometime after; is that 5 right? 6 A. That's correct. 7 Q. You're unsure? 8 A. The actual only the email part of it, 9 but the most of the information, my laboratory, 10 technical information, everything else stored in 11 Homeroom, but I was stopped. 12 Q. When was your Homeroom access cut off, 13 before or after you entered into the agreement? 14 A. I could not remember, but everything 15 was cut off without a notice. I suddenly realize 16 I don't have anything. Although, I could make a 17 copy, but I don't know technically how to do that 18 at the time. It was all -- I got a so-called IT 19 support from MUSC, but at least they cut off my -- 20 all my access to MUSC's system. 21 Q. When your access to your lab and 22 office were cut off to you, did that also cut you 23 off from your logbooks and things of that nature? 24 A. Yes, everything. 25 Q. Meaning all of your materials,
Page 115 1 A. That's correct. 2 Q. Did they ever allow you -- that's a 3 bad way to ask. 4 By way of not allowing you access to 5 your lab space and your office again, did that 6 same prohibition on access cut you off from access 7 to your -- to other material that might have been 8 yours, equipment, that sort of thing? 9 A. That's everything I have. That was in 10 my laboratory and in my office and also my core 11 facilities, my collaborations, my teaching 12 ability, my research ability, and also my 13 communications. 14 I lost contact with all my colleagues 15 throughout the university. I don't remember the 16 email address, and I can't contact anybody once 17 they turn off my email system. 18 Q. Let's talk about your email for a 19 minute. Was your email access cut off before or 20 after you signed the agreement? 21 A. I could not remember clearly, but I 22 think there was a period of time during this I'm 23 supposedly working at MUSC, but actually at the 24 time they already cut off my Homeroom. Because 25 that's where a lot of my research documents and	Page 117 1 documents, paperwork, that would have all been in 2 your lab and office; is that right? 3 A. As well, in the Homeroom. 4 Q. I understand. 5 A. Correct. It was all stored. 6 Q. After you signed the agreement, just 7 for clarification, no one ever allowed you to go 8 back into your office or lab space after that? 9 A. Correct. 10 Q. This is just by way of a question from 11 me. Do you even know whether MUSC still has your 12 lab books and that kind of documentation that was 13 in your office when you were locked out? Do you 14 even know if they still have it? 15 A. That would be a requirement for 16 documents to produce. 17 Q. I'm not asking you about requirements. 18 I'm asking whether you know if they do or don't 19 still have them. It may be you just don't know. 20 A. I don't know. I have no access to it. 21 How do I know what they did to it? I know they 22 continued to publish using the material I have. 23 That's all my technology. They continue using it 24 in periodicals and publications, continue using 25 them to apply for grants. Those are my material.

Page 118 1 My research projects. 2 Q. Dr. Dong, if you look at your -- just, 3 if you turn back to the first page of that 4 document, and I'll direct you where to go. First 5 page of the whole document, I'm sorry. Dr. Dong, 6 just flip the whole thing over back to the first 7 page. 8 Now go to the second page of your 9 complaint, Dr. Dong. No, that's not the 10 complaint. That's just the cover. Keep going. 11 That's the first page of it. Now go to the second 12 page. Go down to that Subparagraph F, and read 13 that for me. And then I have a couple of 14 questions for you. 15 (The witness reviews the document, as 16 requested.) 17 THE WITNESS: Yes. 18 BY MR. CONLEY: 19 Q. So that paragraph appears to have a 20 claim that's unrelated to the written agreement 21 we've been talking about. If that's the case, can 22 you explain the allegation in Paragraph F to me? 23 I'm not sure I really understand it. 24 A. I think this was suggested by the 25 attorney.	Page 120 1 company, he has -- need a majority of shares. 2 Whatever the agreement he made between 3 him and MUSC, MUSC transferred all MUSC shares to 4 the German investor, and that will be including 5 1/3 of my share awarding to FRD and MUSC, because 6 based on the faculty agreement, when there is a 7 contract -- commercial contract signed with a 8 commercial company, there is a formula to divide 9 the income. 10 So not actually only they give the 11 entire MUSC portion to the German national, but 12 also including my 1/3 of the share obtained from 13 MUSC in order for the German to majority control, 14 and then complete disrupt the -- so he can better 15 fight the other investors and seeking control of 16 the company. 17 And it turn out even with the MUSC 18 shares he didn't have the majority. So that's -- 19 and then actually once he had control, not only I 20 was kicked out from MUSC, I was also kicked out 21 from GenPhar. So I have no place to go. I had no 22 place to go. 23 Q. This transfer of shares you're 24 discussing, did that occur before or after you 25 signed this agreement with MUSC?
Page 119 1 Q. Wait just a minute. Don't tell me 2 anything that your lawyers have ever said to you. 3 Anything your lawyers have talked to you about or 4 said to you, that's privileged information. I 5 don't want to know about it. I don't want you to 6 tell me. 7 A. I appreciate it. There was a time 8 actually MUSC actually actively interfered. Not 9 only block my position, but actually interfered my 10 position at GenPhar to allow me continuing my 11 research actually at the time, because there was 12 agreement. I was a consultant. Although, I 13 didn't have my research equipment and everything 14 else. 15 So actually, the MUSC FRD obtained 16 some shares -- actually, it's options from 17 GenPhar. By agreement, I will have 1/3 of those 18 shares, and the 2/3 I think goes to FRD and goes 19 to the department, the value. 20 And then actually, for whatever the 21 agreement, a German national, he was later 22 investor, he actually purchase some shares, and he 23 got participate a few other investors saying he 24 was going to invest more, but -- and then he 25 was -- in order for him to get control of the	Page 121 1 A. After I signed the agreement. 2 Q. After you signed the agreement? 3 A. Yes. But MUSC still hold their shares 4 through my so-called helping FRD to start the 5 company, provide technologies and consulting to 6 the company, and for that FRD actually got 7 significant amount of shares. 8 Q. So, in other words, generally, what I 9 hear you saying is after you entered into this 10 agreement you and I have been talking about today, 11 MUSC transferred whatever shares the FRD held in 12 GenPhar to this German national; is that right? 13 A. Correct. 14 Q. And what you're telling me is that 1/3 15 of whatever -- however many shares MUSC 16 transferred to the German national, 1/3 of their 17 shares, according to you, didn't really belong to 18 MUSC at that point; they belonged to you? 19 A. No. No. It's the -- there was a rule 20 at MUSC -- rules how to encourage faculties to 21 sponsor biotech companies. I wasn't the only one, 22 but I was one of a few that was successful, 23 including James Norris himself. He has his own 24 company. Also Yusuf Hannun and other members in 25 other departments. There are multiple faculty

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1 members started companies.
2 There was a university policy and
3 formulation, how the benefit derived from
4 commercial companies divided within university,
5 including the person who actually contribute the
6 technology computation. There was a formulation
7 how much share, how much percentage the person
8 get.
9 Q. What I hear you saying is there is a
10 percentage of whatever shares MUSC gave to this
11 German national that actually under MUSC's rules
12 should have belonged to you, not MUSC?
13 A. Not only damages done to me,
14 because --
15 Q. I'm just asking you if my
16 understanding is correct. I'm not asking if you
17 were damaged by it. Is that correct? Are you
18 claiming that a piece of these shares moved --
19 given back to this German national actually belong
20 to you and not MUSC? Is that what I hear you
21 saying?
22 A. If you will let me make my statement,
23 and I think we'll be better off in many ways.
24 Q. Go ahead.
25 A. Based on -- that's what I said, based

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1 on MUSC formulation, the benefit to faculties,
2 there is a percentage share owned by MUSC will be
3 awarded to the person who will be responsible for
4 the income by MUSC.
5 So based on that formulation and that
6 policy of MUSC, I wasn't the only faculty members
7 to benefit the shares of the financial income from
8 a company that I consulting with, helped to start.
9 So that share should be mine, awarded
10 from MUSC. Just like salary I awarded from MUSC
11 or bonus I awarded from MUSC, that will be mine.
12 Q. How many shares were supposed to be
13 yours? Do you know?
14 A. I don't know. So I never got it. But
15 the damage to me was not only the value of the
16 shares, but actually they use my share, the
17 percentage of share I brought to MUSC, to
18 participate a conspiracy for one of the investors
19 to fire the other investors and then in order to
20 seek control of the company.
21 Of course, I was on the side of the
22 company as well, so they can kick me out of the
23 company as well. So basically, I left not only
24 not be able to continue my research at MUSC, but
25 also actually block me from continuing my job, my

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1 research at GenPhar.
2 Q. Did GenPhar eventually kick you out?
3 A. During that period of time, GenPhar
4 was kick -- did kick me out.
5 Q. What period of time are we talking
6 about?
7 A. I don't remember. That's why,
8 actually, I need to get the documents from MUSC to
9 document what kind of agreement it made or
10 actually the timeframe they made.
11 Q. Did you continue to do work for
12 GenPhar after you signed this agreement 2010?
13 A. I was on a consulting role. They
14 allowed me to do the research, but I have nothing
15 else to do but to continue my consulting with
16 GenPhar so I can have a position.
17 Q. Was there ever a time when you were
18 the CEO of GenPhar?
19 A. No. Actually, at the end when
20 everybody left, so they have to be a person
21 carrying the name, but during this entire process
22 the company was run by chairman of the board,
23 which is Steve Hutchinson, also who was the CEO,
24 and once after the -- they started fighting,
25 actually installed the guy. It was Kevin Die

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1 (sic), who was the CEO.
2 Once, after the fight, everybody is
3 gone, there is no CEO -- no official CEO. I was
4 only functioning as the principle investor, but
5 one -- actually, there was somebody even sign, for
6 example, lease agreement, anything else. Because
7 I was the sole principal investigator, I signed
8 it, but I was never officially named by the board
9 CEO or otherwise.
10 I was the chief scientific officer as
11 a consultant, and also at the time GenPhar insists
12 on me being the president, which is only title,
13 and that was rejected by FRD. So they didn't want
14 me to have any non-scientific function because I
15 could not function as non-scientist. I do not do
16 any -- even at MUSC, I am treated role is through
17 business management. I never manage money. I
18 never manage role in regulatory affairs. Only
19 science.
20 Q. You never managed money at GenPhar?
21 A. No. I don't sign checks. I don't
22 review grants. I don't review accounts. It's all
23 so-called insulated from me.
24 Q. Did you ever send letters to investors
25 about the finance status of GenPhar?

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1 A. Yes. I was the only person left as
2 the -- to -- actually, as the secretary or
3 business manager, draft the financial report with
4 approval of Steve Hutchinson, and I will be the
5 one sign it because Steve Hutchinson officially
6 resigned as the agreement between the investor
7 disputes.
8 So neither party actually owned the
9 company, could not install anybody in the company
10 except the management the grants that's report by
11 the Department of Defense and NIH.
12 Q. Did you oversee the building of
13 GenPhar's new construction building over in Mount
14 Pleasant?
15 A. I wasn't, because I was the scientist,
16 but there was -- no one else was there as the
17 general contractor oversees it. So actually, I
18 was -- I would have input only for the scientific
19 requirement, and I was the -- solely responsible
20 designing the clean rooms, the research
21 laboratories for DoD, but other than that I have
22 no knowledge of any construction or no expertise
23 how they do construction.
24 Q. Do you know Deborah Owens?
25 A. Deborah Owens was the finance manager

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1 of the company.
2 Q. Do you know Elaine van Borst?
3 A. Elaine van Borst was the part-time
4 secretary who was the whistleblower, and also the
5 internal accounting. So all of the accounting was
6 done by accounting firm, audited by another firm,
7 all hired by the board. That's their money. They
8 got to watch for it.
9 All of the financials, still actually
10 Steve Hutchinson was the person out of Wall
11 Street. He is the financial person. So even he
12 superficial resign. He was still not after he
13 hired the auditing firm and select the CPA
14 accounting firms on behalf the investors.
15 Q. Did the Fourth Circuit Court of
16 Appeals recently affirm your conviction?
17 A. Yes. But actually, they only looking
18 for one issue at a time. So they vacate the
19 financial penalty against me.
20 Q. Did they affirm Judge Norton's
21 conviction of you?
22 A. Yes. They didn't -- basically did not
23 review it. And those actually have no relevance
24 whatsoever. They're years after, and those --
25 Judge Toal have more information than I do and

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1 made several comments that's not true.
2 So actually, the indictment
3 was unsealed I think early 2015. Before it
4 unsealed is a felony of anybody who disclose it.
5 I don't think United States Attorney will --
6 would, but they could. This goes to MUSC before
7 even I knew it.
8 So actually, there is a year limit, a
9 nine-months limit -- time limit for speedy trial.
10 So it's about a year in 2015. That's years after.
11 I will never sign agreement if there's a problem
12 at GenPhar. So those all -- first of all, is
13 irrelevant. Second of all, they're excuses to
14 they breach the contract years after the contract
15 has been breached. Those have no relevance
16 whatsoever.
17 It has relevance because they push me
18 to GenPhar, and they have to find somebody
19 responsible, because I was the principal
20 investigator on those contracts. They prosecute
21 the company for using money inconsistent with the
22 terms and conditions of the contract by building a
23 facility.
24 What benefit do I get out of it? What
25 is the violation of contract terms, conditions

Page 129

1 become criminal? So we can't litigate those, and
2 we should not be actually include that
3 information. Completely irrelevant to this case.
4 Q. What about the illegal campaign
5 contributions you were found guilty of? Did you
6 have any involvement in those campaign
7 contributions to Lindsey Graham?
8 A. Yes. That's also years after.
9 Q. Tell me about that. What involvement
10 did you have in those?
11 A. No. Actually, it's from the same
12 German person. I was on the -- he wanted to -- in
13 addition to the auditing done by the company, he
14 wanted additional auditing by himself, and he want
15 the company -- he initially want the company to
16 pay for the auditing. The existing investor did
17 not agree. So in order for me to compromise
18 between the investors, because they are the key
19 control interest of a company, so I agree for him
20 to do his auditing, but he also agreed to pay for
21 it.
22 Once the actual -- also, there is a
23 time while I was on the around-world travel, paid
24 by a family member, and I was costing \$90,000 for
25 my wife and on the charter flight. It's travel

Page 130 1 around the world. So he wanted me to answer the 2 question. I said could you -- to make a long 3 story short, could you wait until I come back. 4 because this lifetime event and cost \$90,000. He 5 said, Don't worry about it; I'll pay for it. 6 He's a billionaire himself, all right. 7 So once the dispute come about, he said he would 8 not pay for it. He only pay 40 percent, 9 50 percent of cost, which equivalent to \$35,000, 10 and he did not want to reimburse the company. He 11 said, That's reimbursement for you to take the 12 time around-the-world travel since he said so. 13 But I did not think that the auditing 14 was for the company regardless who wanted to do 15 it, so I did not think it was appropriate for me 16 to take \$35,000. At the same time, the consultant 17 for government relationship set up by Jerry 18 Zucker, which also multibillionaire locally, as a 19 requirement, we have to hire this law firm, the 20 consulting firm to so-called establish government 21 relationship. I was signed it. I never wanted 22 to. 23 The consultant form asked me to 24 contribute to Lyndsey Graham's contribution. I 25 said, Why don't you do it? He said, We can't do Page 131 1 it anymore because we're going to -- because April 2 month of the event. So there is overzealous 3 looking for the law firms who make a contribution 4 on behalf of the others. So he can't do it. 5 So I would say, Okay, I will write a 6 check, because that's was given to me personally 7 by this German investors. So I had to say, Well, 8 okay, I'll just donate this for Lyndsey Graham, 9 because I was asked to donate Lyndsey Graham. I 10 did not think was a profit for me personally take 11 the money, because the auditing is behalf of 12 company. 13 And that money was returned from my, 14 saying demand -- exceed the limits, your limit. 15 So I thought there was -- each person out of 16 communist China, I thought because you buy me 17 flowers there is quotant (sic), and everybody live 18 by quotant. I thought I reached my quotant. And 19 I said, We have a company. I said, Everybody else 20 has contributes to Lyndsey Graham. They said, No. 21 I say, Okay, if you support Lyndsey Graham because 22 he support our contract about defense program, he 23 support Department of Defense, support our defense 24 grant, if he agree, you can take the money, talk 25 to Katie and make contribution.	Page 132 1 I didn't know that was over the limit, 2 was so-called legal limit, and then the -- by 3 giving the money to the other people, that's 4 called straw-whatever donation. So I was 5 convicted for contribution using strawman. I have 6 no -- I think the criminal has to be mens rea. 7 You have to have intention to break the -- no -- 8 the violation of the law. I did not. I wasn't a 9 political person. 10 So I just -- money was given to me by 11 the German investor that actually tried to -- I 12 was the conduit for foreign invest contribution, 13 and there is clear agreement he is giving the 14 money to me personally to compensate me 15 personally, but that's just how the conviction 16 occurred. 17 It had nothing to do with -- that also 18 happened years, years after the breach of 19 contract. Have nothing to do with anything. If I 20 didn't sign agreement, go to GenPhar, nothing like 21 this would happen to me because I wasn't manager 22 at any time. I have no experience in managing a 23 company, political contribution, I have none. 24 Q. It looks like the political 25 contributions were all made years before the Page 133 1 agreement was signed. 2 A. No, it could not be. 3 Q. I'm seeing lobbying fees going all the 4 way back to 2007 as part of your charges. 5 A. That's not my -- lobbying fee is 6 not -- actually, it's the political agreement was 7 as set up by Jerry Zucker. I have nothing to do 8 with the company. They call it lobbying fee, but 9 that's the government relation consultant company. 10 That's what presented. The company called 11 American Defense. So I am no knowledge whatsoever 12 about what's at the time. And I only learn new 13 word, lobbyist, why they called lobbyist. 14 When I receiving the company that, 15 actually, is the word in place. It was set up by 16 Jerry Zucker through one of his friends, I think, 17 Ben Sasse. He was deputy secretary for Reagan. 18 I'm talking about beyond my knowledge. 19 That's just -- to me, that's rumor. All I know is 20 the company called American Defense. It 21 supposedly have the business as to how to breach 22 the gap between defense companies and the 23 Department of Defense. 24 Q. Is Vaxima, Inc. still in operation, 25 Dr. Dong?

34 (Pages 130 - 133)

Page 134 1 A. No. It was just a paper company. 2 When I was kicked out from GenPhar, I was -- I 3 thought I failed MUSC because the -- there was 4 no -- I was charged to start a biotech company and 5 bring high-paid jobs to South Carolina. And Ray 6 Greenberg specifically had a conversation with me, 7 who was the president of the university. So I 8 thought I failed, and I tried to start another 9 one, but basically I could not raise a single 10 dollar in terms of funding. 11 But then the -- after the two parts 12 are fighting, we -- actually, they brought me back 13 to in charge of the assignment. They know they 14 could not -- neither party could do it. So they 15 brought me back. 16 So that was -- Vaxima was basically 17 incorporated, become a subsidiary of GenPhar, only 18 they call it service division, which only using 19 GenPhar's technology to serve other companies, and 20 the companies never exist as individual company or 21 actually have a single dollar investment, but just 22 become a name under GenPhar to provide a service 23 to other companies. 24 Because GenPhar is a product 25 development company, and when you have product Page 135 1 development, you can't do service for the other 2 clients because they afraid you may use their 3 technology to help your products. So you have to 4 have a separate entity and agreement that 5 technologies never transfer. 6 There is also no relevance whatsoever 7 to the current case. The only relevance is if I 8 wasn't pushed to GenPhar with the -- they take my 9 research and material and push to GenPhar, I would 10 never be in trouble. 11 Q. What do you mean push you to GenPhar? 12 A. Of course, this agreement, because 13 they took away all my research. The only 14 opportunity for me to -- and being enticed to a 15 cool-down period. At the time my only concern is 16 my academic career. 17 I agreed on everything in order for me 18 to continue my research. That's my livelihood. 19 That's my career. Everything depend on it. So I 20 agree to everything in rush in order for me to 21 continue my research. Not only threw away my 22 research, actually they try to block me from doing 23 my research at GenPhar and also actually as a 24 result and I'm being the only person in charge. 25 because everybody officially resign.	Page 136 1 Q. Your relationship to GenPhar goes all 2 the way back to 2002, right? 3 A. That's under the contract of FRD and 4 GenPhar. It was on behalf of MUSC. So I always 5 been full-time professor. That's -- actually, all 6 the other faculty members doing the same. 7 University encourage faculty members 8 to sponsor biotechnology. It's not only MUSC. 9 It's all over the country, exemplified by MIT, 10 Hopkins, UCSF. Of course, Massachusetts is the 11 hotspot biotech companies. And of course, 12 California is hotspot biotech companies. So 13 that's all national trend, and they actually tried 14 to mimic UCSF. 15 UCSF got more than \$300 million a year 16 from industry support, a lot more than 17 \$300 million. At the time it was \$300 million 18 from NIH. And the common saying is there's almost 19 same or twice the amount from industry. So many 20 universities try to mimic, and also it was the 21 initiative of high-tech university under the 22 government. That's actually the single purpose I 23 was recruited to MUSC, and I think Ken Roozen can 24 testify to it. 25 (Exhibit 2, 3/14/11 Letter to Dr. Dong Page 137 1 from MUSC, marked for identification.) 2 BY MR. CONLEY: 3 Q. Dr. Dong, I'll hand you what I've 4 marked as Exhibit 2 and ask you to take a look at 5 it, please. 6 A. This letter is fake in a way because 7 this person actually was regarded one of the 8 worst, whatever, the vice president of affairs at 9 MUSC. She didn't last long. She had no 10 involvement from the beginning to the end, but she 11 took responsibility. Inventory was done by her. 12 No, it was done by Steven Lanier, long before this 13 agreement was signed. This is a false statement. 14 Q. Did you receive this letter, which is 15 Defendant's Exhibit 2? 16 A. I believe I might. I might. I can't 17 remember. 18 Q. Did you attend this inventory that 19 occurred March 24th and 25th? 20 A. Which year is this? 21 Q. It says "March 14, 2011," Dr. Dong. 22 A. No, I was never asked. 23 Q. My question is simply this: Did you 24 attend in any shape, form, or fashion an inventory 25 on either March 24th or March 25th, 2011?

35 (Pages 134 - 137)

Page 138 1 A. No. I don't remember. 2 Q. Well, that's different. My question 3 is -- you need to tell me you either didn't attend 4 or you don't remember whether you attended. 5 A. I don't remember there was ever a 6 requirement, and also I do not remember. The -- 7 actually, the inventory was done long before she 8 was the, whatever, with medical. I never met her. 9 I never -- and she sent this letter, was 10 completely false, based on false information. 11 Q. Dr. Dong, my question is about 12 March 24th and 25, 2011: Did you attend on either 13 of those days any kind of inventory related to 14 your materials or equipment? You either did, you 15 didn't, or you don't remember. 16 A. I don't remember. 17 Q. Thank you. 18 A. Likely, I didn't, but if I did, I 19 would remember it. Where was this letter sent to, 20 this confirmation -- confidential information 21 supposedly? The only person I could recognize 22 this name is Steve Lanier. He's the one under the 23 false statement of inventory. 24 What is the reason for inventory? 25 It's not after I leave -- I left, but this is	Page 140 1 there, they already break the locks, and they are 2 actually in process of transfer everything out, 3 but they are not doing any inventory. They just 4 took the material out of those freezers and 5 transferred somewhere else so they would not be in 6 that location anymore. 7 Those keys already -- those actually 8 locks already being broken. I don't know when. 9 but clearly they did not need me, didn't need the 10 key. So I was standing there. Actually, no one 11 talked to me, and so... 12 Q. So you didn't stay for the entire 13 event; is that right? You left? 14 A. Correct, but that's the -- outside the 15 agreement. Why do I -- because they -- first of 16 all, they only -- I was informed, I do remember, 17 informed to bring the key. 18 Q. Your position is as of 19 March 24th/25th, when this inventory occurred, I 20 think what I heard, your position is MUSC had 21 already breached the agreement at that point? 22 A. Of course. Have nothing to do with 23 it. They are not transferring material to me, and 24 they said they are going to do inventory because 25 they -- first of all, they removed all of my
Page 139 1 already long past the -- over due of the transfer 2 of the document -- the material documents. They 3 just follow up to cover up for their actions. 4 (Exhibit 3, Email Correspondence, re: 5 Inventory of Laboratory Material, marked for 6 identification.) 7 BY MR. CONLEY: 8 Q. Let me ask you to take a look at 9 Defendant's Exhibit Number 3 for me, Dr. Dong. 10 A. Oh, I remember the event, but that's 11 long after they breached the contract. 12 Q. Tell me what you remember about the 13 event. That's what I want to ask you about. 14 A. They actually wanted me to bring the 15 keys. They ask me to bring the keys to the 16 freezers, but when I got there they already break 17 up the freezer and everything else. 18 Q. Why did they want you to bring the 19 keys to the freezer, Dr. Dong? 20 A. Because the freezer belongs to me. It 21 was locked, but the -- first of all, they removed 22 the freezer. So I have no access to my freezers. 23 So immaterial. 24 They locked into a separate room. 25 They asked me to bring the keys, but when I got	Page 141 1 equipment freezers to a secret location, locked by 2 James Norris. So I -- with a key, I will not be 3 able to get access to it. Then they said they 4 were going to do inventory, asked me to bring the 5 keys, so in a way I will give them consent, but 6 when I got there, all of the locks had been long 7 broke. 8 (Exhibit 4, 9/20/11 Letter to Dr. Dong 9 from MUSC, marked for identification.) 10 MR. CONLEY: I hand you Defendant's 11 Exhibit 4, Dr. Dong. 12 THE WITNESS: So why -- first of all, 13 why is it you only have the documents your benefit 14 and you deny any of my documents? 15 MR. CONLEY: Because this is my 16 deposition, so I get to choose what documents I 17 want to ask you about. 18 THE WITNESS: But I don't have -- I 19 didn't have this document. 20 MR. CONLEY: Yes, you did. This was 21 produced to you, along with all of the others. 22 The Bates numbers on there indicate so. 23 THE WITNESS: It's 2011, right, a year 24 later -- September, a year and a half later. So 25 whatever happened to it is no relevance, but...

36 (Pages 138 - 141)

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1 This is absolutely false. Actually, I
2 would not be -- I would not know I was indicted by
3 2011. The indictment was -- actually, there is
4 sequential indictment within the months by the
5 same grand jury. Actually, each -- I was told
6 each indictment was only narrowed down. Instead
7 of superseding or adding more, they narrowed down
8 from broadly indictment from paying illegal aliens
9 to whatever. So no one actually saw the first and
10 second, except the third.
11 The only legally effective third
12 indictment should be 2013, all right. And there
13 was not unsealed until 20- -- late 2014 or early
14 2015. So there's nine-months period, based on
15 law, for speedy trial. Otherwise, they violate --
16 that's a constitutional violation. So there's no
17 way they knew it.
18 It is a felony violation by anybody if
19 disclose information, and there's no way they
20 would know 2011 there was indictment. I don't
21 believe this email -- this information is real or
22 just a coverup act.
23 BY MR. CONLEY:
24 Q. Did you receive Defendant's Exhibit 4?
25 A. I don't remember how they sent to me.

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1 Q. They mailed it to your address on
2 [REDACTED]. In September 2011, were you
3 living at [REDACTED] in [REDACTED]
4 [REDACTED]?
5 A. I think I was separated long before
6 that. I live in [REDACTED].
7 Q. Is that your testimony, you weren't
8 living at that address then?
9 A. I believe so, because I was separated
10 three years before my divorce.
11 (Exhibit 5, 9/29/11 Letter to Dr. Dong
12 from MUSC, marked for identification.)
13 BY MR. CONLEY:
14 Q. This is Defendant's Exhibit 5,
15 Dr. Dong. Take a look this Exhibit 5, Dr. Dong.
16 A. Whatever they are, revision is not
17 without my signature and is not -- is violating,
18 but if they say revised, but I wouldn't even read
19 -- I have not seen it, but I don't even need to
20 read it.
21 Q. You have never seen Defendant's
22 Exhibit 5?
23 A. No.
24 Q. Well, it's attached to your lawsuit,
25 Dr. Dong.

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1 A. Sorry?
2 Q. That same document is Exhibit 2 to
3 your lawsuit. You have, obviously, seen it
4 before. You must have seen it back in at least
5 2014, when you filed your lawsuit.
6 A. It was attached to my lawsuit?
7 Q. Yes, sir, it is. If you look at the
8 complaint, it's attached to it as Exhibit 2.
9 A. That's already after the agreement
10 been breached. What's the benefit? What's the
11 fact they put it on --
12 Q. I'm only asking if you recall
13 receiving the document, Dr. Dong. You either do
14 or you don't.
15 A. I do not, actually.
16 Q. Would you at least look at your
17 complaint and agree with me that that's Exhibit 2
18 to your complaint? It looks like the same
19 document to me.
20 (The witness reviews the document, as
21 requested.)
22 THE WITNESS: Yes, I see it.
23 BY MR. CONLEY:
24 Q. You filed your lawsuit September 2014,
25 right?

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1 A. That late?
2 Q. Yes, sir. Look at the filing date on
3 it.
4 A. I think I don't -- I can't remember
5 how exactly. I don't remember seeing it. But
6 actually, I do -- I know Allan Holmes got some
7 documents from MUSC as well.
8 MR. CONLEY: Let's take a short break.
9 (A recess was taken.)
10 MR. CONLEY: I don't have anything
11 further.
12 (The deposition was concluded at 2:23
13 p.m.)
14 (The witness, after having been advised
15 of the right to read and sign this transcript,
16 does not waive that right.)
17
18
19
20
21
22
23
24
25

Page 146

1 CERTIFICATE OF REPORTER

2

3 I, Roxanne M. Easterwood, Registered

4 Professional Reporter and Notary Public for the

5 State of South Carolina at Large, do hereby

6 certify that the foregoing transcript is a true,

7 accurate, and complete record.

8 I further certify that I am neither

9 related to nor counsel for any party to the cause

10 pending or interested in the events thereof.

11 Witness my hand, I have hereunto

12 affixed my official seal this 18th day of October

13 2022 at Charleston, Charleston County, South

14 Carolina.

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Roxanne M. Easterwood, RPR
My Commission expires
February 1, 2025

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1 INDEX

2 Page Line

3 JIAN-YUN (JOHN) DONG, M.D., 3 3

4 Ph.D.

5 EXAMINATION 3 5

6 BY MR. CONLEY

7 CERTIFICATE OF REPORTER 146 1

8

9 REQUESTED INFORMATION INDEX

10 (No Information Requested)

11

12 EXHIBITS

13 Page Line

14 Exhibit 1, Civil Action, Dong 50 12

15 v. MUSC

16 Exhibit 2, 3/14/11 Letter to 136 25

17 Dr. Dong from MUSC

18 Exhibit 3, Email 139 4

19 Correspondence, re: Inventory

20 of Laboratory Material

21 Exhibit 4, 9/20/11 Letter to 141 8

22 Dr. Dong from MUSC

23 Exhibit 5, 9/29/11 Letter to 143 11

24 Dr. Dong from MUSC

25

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1 JIAN-YUN (JOHN) DONG, M.D., Ph.D. - Witness

2 johny.dong@me.com

3 October 27, 2022

4 RE: Dong, MD, Jian- Yun (John) v. The Medical University Of

5 South Carolina

6 10/18/2022, Jian-Yun John Dong (#5516370)

7 The above-referenced transcript is available for

8 review.

9 Within the applicable timeframe, the witness should

10 read the testimony to verify its accuracy. If there are

11 any changes, the witness should note those with the

12 reason, on the attached Errata Sheet.

13 The witness should sign the Acknowledgment of

14 Deponent and Errata and return to the deposing attorney.

15 Copies should be sent to all counsel, and to Veritext at

16 cs-southeast@veritext.com.

17 Return completed errata within 30 days from

18 receipt of testimony.

19 If the witness fails to do so within the time

20 allotted, the transcript may be used as if signed.

21

22 Yours,

23 Veritext Legal Solutions

24

25

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1 Dong, MD, Jian- Yun (John) v. The Medical University Of South

2 Carolina

3 Jian-Yun John Dong (#5516370)

4 BRRATA SHEET

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21 REASON

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24 Jian-Yun John Dong Date

25

Appendix Three:
Final Separation Agreement

A Final Separation Agreement between
The Medical University of South Carolina including its College of Medicine,
and Dr Jian-yun Dong, Professor of Microbiology and Immunology

This Final Separation Agreement between The Medical University of South Carolina including its College of Medicine (the "University"), and Jian-yun ("John") Dong, MD, PhD, ("Dr. Dong") Professor of Microbiology and Immunology, is entered into this 31 day of May, 2010.

By their entering into this final agreement, the University agrees that Dr Dong's compensated appointment as Professor of Microbiology and Immunology will continue through March 31, 2012. Dr. Dong agrees to withdraw any and all pending or future grievance(s) for actions prior to the date of this agreement (above) and agrees that this final separation constitutes full settlement of any and all past grievances or claims that Dr. Dong may have against the University, its employees and against any and all of its affiliated entities up to and including the date of this agreement.

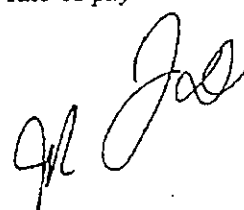
During the term of this final agreement, the University will continue Dr. Dong's employment, faculty appointment and make scheduled salary payments to him. In consideration, Dr. Dong acknowledges that this final agreement constitutes his irrevocable resignation of his tenured faculty appointment to be effective no later than March 31, 2012. Dr. Dong will retain his faculty appointment, tenure and title until the effective date of his resignation.

The University retains the right to provide him a modified, non-tenure faculty appointment and title after March 31, 2012, in light of any continuing mutual benefits that may accrue to the parties.

In his execution of this final separation agreement, Dr Dong understands that he is advised to seek legal advice before signing any final document, and shall have forty-five (45) days after the execution of the agreement to revoke it.

Payment of Faculty Compensation

The University will pay Dr. Dong his current level of monthly compensation through March 31, 2012. This amount will equal but not exceed his effective annual rate of pay (\$105,313.00/year) at November 1, 2009.



Retention of Faculty Appointment and Faculty Duties

The University agrees that Dr. Dong will retain his current appointment and rank through March 31, 2012. Dr. Dong's primary appointment will be in the Department of Biochemistry with a secondary appointment in the Department of Microbiology and Immunology. During this time he will receive annual evaluations and receive and respond to critical inputs and comply with reasonable faculty duties and requests. The University, in turn, acknowledges that Dr. Dong will work predominantly off site in the Charleston area and will travel for academic and commercial purposes.

Dr. Dong agrees to carry his customary share of teaching, lecturing and instructional responsibilities as assigned and communicated to him in writing by the chairman of each department.

During this period Dr. Dong may use the title "Director of Biotherapeutics and Vaccine Development."

Dr. Dong is free to seek academic and research collaborations, including secondary appointments, within MUSC during the remainder of this agreement. Dr. Dong may consult with Drs. Yusuf Hannun and James Norris regarding any proposed change of primary department. Any and all MUSC academic appointments are understood to be term limited, not to extend beyond March 31, 2012 or the date of his employment at another institution or company, whichever may come first.

Irrevocable Resignation effective no later than March 31, 2012

Dr. Dong agrees and commits to submitting an Irrevocable Letter of Resignation effective no later than March 31, 2012. He may submit this letter at any time. Should Dr. Dong accept fulltime employment, including a faculty appointment, at another institution or company prior to March 31, 2012, then the agreed upon payments and continuing appointment will cease at the time of his first day of paid employment. Dr. Dong may request the University's continuation of a modified, non-tenure appointment. The University retains the right to bestow upon him such appropriate title after that time in light of any continuing mutual benefits that may accrue to the parties.

Irrevocable Resignation under this agreement

Should Dr. Dong not elect to send a formal letter of resignation either upon assuming full-time employment at another institution or company or at the end of March 31, 2012, this agreement is recognized by Dr. Dong and the University as an irrevocable resignation effective the time of his first day of paid employment at another institution or March 31, 2012, whichever is sooner.



Access to Campus Research Laboratories and Resources

Dr. Dong agrees to relinquish his future use of approximately 700 sq. ft. of laboratory space after the listed equipment and materials (Inventory list is attached as Exhibit A) have been transferred to his new space. This allows the University to reassign space unused or underused for the needs of other researchers during a time of building renovations.

Dr. Dong must submit an additional list of Vector Core equipment items (to be attached as Exhibit B and approved by the University) he is requesting no later than 10 days after the date of entry into this agreement. The University intends to equip a temporary Vector Core facility in so far as the temporary relocation of that equipment does not disadvantage the grant funded research of other faculty members.

In lieu of rental payments for space in the GenPhar Building (once occupied), the University will waive the direct charging of Dr. Dong's salary to any grants or contracts he receives during the period of this agreement. The University will cost-share this expense in compliance with federal rules and regulations.

The University will continue to provide the customary fiscal support and oversight for research awards received through MUSC and the Division of Basic Science.

The University agrees to relocate at its expense the equipment listed in Exhibit A. It will also relocate at its expenses such Exhibit B equipment as it may evaluate from the remaining Vector Core equipment which can be temporarily relocated without jeopardizing other on-going funded faculty researchers. This includes equipment which Dr. Dong purchased from UCSF and for grants on which Dr. Dong was the named original PI as permitted by law and University policy to the GenPhar location, provided that all certificates of occupancy, governmental permits and insurance coverages are in place for that site. Other items purchased and owned by MUSC with Vector Core NIH and HCC funding shall remain on MUSC's campus, except as listed in Exhibit A, or in the approved Exhibit B request. All equipment shall remain within the MUSC property accounting system. Likewise, any equipment purchased through extramural grants written by Dr. Dong as the sole PI and which was in Dr. Dong's laboratory at the time of relocation to the 700 sf laboratory space (including listed freezers and refrigerators also located in nearby equipment rooms of CSB) shall be relocated to GenPhar in 30 days from the effective date.

Dr. Dong's access to campus facilities and to their use shall not be limited during his remaining years of appointment and employment. All normal laboratory policies and safety practices are to be followed by all faculty members and technicians, including Dr. Dong and his team. All parties acknowledge that this agreement does NOT supersede the University's normal laboratory policies and safety practices.



Equipment relocated to GenPhar under this agreement will be returned to the MUSC campus at the University's expense at the end of Dr. Dong's appointment, unless otherwise permitted by existing university policies and external sponsor policies and approvals.

Dr. Dong will transfer any research material including genetic materials, DNA constructs, viral and plasmid vectors, antibodies, and enzymes to Dr. Dong's new research location for his continued research, including the materials which were provided by Dr. Dong to the Vector Core for services while Dr. Dong was the Director. Any vectors provided to faculty members during the operation of the Vector Core will remain with the respective faculty members who acquired the product.

In recognition of his offer to perform Vector Core services from his off-campus location for the approximate twenty-three month interval above, the University will pay Dr. Dong a sum of \$30,000 directly from the Chairman's budget in the Department of Microbiology and Immunology, to be paid no later than day 50 following the signing of this agreement. These payments will enable him to perform Vector Core functions and to begin to replicate and to re-propagate vectors which have been lost.

At the direction of Dr. Yusuf Hannun, Mr. Scott Reid and Mr. Ronald Bycroft will attempt to locate any vectors or similar materials shared with other investigators for re-propagation by Dr. Dong and will attempt to locate written, enduring, hard-copy records which have been lost. This will occur in the 45 day window above. Any additional items located after that time of search will also be provided Dr. Dong.

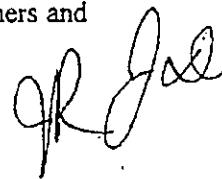
Active Grants at the Time of Resignation

The University agrees to relinquish any and all active, commercially funded research awards received by Dr. Dong to Dr. Dong as permitted by the sponsor upon his resignation. Active, federally funded research awards received will be relinquished directly back to the federal agencies as obligated in the award agreements.

Enduring grant materials, records, lab books and any other documentation required by law or University policy, will be secured, catalogued and maintained by MUSC, in the office of its General Counsel. Dr. Dong may make copies of his enduring grant materials, records, and lab books. Listed laboratory equipment and computers, printers may be released to Dr. Dong, only as permitted under existing university policies and guidelines.

MUSC will cover Dr. Dong's legal fees and other costs in this matter, through a second one-time payment of \$20,000, also to be made to Dr. Dong no later than day 50 following the signing of this agreement.

All parties enter this agreement in good faith and with respect for the intellectual property and scientific contributions of all current, past or future students, faculty researchers and university administrators.



The Parties have set their hand and seal this 3rd day of May 2010.

Medical University of South Carolina

Witness

By:


J.G. Reves, MD

Vice President for Medical Affairs
and Dean, College of Medicine

Witness

By:

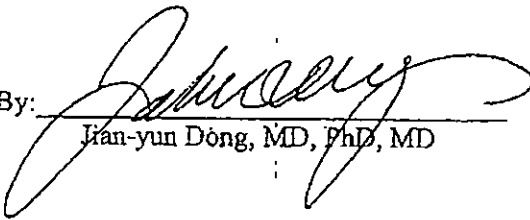

Jian-yun Dong, MD, PhD, MD

Exhibit A is to be attached and is to be initialed and dated by both parties.

Exhibit B to be provided by Dr. Dong no later than 10 after the signing of this agreement

Descriptions Inventory BSB 211 Lab	Funding	MUSC Tag #
Desk chairs 1 each	Startup	
Regulator in use on CO2 cylinder	No tags	
Epson scanner	No tags	
Compac computer	UCSF	
Igloo Cooler Blue and White	No tags	
Imac broken Two each	Startup	
Lamp for Luminator Mod vf15H	No tags	
Picker	Paddock	
Power Mac G5	GenPhar	
rotor buckets 3 each	No tags	
Two foot stools	No tags	
UVP Trans Luminator	Paddock	83009591
Apple Personnel Lazer Writer	No tags	
BRL Mod 250 Electrophoross systems	No tags	
Coming Stirrer PC-353	Arrigo	
Cylinder Regulator Gauges (3 each)	No tags	
Fisher FB 105 Electrophoross systems	No tags	
Fisher microprobe	No tags	
GCA Precision Water bath	No tags	
Imac and Keyboard and two mice	Startup	
Pipet-Aid Lot # 276	No tags	
Pipet-Aid Lot 221	Arrigo	
keyboards 4 and 4 mice	No tags	
Book cases Mahogany 72" high	Startup	
Fellows Shredder	Startup	
Two Book cases Mahogany each	Startup	
-86C ULT Freezer two door	Vector Core	83083054
Barnstead NanoPure-Diamond	Vector Core	83085260
Bell Stirrer	No tags	
Bio-Rad Biologic BioFrac Fraction collector	Vector Core	
Bio-Rad Bio-logic LP part of 31 above	Vector Core	
Boekel Microcooler	Paddock	83023135
Cryo Biological Storage System JR not in use	No tags	
Fisher Biotech Hybridization Incubator	Startup	
Fisher Dry Bath Incubator...	No tags	83075059
Fisher ISO temp 1250	Vector Core	
Fisher ISO temp 205	Vector Core	
Fisher Vortex Genie	No tags	
Fisher Vortex-gene	Paddock	
Forma Scientific -80 Freezer	UCSF	
Forma Water Jacketed Incubator	Startup	
G3 computer /keyboard/monitor	Startup	
Kenmore Chest Freezer Large	Dong NIH	
Kenmore Freezer	Dong NIH	
Kenmore Microwave Quiet touch	Dong NIH	
Kenmore Refrigerator/Freezer	Startup	
Kenmore under the counter refrigerator	UCSF	
Parameter Select SN 030	No tags	
Power Mac G4/monitor/keyboard	Startup	
VWR Under the counter refrigerator	UCSF	
Precision Water bath	UCSF	



3 drawer Lat file cabinet (HON)	No tags	
ALPS Printer and box of ribbins Mod 2300	No tags	
Amana Microwave Range	82027-01	
Apple I book	Genphar	83082919
Apple I book no battery	Genphar	
Apple monitor	Startup	
Bio-Rad Gene Pulser	Arrigo	83075041
BMG Fluostar with Dell computer	Vector Core	83072286
Boekel Microcooler	Paddock	83075052
Boekel Microcooler	Arrigo	83025050
Boi-Rad Trans Blot SD	No tags	
Branson 450 Sonofoer	UAB	
Camera connected to Scope above (HBO 100)	Vector Core	
Computer in Office	No tags	
Corning Stirrer/Hot Plate	UCSF	
Cryo Biological Storage System 6 Plus	Vector Core	
Cryo Biological Storage System 6 plus not in use	Startup	
Dell Computer & monitor 17"	No tags	
Dell monitor 24"	Genphar	
Deluxe Mixwe S8220	No tags	
Desk And Chair	Startup	
Eppendorf Centrifuge 5402	Paddock	83022926
Eppendorf Centrifuge 5415C	Paddock	83031565
Eppendorf Centrifuge 5415C	Arrigo	83031566
Eppendorf Centrifuge 5417C	Paddock	83056787
Eppendorf Centrifuge 5417R	Paddock	83052851
Eppendorf Easypet Pipette	Vector Core	
Eppendorf Easypet Pipette	UCSF	
Eppendorf pipette P10 =10 each	tor Core=3 Dong NIH=4	
Eppendorf pipette P100 = 1 each	No tags	
Eppendorf pipette P1000 =3 each	No tags	
Eppendorf pipette P20 =7 each	tor Core=5 Dong NIH=4	
Eppendorf pipette P200 = 5 each	vector Core=4	
Equathon Temp Blok	UCSF	
File Cabinet	Startup	
Finnpipette Digital 5-50 ul	UCSF	
Fisher Dry bath Incubator	Vector Core	
Fisher Electrophoresis Systems	UCSF	
Fisher ISO Temp	No tags	
Fisher ISO temp 125D	No tags	
Fisher Marathon 16 KM	vector core	
Fisher Mini Vortexer	UCSF	
Fisher PH Meter Mod AB15	UCSF	
Fisher Regular Mod 10-572-E	No tags	
Fisher Sterrer/ hotplate	UCSF	
Fisher Water bath 205	UCSF	
Fisher Waterbath	Vector Core	83075057
Fisher Waterbath 220	UCSF	
Forma Chest freezer (locked)	UCSF	
Forma Orbital Shaker	UCSF	
Forma Water Jacketed Incubator	Kalivas	
Fotodyne UV	No tags	

Gallen Kamp Orbital Incubator	Genphar	
General Electric Reader	No tags	
Harvard Trip Balance (2kg - 5 lb) two each	1=UCSF	
Hot Plate	Paddock	83075048
Hot Plate Nuova II	No tags	
HP 4050N printer	Startup	
IEC Centrx CL3R	Paddock	83073686
IEC HN-SII Centrifuge	UCSF	
IEC Micromax	UCSF	
IEC Micromax	No tags	83073687
IEC micromax	UCSF	
IMAC	Startup	83074995
IMAC	Startup	83075045
IMAC /keyboard	Startup	
Imac and Keyboard S/N YMO1112QJ88	Donation/26000	83075063
Kenmore 19 Freezer (locked)	Dong NIH	
Kenmore Chest Freezer small (1)	Dong NIH	
Kenmore Freezer Chest Small (2)	UCSF	
Kenmore microwave	Vector Core	
Kenmore Ref/freezer	No tags	
Kenmore Refrigerator / Freezer	No tags	
Kenmore Refrigerator/Freezer	No tags	
Kenmore refrigerator/Freezer 293	UCSF	
Kodak Carsusel 80	No tags	
MJ Research PTC-200 DNA Peltier Thermal Cycler	Vector Core	
OHAUS Balance	UCSF	
Olympus CK2 Microscope	Vector Core	83037762
Opti-Quip Mod 1200 power supply	Paddock	83075065
Orbital Shaker	Paddock	83075037
Panasonic Phone with Answering machine	No tags	
Perkin Elmer Gene AMP PCR system 2400	Paddock	83049405
Perkin Elmer Gene AMP PCR system 9600	Startup	83027077
Picker Reader	Paddock	
Pipet- Aid lot 205	Startup	
Pipet Aid Lot 205	TAL (Ken's)	
Pipet Aid pipette SN 35452	UCSF	
Pipet-Aid Sn # 21576	UCSF	
Pipetman pipette P10 = 1 each	No tags	
Pipetman Pipette P100 =1 each	No tags	
Pipetman Pipette P1000 = 9 each	No tags	
Pipetman Pipette P1000 = 9 each	No tags	
Pipetman Pipette P20 = 20 each	vector Core=3	
Pipetman Pipette P200 = 9 each	No tags	
Power PC & monitor plus old scanner and CD-Rom	Startup	
Power PC and 5 keyboards in a box	No tags	
Precision Standard Balance	Paddock	83031568
Precision Waterbath	Paddock	83075039
Precision Waterbath	Paddock	83075042
Precision Waterbath Mod 181	Paddock	83075047
Printer	Startup	
Safety Glass two pair	No tags	
Savant SpeedVAC SC100	Paddock	83075049



Sears Seal n Save	No tags	
Spenger	UCSF	
Steel Cart (Lake side Inc.)	No tags	
Stratagene RoboCycler 40	UCSF	
Survey Meter (Ludlum MD23)	UCSF	
Two Chairs	Startup	
Vortex	No tags	
Vortex-2 Genie	Arrigo	
Vtech phone base with three phones	GenPhar	
VWR 1230 Waterbath	UCSF	
VWR 50-200ul pipette	UCSF	
VWR Rocking Platform Mod 100	Vector Core	83075060
Wooden 6 shelf book case:	Startup	
Zeiss Microscope 200 and power supply	Vector Core	83082917
Zip 250 drive 3 each	Startup	



STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2016-CP-10-06683
	)	
Jian-Yun (John) Dong, M.D., Ph.D.,	)	
	)	
Plaintiff,	)	ORDER DENYING PLAINTIFF'S
	)	MOTION FOR AMENDMENT OF
vs.	)	ORDER GRANTING DEFENDANT'S
	)	MOTION FOR SUMMARY JUDGMENT
	)	
Medical University of South Carolina,	)	
	)	
Defendant.	)	
_____	)	

This matter is before the Court on Defendant Medical University of South Carolina's ("MUSC" or "Defendant") Motion for Summary Judgment (the "Motion"). In its Motion, MUSC asserted: 1) Plaintiff Jian-Yun (John) Dong, M.D., Ph.D. ("Dr. Dong") could not show MUSC breached a contract with him, 2) even if Dr. Dong could provide evidence of a breach, Dr. Dong could not present evidence of damages, and 3) Dr. Dong did not file his Complaint before the expiration of the applicable statute of limitations. Therefore, MUSC contended summary judgment was appropriate under Rule 56, SCRCP. This Court granted MUSC's Motion for Summary Judgment and entered an Order on July 17, 2023.

On July 28, 2023, Dr. Dong filed a Motion for Amendment of Order Granting Defendant's Summary Judgment. In his motion, Dr. Dong argues this Court should amend its Order Granting Summary Judgment in favor of MUSC for various reasons, including misinterpretation of the law and violation of due process, and requested a rehearing. MUSC filed their response on August 16, 2023 and Dr. Dong emailed a reply September 6, 2023.

For the reasons set forth below, the Court denies Dr. Dong's Motion for Amendment of Order Granting Defendant's Summary Judgment and his request for a rehearing.

RELEVANT FACTS

The relevant facts are stated in the Court’s Order Granting Summary Judgment in favor of MUSC entered on July 17, 2023.

LEGAL STANDARD

Rule 52(b) of the South Carolina Rules of Civil Procedure allows a party to file a motion for a court to “amend its findings or make additional findings and [] amend the judgment. . .” Further, the rule states the party must make the motion “not later than 10 days after receipt of written notice of entry of judgment” and “provide a copy of the motion to the judge within ten (10) days after filing the motion.”

LAW AND ANALYSIS

First, Rule 52(b) clearly provides the motion for amendment must be filed not later than 10 days after entry of written notice of judgment. This Court entered its Order Granting Summary of Judgment on June 17, 2023. Dr. Dong filed his Motion for Amendment of Order Granting Summary Judgment under Rule 52(b) on July 28, 2023. Dr. Dong’s Motion was filed a day late, given the deadline under the rules.

Regardless, the Court denies Dr. Dong’s Motion for Amendment based on the merits of his argument. In short, Dr. Dong fails to provide any new findings or evidence to persuade this Court to Amend its Order Granting Summary Judgment.

As the Court stated in its findings granting summary judgment in favor of MUSC, the Defendant met the burden imposed on it by Rule 56, SCRPC, and explained by Baughman v. Am. Tel. & Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991). Specifically, Baughman, states:

With respect to an issue upon which the nonmoving party bears the burden of proof, this initial responsibility “may be discharged by ‘showing’—that is, pointing out to the [trial] court—that there is an absence of evidence to support the nonmoving party's case.” *Celotex*

477 U.S. at 325, 106 S.Ct. at 2554, 91 L.Ed.2d at 275. The moving party need not “support its motion with affidavits or other similar materials negating the opponent's claim.” *Id.* at 323, 106 S.Ct. at 2553, 91 L.Ed.2d at 274. (Emphasis in original).

Id. at 306 S.C. at 115, 410 S.E.2d at 545. Dr. Dong failed to oppose MUSC’s Motion in any meaningful, sufficient manner, and Dr. Dong failed to meet the well-recognized requirements of Baughman and Rule 56, SCRCPP. Notably, as already explained in the Court’s Order Granting Summary Judgment, Dr. Dong provided no deposition transcripts, affidavits, documents or other admissible, material evidence in opposition to MUSC’s Motion.

“It is a fundamental rule that ‘if the plaintiff relies solely upon the pleadings, files no counter-affidavits, and makes no factual showing in opposition to a motion for summary judgment, the [trial] court is required under Rule 56, to grant summary judgment, if, under the facts presented by the defendant, he [it] was entitled to judgment as a matter of law.’” Higgins v. Medical University of South Carolina, 326 S.C. 592, 598, 486 S.E.2d 269, 272 (Ct. App. 1997) (quoting Humana Hospital-Bayside v. Lightle, 305 S.C. 214, 216, 407 S.E.2d 637, 638 (1991)). As a pro se litigant, Dr. Dong’s statements and argument at the hearing are not evidence in opposition to MUSC’s Motion. *See e.g.*, South Carolina Dept. of Transp. v. Thompson, 357 S.C. 101, 105, 590 S.E.2d 511, 513 (Ct. App. 2003) (recognizing “[a]rguments made by counsel are not evidence” and collecting other, similar cases).

Further, the Court directs the parties to its Order Granting Summary Judgment which states the findings of the Court and details how Dr. Dong failed to provide evidence and oppose MUSC’s Motion for Summary Judgment.

Last, the Court addresses Dr. Dong’s contention the Court violated his due process rights. When this Court was assigned jurisdiction of this matter, the only remaining discovery task was

the scheduling of depositions. The Court issued a detailed Scheduling Order¹ with deadlines for depositions, dispositive motions, mediation, and a trial date. Dr. Dong then noticed 13 depositions and then proceeded to cancel all of the depositions. Dr. Dong never rescheduled any depositions or offered any affidavit by his potential witnesses or himself addressing the facts of this matter as the Plaintiff. The only factual evidence was the deposition of Dr. Dong taken by the Defendant. Therefore, Dr. Dong failed to meet his obligation under Rule 56 for two main reasons. First, Dr. Dong failed to provide any factual evidence to oppose summary judgment as provided under Rule 56 and Baughman. Second, Dr. Dong failed to file his Complaint before the expiration of the applicable statute of limitations. Specifically, South Carolina law is clear the statute of limitations for a contract breach begins when the alleged breach first occurred. See Poly-Med, Inc. v. Novus Scientific PTE. LTD, 437 S.C. 343, 347, 878 S.E.2d 896, 898 (2022) (“The limitations period begins to run when a party knows or should know, through the exercise of due diligence, that a cause of action might exist”). Further Poly-Med concludes South Carolina does not recognize the continuing breach theory in applying the statute of limitations to breach of contract claims.

The parties entered into the agreement on May 3, 2010. Dr. Dong testified under oath in his deposition that MUSC first breached its agreement with him by failing to meet a contractual term of the agreement within a specified forty-five days after the parties had signed the contract. This would set the date of the first breach as June 17, 2010.² Three years from this date would be June 17, 2013. Dr. Dong of course contends that there were many other breaches that followed. But clearly his testimony under oath demonstrates that the first breach claimed, as reflected above, is June 17, 2010. Dr. Dong filed his complaint on September 2, 2014, which is well after the running of the 3-year statute of limitations.

¹ The Court entered the Scheduling Order on October 7, 2022.

² See Dong’s Dep. 94: 4-95:11.

Last, the Court has provided proper notice to Dr. Dong at all times. The Court has provided Dr. Dong with much leeway with his filings, requests for extensions of time, and scheduling hearings. At all times, Dr. Dong has been provided with the opportunity to be heard and has been provided sufficient notice.

CONCLUSION

For these reasons, the Court denies Dr. Dong's Motion for Amendment of Order Granting Defendant's Summary Judgment.

IT IS SO ORDERED.

[JUDGE'S E-SIGNATURE PAGE FOLLOWS]



Charleston Common Pleas

Case Caption: Jian Yun Dong M D , plaintiff, et al VS Medical University of South Carolina The

Case Number: 2016CP1006683

Type: Order/Other

So Ordered

Jean H. Toal

Electronically signed on 2023-09-22 09:30:21 page 6 of 6

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)

NINTH JUDICIAL CIRCUIT

JIAN-YUN (JOHN) DONG, M.D., Ph.D.,)

CASE NO.: 16-CP-10-06683

Plaintiff,)

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

vs.)

THE MEDICAL UNIVERSITY OF SOUTH
CAROLINA,)

Defendant.)

Plaintiff's Attorney:

John Dong, pro se, Bar No. _____

Address:

71 Delahow Street,
Charleston, SC 29492

Phone: 843-991-2332 Fax _____

E-mail: johny.dong@me.com Other: _____

Defendant's Attorney:

Bob J. Conley, Bar No. _____

Address:

171 Church Street, Suite 310
Charleston, SC 29401

Phone: 843-577-9626 Fax _____

E-mail: bconley@clevelandlaborlaw.com Other: _____

☒ **MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III)**

☐ **FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III)**

☐ **PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)**

SECTION I: Hearing Information

Nature of Motion: Motion to Amend Order under Rule 52(b)

Estimated Time Needed: 1 hour

Court Reporter Needed: ☐ YES ☒ NO

SECTION II: Motion/Order Type

☐ Written motion attached

☐ Form Motion/Order

I hereby move for relief or action by the court as set forth in the attached proposed order.

Signature of Attorney for ☒ Plaintiff / ☐ Defendant

July 27th, 2023

Date submitted

SECTION III: Motion Fee

☒ **PAID - AMOUNT: \$** _____

☐ **EXEMPT:**

(check reason)

☐ Rule to Show Cause in Child or Spousal Support

☐ Domestic Abuse or Abuse and Neglect

☐ Indigent Status ☐ State Agency v. Indigent Party

☐ Sexually Violent Predator Act ☐ Post-Conviction Relief

☐ Motion for Stay in Bankruptcy

☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP)

☐ Proposed order submitted at request of the court; or,
reduced to writing from motion made in open court per judge's instructions

Name of Court Reporter: _____

☐ Other: _____

JUDGE'S SECTION

☐ Motion Fee to be paid upon filing of the attached
order.

☐ Other: _____

JUDGE CODE _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ **MOTION FEE COLLECTED: \$** _____

☐ **CONTESTED - AMOUNT DUE: \$** _____

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)
John Dong, M.D., Ph.D.,)
– Plaintiff,)
v.)
The Medical University of South)
Carolina,)
– Defendant,)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-10-06683

**Motion for Amendment Order
Granting Defendant's
Summary Judgement**

2023 JUL 28 PM 4:00
JULIE J. WOOD
CLERK OF COURT
JP

Motion for Amendment under SCRCP 52(b)

Plaintiff, John Dong, appearing pro se, hereby respectfully submits this Motion for Amendment under South Carolina Rules of Civil Procedure (SCRCP) 52(b). Pursuant to SCRCP 52(b), this motion seeks an amendment to the order granting Defendant's Motion for Summary Judgement.

I. BACKGROUND

1. This case is about a Complaint filed by John Dong, M.D., Ph.D., the Plaintiff, against the Medical University of South Carolina (MUSC), the Defendant. The Complaint alleged, inter alia, that the Defendant breached a contract between Dr. Dong and MUSC after the chairman of the Department of Microbiology and Immunology, Dr. James Norris, illegally took over Dr. Dong's research operation, including the documents, protocols, technologies, grant funds, biological materials, and equipment for Dr. Norris' benefit. As a temporary solution to mitigate the damages done to Dr. Dong, Dr. Dong and MUSC reached an Agreement, which in

general, separates the conflicting parties in order to allow Dr. Dong to reinitiate his research off-campus at a company established by the Foundation for Research and Development of MUSC and to continue his rest academic activities on campus at MUSC. Among the major terms of the Agreement, MUSC is to return all of Dr. Dong's research assets taken by Norris and transfer Dr. Dong's assets to the Company for him to conduct his research. By breaching the Agreement, MUSC caused severe damage to Dr. Dong's career and financial being.

2. During the discovery, Dr. Dong faithfully answered Defendant's Request for Documents and Interrogatories. However, Defendant blocked Dr. Dong's discovery by not answering Dr. Dong's interrogatory and refusing to produce the requested documents.

3. The Court repeatedly denied Dr. Dong's Motion to Compel without citing an authority. Instead, the Court granted Defendant's motion to limit the scope of Dr. Dong's discovery to only communications from or to Dr. Dong, Dr. Lanier, and Dr. Mark Southmann within a narrow time window.

4. While the issue of limiting Dr. Dong's discovery was under litigation, the retired Justice, Hon. Jean Toal, was appointed as the judge overseeing the case.

5. At the first status hearing, Judge Toal announced that her mission was "to have a speedy resolution" of the case and that the "case will not go to trial." Judge Toal further denied Dr. Dong's motions related to the unlawful restrictions of

Dr. Dong's discovery, accepted the Defendant's proposed timeline, and signed a scheduling order written by the Defendant's attorney.

6. The scheduling order proscribed a short timeline and specifically ordered Dr. Dong to be deposed at the date requested by Defendant's attorney. However, it only allowed Dr. Dong to take depositions of MUSC witnesses when they were "willing and available." The scheduling order further required that the deposition be taken in the Defendant's attorney's office so that the Defendant's attorney had full control over how and when Dr. Dong could depose the witnesses.

7. After deposing Dr. Dong, the Defendant's attorney deployed a series of tactics to hamper Dr. Dong from deposing MUSC witnesses. Dr. Dong's discovery was further complicated by his health issues and other issues with a higher priority. Dr. Dong filed Motions to extend the discovery timeline or for a protective order. The Court denied all of Dr. Dong's motions based on the standard that the motion violated the scheduling order. In contrast, the Court granted numerous Motions for protective orders filed by the Defendant's attorneys for "prescheduled vacations," which took away many weeks from Dr. Dong's time for scheduling the deposition. As a result, Dr. Dong could not take the deposition of a single witness until the deadline arbitrarily set by the Court.

8. The Defendant immediately filed a motion for summary judgment. Judge Toal set the hearing date exactly 10 days thereafter, the minimum required

time before the hearing. However, Judge Toal did not give any consideration for the time required for Dr. Dong to file a response, for which the minimally required 10 days before the hearing also applies. In addition, the court did not give notice to Dr. Dong about the hearing.

9. Dr. Dong only found out about the hearing through an email sent by Defendant's attorney only days before the hearing. Dr. Dong rushed to file a response in opposition and a motion for continuance. However, Dr. Dong did not have time to prepare the memorandum in support of his response. Furthermore, Dr. Dong found out that the hearing date conflicted with his scheduled eye surgeries to remove his advanced-stage cataracts to restore his vision. Dr. Dong immediately filed a motion for a protective order.

10. Instead of granting Dr. Dong's motion for a protective order based on the good cause standard, judge toll indicated through an email that the motion would be denied unless Dr. Dong could provide the medical record to prove the surgeries when necessary. Judge Toal further accused Dr. Dong of scheduling his eye surgeries to delay the due process and threatened to take action if Dr. Dong continued to submit motions in conflict with the scheduling order.

11. Dr. Dong timely submitted the detailed medical record documenting his advanced cataract, and the pre-surgery examinations and the scheduling of his

surgeries were completed before Defendant filed its motion for summary judgment and the set hearing date.

12. Judge Toal did not make a formal ruling on Dr. Dong's Motion for a Protective Order, which would require the Judge to continue the hearing and allow additional time for Dr. Dong to submit his Memorandum supporting his opposition to summary judgment and prepare for the hearing. Instead, Judge Toal sent an email a few days before the requested recovery time ended. Judge Toal made lengthy extrajudicial comments on Dr. Dong's health conditions based on her misunderstanding of medicine, such as Dr. Dong's advanced stage of type II diabetes "was not insulin-dependent" and "there was no retinal abnormality" to reiterate her opinion that Dr. Dong planned his eye surgeries in order to delay justice. At the end of the email, Judge Toal informed Dr. Dong that the hearing date was reset to one day after the required surgery recovery time, and he must be present at the hearing. Therefore, Dr. Dong did not have time to complete his Memorandum and prepare for the hearing due to his difficulties in reading and writing during his the eye surgeries and recovery period.

13. At the hearing, the court granted the Defendant's motion for summary judgment despite the fact that Defendant failed to present any evidence to prove the lack of genuine issue of material fact. The court did not announce the legal or factual basis for this decision but requested the Defendant's attorney to draft the order.

14. Pursuing rule 56(f), Dr. Dong submitted the memorandum supporting his opposition to Defendant's motion for summary judgment and his affidavit and filed a Motion for Rehearing of Defendant's motion for summary judgment in light of the new findings.

15. The Court did not stay its order as required by Rule 52(c) and did not conduct a hearing on Dr. Dong's motion. The Court finally denied Dr. Dong's motion without the Defendant raising an opposition and issued the final order granting summary judgment as written by the Defendant's attorney.

II. LEGAL ARGUMENT

A. Standard of Review

Under SCRCP 52(b), this Honorable Court has the discretion to amend a final judgment to correct any error or oversight. Rule 52(b) states: "Upon motion of a party filed not later than 10 days after entry of judgment, the court may amend its findings or make additional findings and may amend the judgment accordingly." The purpose of this rule is to ensure that justice is served and to rectify any mistakes or omissions in the original judgment.

The courts have long established that it is imperative for the judiciary to faithfully interpret and apply the law as it is written. The role of a judge is not to

legislate from the bench or impose personal beliefs but rather to faithfully adhere to the text of the law and the intent of the legislature.

The Supreme Court of the United States has consistently emphasized: "The first and fundamental rule in the interpretation of statutes is to ascertain the intention of the legislature." *United States v. Detroit Timber & Lumber Co.* (1906).

The South Carolina Court of Appeals has underscored the significance of giving effect to the plain language of statutes. The Court stated that "when the statutory language is plain and unambiguous, there is no room for judicial construction or interpretation, and the court must apply the statute according to its literal meaning," and "the cardinal rule of statutory construction is to ascertain and effectuate the intention of the legislature." *State v. Smith*, 322 S.C. 225 (Ct. App. 1996); *First Union Nat'l Bank v. Soden*, 328 S.C. 525 (Ct. App. 1997).

B. Grounds for Amendment

1. Misinterpretation of Law:

The statute governs the summary judgment, SCRCP Rule 56 (c) states:

The [summary] judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law. (emphasis added)

The Two-pronged tests for summary judgment are that 1) the party seeking summary judgment must provide sufficient evidence, including depositions, answers to interrogatories, and admissions file, together with the affidavits; and 2) the evidence must prove there is no genuine issue as to any material facts.

In this case, Defendant failed both of these tests. First, Defendant produced no witness, deposition, interrogatories, admission, or affidavits to support its motion. Secondly, instead of showing no genuine issue of fact, Defendant raised two issues of facts as the basis for the summary judgment: if the facts support the statute of limitations and if Plaintiff provided sufficient evidence to prove the breach of the contract by Defendant. By definition, these issues are questions of material fact and must be determined by a jury.

Furthermore, there are numerous issues of material fact to be decided. Therefore, the Defendant's Motion for Summary did not meet the essential elements of the statutes.

Therefore, the Court granted the Defendant's Motion for Summary Judgement in violation of the statutes and therefore is invalid.

2. Violation of Due Process

The Supreme Court of the United States has long established:

“The essential elements of due process of law are notice and opportunity to defend.” *Simon v. Craft*, 21 S. Ct. 836 (1901).

"An elementary and fundamental requirement of due process in any proceeding which is to be accorded finality is notice reasonably calculated, under all the circumstances, to apprise interested parties of the pendency of the action and afford them an opportunity to present their objections." *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

Under these Commands, the Appellate Courts emphasized that "notice and an opportunity to be heard are the hallmarks of due process." See *Doe v. Chao*, 306 F.3d 170, 182 (4th Cir. 2002). Because of the Constitutional importance of insuring proper notice, courts will not forgive improper notice even where a party receives the actual notice, as The Supreme Court addressed in *Jones v. Flowers*, 126 S. Ct. 1708 (2006).

In this case, the Court violated Dr. Dong's due process rights by failing to provide proper notice and depriving his opportunity to be heard. Dr. Dong learned about the hearing date from an email sent by the Judge's law clerk. The email was sent three days before the hearing, which was set at only one day after his protected period due to eye surgeries. Therefore, Dr. Dong did not have time to complete his Memorandum in support of his Response in opposition to Defendant's Motion for summary judgment and Affidavit or be prepared for the hearing. Such "notice" by

email was legally and constitutionally insufficient, and without allowing Dr. Dong sufficient time to prepare for the hearing, thus deprived his due process right to be heard. Furthermore, Dr. Dong filed the motion for continuance pursuant to Rule 56(f) before the hearing and raised the motion at the hearing. The Court denied both motions without Defendant's opposition and without stating a legal or factual basis.

3. Pattern of Due Process Violation

SCRCF Rule 56(c) requires the party seeking summary judgment to prove with "pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits that there is no genuine issue as to any material fact."

Rule 56(f) specifically states:

"When Affidavits Are Unavailable. Should it appear from the affidavits of a party opposing the motion that he cannot for reasons stated present by affidavit facts essential to justify his opposition, the court may refuse the application for judgment or may order a continuance to permit affidavits to be obtained or depositions to be taken or discovery to be had or may make such order as is just."

At the hearing, despite the fact that Defendant failed its burden to prove the lack of genuine issues of fact, the Court joined the Defendant in arguing and criticizing Dr. Dong for not submitting an affidavit (It was because he was not allowed the time to complete his Memorandum and be prepared for the hearing.) and

granted the Defendant's motion for summary judgment without announcing its legal and factual bases in the open Court. Furthermore, the Court allowed the Defendant's attorney to write the order, in essence, giving the Defendant's attorney the authority to issue the order at will.

For these reasons alone, the Order violated the statutes governing summary judgment and Dr. Dong's right to due process.

Pursuant to Rule 56(f), Dr. Dong submitted his Memorandum in Support of his Opposition to Defendant's motion for summary judgment and an affidavit. Based on these newly submitted documents, Dr. Dong filed a Motion to Rehear the Defendant's motion for summary judgment and requested a hearing on the Motion.

Without the Defendant's opposition and a hearing, the Court denied the motion for rehearing on the same day of issuing the final order granting Defendant's summary judgment as word by word written by Defendant's attorney. Therefore, the Court erred in violation of the statutes and want of due process.

First, under Rule 52(c), a judgment is stayed once a party submits a motion to alter or amend a court's decision. In this instance, as well as in several similar instances previously, the Court did not stay its order and did

not conduct a hearing but denied Dr. Dong's motion. Therefore, the Court deprived Dr. Dong's due process right to be heard.

The Due Process Clause of the Fifth Amendment to the Constitution assures Dr. Dong's right to be heard. Depriving Dr. Dong's right to be heard is a structural error.

Second, the court and the judge are obligated to be fair and impartial and apply the law equally under the Constitution. Violation of such obligation removes the Court's legitimacy in adjudicating a case.

The Court is not a party and cannot raise a defense *sua sponte* for the Defendant. The Supreme Court of the United States have long established the principle: courts have the authority to grant unopposed motions when the opposing party fails to respond or does not raise any objections. The Court emphasized that the responsibility lies with the court to "take the consequences" and grant the unopposed motion if it is meritorious and supported by the applicable law. In *Link v. Wabash Railroad Co.*, 370 U.S. 626 (1962); "A motion unopposed and uncontroverted is ordinarily deemed to have been admitted and should be granted without delay." In *Smith v. Sperling*, 354 U.S. 91 (1957).

The South Carolina Court of Appeals held that when a motion is unopposed, it is considered admitted, and the court may grant the relief sought in the motion

without further proceedings. *Crowe v. AAA Constr. Co.*, 387 S.C. 183, 692 S.E.2d 542 (Ct. App. 2010).

The South Carolina Court of Appeals emphasized that when a motion is unopposed, it is deemed admitted and may be granted, provided it is supported by the law and facts. *Hanebrink v. Seale*, 534 S.E.2d 700 (S.C. Ct. App. 2000); also see *Spartanburg County v. Riddle*, 616 S.E.2d 415 (S.C. Ct. App. 2005), (Stating “unopposed motions may be granted without a formal hearing when the record sufficiently supports the requested relief.”)

When a party fails to raise a meaningful opposition, the Court has the authority to grant the unopposed motion because the fact and the argument presented are so overwhelmingly in favor of the moving party.

Therefore, this Court’s repeatedly denying Dr. Dong’s this and other motions without the Defendant’s opposition is an abuse of discretion and a breach of the Court’s constitutional obligation to be neutral and violated Dr. Dong’s rights to due process as assured by the Fifth Amendment to the Constitution.

III. PRAYER FOR RELIEF

In light of the foregoing, Plaintiff respectfully requests that this Honorable Court grants the following relief:

1. Grant the unopposed motion for rehearing based on the newly filed Memorandum supporting Plaintiff's Opposition to Defendant's Motion for Summary Judgement.

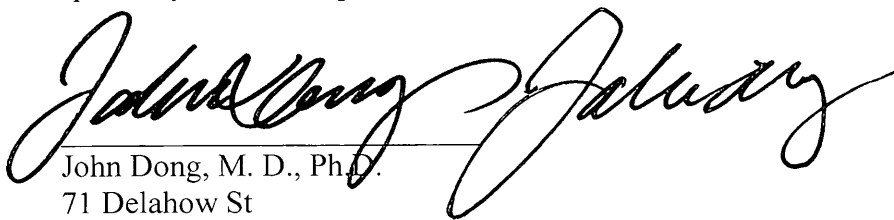
2. Alter and amend the order granting Defendant's Summary Judgement after the rehearing based on the law and the fact presented at the hearing to correct the errors and oversights identified in this motion;

IV. CONCLUSION

For the reasons stated above and in accordance with SCRCP 52(b), Plaintiff respectfully requests the honorable Court to alter and amend its Order granting Defendant's motion for summary judgment to correct the errors and oversights identified herein in the interest of justice.

July 27, 2023
Charleston, South Carolina

Respectfully submitted, pro se,



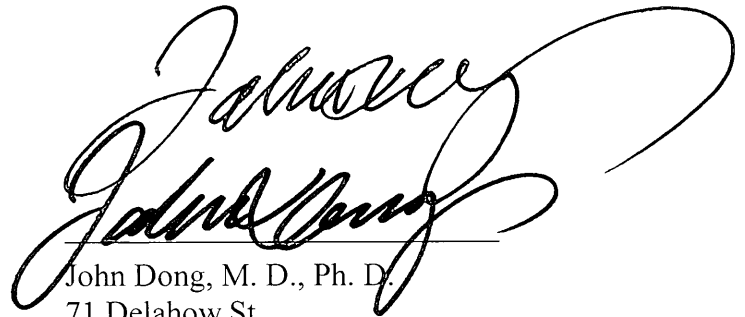
John Dong, M. D., Ph.D.
71 Delahow St
Charleston, SC 29492
Email: johnny.dong@gmail.com
Phone: 843-991-2332

Attachment: 1. Envelop used to sending Notice Entry dated on July 19th, and received on July 21, 2023
2. Notice of Entry of Order Denying Motion for Rehearing
3. Notice of Entry of Order Granting Summary Judgement

CERTIFICATE OF SERVICE

This is to certify that I have on this 27th day of July 2023, served a copy of the Plaintiff's Motion for Amendment Order Granting Motion for Summary Judgement under SCRCP 52(b) to the ECF system, which will notify all parties electronically. In addition, a copy of this motion is served via Email at bconley@clevelandlaborlaw.com and United States Mail Services addressed to the following:

Bob J. Conley, Esq.
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401



John Dong, M. D., Ph. D.
71 Delahow St
Charleston, SC 29492
Email: johnny.dong@gmail.com
Phone: 843-991-2332

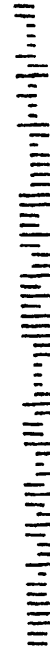
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CLERK OF COURT
JR

Exhibits

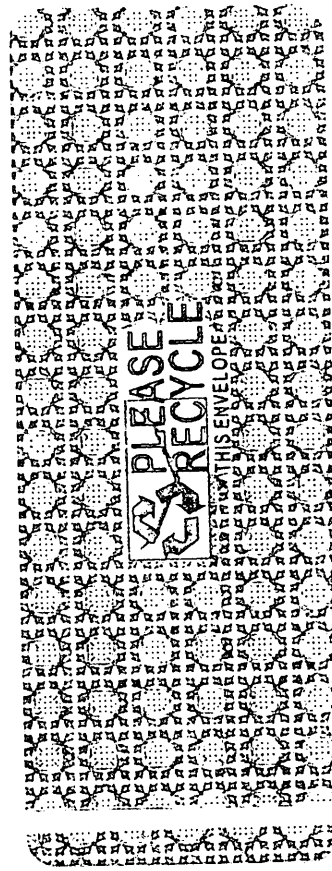
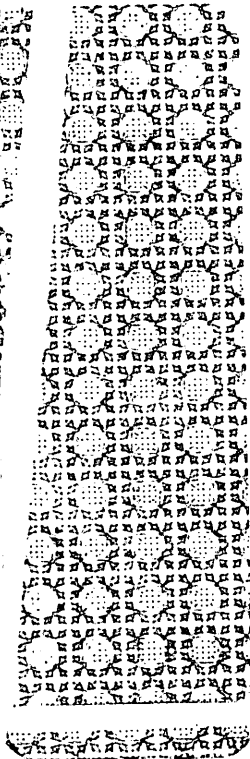
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Dong, John M D Ph D
71 Delahow St
Charleston, SC 29492

NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRCF

Order/Rehearing of Dfs Motion for Summary Judgment is Denied

CASE NO: 2016CP1006683

Jian Yun Dong M D , plaintiff, et al VS Medical University of South Carolina The

This judgment was entered on the 17th day of July, 2023, and notice mailed first class on Tuesday, July 18, 2023, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at <http://clerkofcourt.charlestoncounty.org> or obtain a copy in person at the Clerk of Court's Office during regular Charleston County business hours.

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78



DONG, JOHN M D PH D
71 DELAHOW ST
DANIEL ISLAND SC 29492-7957

NOTICE OF ENTRY OF JUDGMENT/ORDER PURSUANT TO RULE 77 SCRC

Order Granting Motion for Summary Judgment

CASE NO: 2016CP1006683

Jian Yun Dong M D , plaintiff, et al VS Medical University of South Carolina The

This judgment was entered on the 17th day of July, 2023, and notice mailed first class on Tuesday, July 18, 2023, to all counsel of record and/or all parties entitled to receive notice.

You may view and download this document at <http://clerkofcourt.charlestoncounty.org> or obtain a copy in person at the Clerk of Court's Office during regular Charleston County business hours.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2016-CP-10-06683
	)	
Jian-Yun (John) Dong, M.D., Ph.D.,	)	
	)	
Plaintiff,	)	DEFENDANT MEDICAL UNIVERSITY
	)	OF SOUTH CAROLINA'S
vs.	)	RESPONSE TO PLAINTIFF'S MOTION
	)	TO AMEND
Medical University of South Carolina,	)	
	)	
Defendant.	)	
_____	)	

RESPONSE

Plaintiff Jian-Yun (John) Dong, M.D., Ph.D. ("Dr. Dong"), pursuant to Rule 52(b) of the South Carolina Rules of Civil Procedure, filed his "Motion for Amendment Order Granting Defendant's Summary Judgement" (the "Motion") and moved for an order amending the Court's order granting summary judgment dated July 17, 2023, and entered by the Court on July 17, 2023 (the "Order").¹ Dr. Dong and Defendant Medical University of South Carolina ("MUSC") received written notice of entry of the Order on July 17, 2023, by email from the Court.²

In the Motion, Dr. Dong contends the Court misinterpreted the law, violated due process, and engaged in a pattern of due process violations. Consequently, Dr. Dong asserts the Court should amend the Order in the following manner: 1) conduct a hearing and consider arguments asserted by Dr. Dong in his Memorandum Supporting Plaintiff's Opposition to Defendant's Motion for Summary Judgement; and 2) amend the Order after a rehearing.

¹ Exhibit A.

² Exhibits A and B.

LEGAL STANDARD

South Carolina Rule of Civil Procedure 52(b) allows a party “not later than 10 days after receipt of written notice of entry of judgment” to request the court “amend its findings or make additional findings and may amend the judgment accordingly . . .” Rule 52(b), SCRPC, further requires “[a] party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after filing the motion.”

ARGUMENT

I. Dr. Dong’s Motion is Untimely.

Dr. Dong and MUSC received the Order on July 17, 2023, by email from the Court.³ Thereafter, Dr. Dong filed the Motion on July 28, 2023.⁴ According to the certificate of service attached to the Motion, Dr. Dong served the Motion on MUSC’s counsel by email and regular mail on July 27, 2023.⁵

MUSC’s counsel received notice of the filing of the Motion on July 28, 2023.⁶ However, MUSC’s counsel did not receive the Motion by either email or regular mail as shown on the certificate of service attached to the Motion.⁷ Consequently, Dr. Dong failed to file or serve the

³ Exhibits A and B.

⁴ Exhibit C.

⁵ Exhibit C.

⁶ Exhibit D.

⁷ If, consistent with the certificate of service, Dr. Dong sent an email to MUSC’s counsel on July 27, 2023, attaching the Motion, Dr. Dong should file and submit the email to the Court for review and consideration in support of his Motion and for the record. Additionally, if Dr. Dong mailed the Motion to MUSC’s counsel on July 27, 2023, as indicated on the certificate of service, MUSC requests the Court require Dr. Dong submit an affidavit containing the particulars of when and from where he mailed the Motion to MUSC’s counsel on July 27, 2023. MUSC request the Court require Dr. Dong provide such particulars by way of an affidavit and otherwise because the certificate of service is incorrect in at least one material respect: Dr. Dong did not serve a copy to

Motion on or before July 27, 2023, resulting in the Motion being untimely because Dr. Dong did not “make” – he neither filed nor served – the Motion within ten days of July 17, 2023. To the contrary, Dr. Dong did not file, and no notification of the Motion was received by counsel for MUSC, until July 28, 2023 - eleven days after July 17, 2023.

Rule 52(b), SCRCP, states “[u]pon motion of a party *made* not later than 10 days after receipt of written notice of entry of judgment the Court may amend its findings or make additional findings and may amend the judgment accordingly . . .” (emphasis added.) It is indisputable Dr. Dong received “written notice of entry of” the Order (i.e., a “judgment”) on July 17, 2023.⁸ Notably, on July 17, 2023, Dr. Dong responded to the email from the Court containing the filed Order, thereby confirming his receipt of the Order on that day.⁹ Nonetheless, Dr. Dong did not file or serve the Motion within ten days of July 17, 2023.

The Court’s July 17, 2023, email to the parties attaching the Order constitutes “receipt of written notice of entry of judgment [the Order] . . .” Rule 52(b), SCRCP. *See* Rule 77(d), SCRCP (requiring service of the notice of the entry of a judgment or order by “first class mail” but stating such “mailing . . . shall not be necessary to parties who have already received notice”); Rule 59(e), SCRCP (stating a motion to alter or amend judgment under Rule 59 must be served not later than ten days after “receipt of written notice of the entry of the order.”); *Rosen, Rosen & Hagood v.*

the “ECF system, which will notify all parties electronically” on July 27, 2023, because, according to the stamp on the Motion, including the certificate of service, he did not file the Motion with the Charleston County Clerk of Court until 4:31 p.m. on July 28, 2023. Counsel for MUSC received notification of the filing at or about 4:35 p.m. on July 28, 2023. (Exhibit E.) Moreover, the current South Carolina Electronic Filing Policies and Guidelines only allow attorneys to act as authorized electronic filers. *See In re S.C. Elec. Filing Pol’ys & Guidelines (SCEF)*, Section 4, 415 S.C. 1, 7–8, 780 S.E.2d 600, 603 (2015).

⁸ Exhibits A and B.

⁹ Exhibit B.

Hiller, 307 S.C. 331, 334, 415 S.E.2d 117, 118 (Ct. App. 1992) (recognizing notice from the clerk under Rule 77, SCRCF, is not required where a party otherwise has notice of the order or judgment). *See also, e.g., Wells Fargo Bank, N.A. v. Fallon Properties South Carolina, LLC*, 422 S.C. 211, 217, 810 S.E.2d 856, 859 (2018) (holding an email may constitute “written notice of entry of the order or judgment” under Rule 203(b)(1), SCACR.)

In summary, Dr. Dong neither filed nor served the Motion on or before July 27, 2023. For the reasons discussed, Dr. Dong’s Motion is untimely and the Court should deny the Motion for this reason alone.

II. The Court Did Not Misinterpret Summary Judgment Law Applicable to Dr. Dong’s Sole Cause of Action for Breach of Contract.

A. Summary Judgment Standard.

Dr. Dong contends the Court misapplied Rule 56, SCRCF, for two reasons. First, Dr. Dong asserts MUSC failed to provide witnesses, depositions, interrogatories, admissions, or affidavits to support MUSC’s Motion for Summary Judgment. Second, Dr. Dong contends the evidence (i.e., Dr. Dong’s deposition testimony and the contract) MUSC provided to the Court, and that the Court relied upon for the Order, failed to show no genuine issue of material fact exists.

Dr. Dong’s assertions are incorrect for several reasons. First, it is indisputable MUSC provided evidence in support of its Motion for Summary Judgment. Most notably, MUSC provided the Court with Dr. Dong’s deposition testimony and the contract. Moreover, to the extent either party failed to provide the Court with deposition testimony, affidavits, interrogatory responses, or responses to requests for admission, it is Dr. Dong who failed to provide the Court with such materials in opposition to MUSC’s Motion for Summary Judgment.

Second, Dr. Dong misconstrues and misunderstands Rule 56, SCRCF. The purpose of summary judgment is to expedite disposition of cases that do not require the services of a fact

finder. Dawkins v. Fields, 354 S.C. 58, 69, 580 S.E.2d 433, 438 (2003). Summary judgment is proper where there is no genuine issue as to any material fact and MUSC is entitled to judgment as a matter of law. Id. Granted, in determining whether summary judgment is appropriate, the evidence must be viewed in the light most favorable to Dr. Dong. Id. Moreover, MUSC has the initial responsibility of demonstrating the absence of a genuine issue of material fact. Baughman v. Am. Tel. & Tel. Co., 306 S.C. 101, 115, 410 S.E.2d 537, 545 (1991).

However, what Dr. Dong gets wrong, and, more important, failed to do regarding his burden at summary judgment, is the following: “[w]ith respect to an issue on which the nonmoving party [Dr. Dong] bears the burden of proof, this initial responsibility [of MUSC] may be discharged by ‘showing’ – that is, pointing out to the [trial] court – that there is absence of evidence to support the non-moving party’s case.” Baughman at 115, 410 S.E.2d at 544 (*quoting Celotex Corporation v. Catrett*, 477 U.S. 317, 325 (1986)). In that case, the “moving party [MUSC] need not ‘support its motion with affidavits or other similar materials *negating* the opponent’s claim.’” Id. (*quoting Celotex*, 477 U.S. at 323) (emphasis in original). “Once the moving party [MUSC] has carried its initial burden, the opposing party [Dr. Dong] must . . . ‘do more than simply show that there is some metaphysical doubt as to the material facts,’ and ‘must come forward with ‘specific facts [in the form of admissible evidence (i.e., deposition testimony, affidavits, etc.)] showing there is a genuine issue for trial.’” Id. (*quoting Matsushita Electrical Ind. Co. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87(1986)).

In summary, Dr. Dong failed to meet his burden at summary judgment, and Dr. Dong’s own testimony, along with the unambiguous contract, provided the Court more than sufficient reason for the Court’s Order. For this reason, the Court should deny Dr. Dong’s Motion.

III. The Court Did Not Violate Dr. Dong's Due Process Rights.

Due process requires that no person shall be deprived of life, liberty, or property without due process of law. U.S. Const. amend. XIV, § 1; S.C. Const. art. I, § 3. In his Motion, Dr. Dong contends the Court violated his due process rights in the following respects: 1) failing to provide proper notice of the summary judgment hearing held on May 26, 2023; 2) otherwise depriving Dr. Dong of an opportunity to be heard regarding MUSC's Motion for Summary Judgment. Dr. Dong's contentions are unsupportable.

First, Dr. Dong contends he first "learned about the [summary judgment] hearing date [May 26, 2023] from an email sent by the Judge's law clerk" sent "three days before the hearing, which was sent at only one day after his protected period due to eye surgery." However, an email was sent to Dr. Dong on May 5, 2023, regarding the hearing, and Dr. Dong acknowledges receiving the email.¹⁰ Consequently, Dr. Dong was notified of the hearing no later than May 5, 2023. Dr. Dong's contention otherwise is inconsistent with the record.

Second, Dr. Dong contends the Court deprived him of an opportunity to be heard regarding MUSC's Motion for Summary Judgment. A review of the record shows this contention by Dr. Dong is wrong. For example, the Court extended Dr. Dong's time to respond to MUSC's Motion for Summary Judgment from the deadline in the Scheduling Order, April 21, 2023, to May 1, 2023.¹¹ Moreover, Dr. Dong attended a hearing regarding MUSC's Motion for Summary Judgment; a hearing that lasted several hours, including considerable time for Dr. Dong to present argument to the Court. Additionally, the Court provided Dr. Dong with time to respond to and

¹⁰ Exhibits E and F. Additionally, on May 9, 2023, MUSC's counsel mailed the Notice of Trial and Notice of Hearing to Dr. Dong. (Exhibit G.)

¹¹ Exhibit H.

comment upon the proposed order granting MUSC summary judgment that MUSC's counsel prepared and submitted to the Court. Finally, Dr. Dong was provided time to provide, and did provide, this Motion.

For these reasons, the Court did not deny Dr. Dong due process and Dr. Dong was provided, and took advantage of, the multiple avenues the Court and the South Carolina Rules of Civil Procedure provided him an opportunity to be heard regarding MUSC's Motion for Summary Judgment.

IV. The Court Did Not Engage in a Pattern of Due Process Violations.

Dr. Dong asserts the Court engaged in a pattern of due process violations in the following respects: 1) "joined the Defendant in arguing and criticizing Dr. Dong for not submitting an affidavit;" 2) "granted the Defendant's motion for summary judgment without announcing its legal and factual bases in the open Court;" (emphasis in original) 3) "allowed the Defendant's attorney to write the order, in essence, giving the Defendant's attorney the authority to issue the order at will;" 4) "[w]ithout the Defendant's opposition and a hearing, the Court denied the motion for rehearing on the same day of issuing the final order granting Defendant's summary judgment as word by word written by Defendant's attorney;" 5) "the Court did not stay its order [the Order] and did not conduct an hearing but denied Dr. Dong's motion [Motion for Rehearing on Plaintiff's Response in Opposition to Defendant's Motion for Summary Judgment];" and 6) "repeatedly denying Dr. Dong's this and other motions without the Defendant's opposition."

A. Alleged Criticism for Failure to Provide an Affidavit in Opposition to MUSC's Summary Judgment Motion.

The record of the hearing held on May 26, 2023, will show both counsel for MUSC and the Court discussed and noted Dr. Dong's failure to provide an affidavit, or other admissible evidence, in opposition to MUSC's Motion for Summary Judgment. However, to the extent any

discussion of the issue on the record could be labeled as criticism of Dr. Dong, it does not constitute a violation of due process because any such discussion, regardless how it might be labeled or characterized, did not deprive Dr. Dong of due process (i.e., the right to be heard). To the contrary, any discussion of Dr. Dong's failure to provide an affidavit was part of the due process Dr. Dong was provided by way of a lengthy hearing regarding MUSC's Motion for Summary Judgment.

B. Failure of Court to Announce at the Summary Judgment Hearing the Legal or Factual Basis for Granting MUSC Summary Judgment.

The South Carolina Rules of Civil Procedure did not require the Court state either the legal or factual basis for granting MUSC summary judgment at the conclusion of the hearing on May 26, 2023. Notably, according to Rule 52(a), SCRPC, the Court was not required to provide findings of fact or conclusions of law in the Order, including at the conclusion of the May 26, 2023, hearing. Rule 52(a), SCRPC ("Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 and 56 or any other motion except as provided in Rule 41(b)."). See Woodson v. DLI Properties, LLC, 406 S.C. 517, 526-27, 753 S.E.2d 428, 433 (2014) (recognizing the language of Rule 52(a), SCRPC, and holding "findings and conclusions" in a summary judgment order "are not required for appellate review. . .").

C. Allowing Counsel for MUSC to Prepare and Submit a Proposed Order Granting MUSC Summary Judgment.

Although Dr. Dong, as pro se litigant, may not be aware, it is commonplace and routine for the South Carolina circuit courts in civil actions to request the prevailing party on a motion to draft a proposed order for the Court's review, consideration and, most notably, modification. The Court's directive that MUSC's counsel provide the Court with a draft, proposed order is consistent with the common, routine practice in South Carolina circuit courts.

Moreover, the Court allowed Dr. Dong twenty-four days to submit his response, contentions or objections to the proposed order prepared by MUSC's counsel, and Dr. Dong did respond on June 27, 2023, by filing the following: Motion for Rehearing on Plaintiff's Response in Opposition to Defendant's Motion for Summary Judgment ("Motion for Rehearing") and Plaintiff's Memorandum in Support of His Opposition to Summary Judgment.¹² Finally, the Order does not mirror the proposed order provided to the Court by MUSC's counsel. To the contrary, the Court made its own substantive modifications to the Order before signing and filing it.¹³

D. Denying Dr. Dong's Motion for Rehearing.

Dr. Dong disagreed with the Court denying his Motion for Rehearing. However, disagreeing the Court's ruling does not equate to a denial of due process (i.e., the right to be heard). The Court provided Dr. Dong with due process – the process required by the South Carolina Rules of Civil Procedure and the South Carolina Supreme Court's Order: Operation of the Trial Courts During the Coronavirus Emergency (As Amended effective February 4, 2022) (the "Coronavirus Order") - with respect to his Motion for Rehearing. Neither the South Carolina Rules of Civil Procedure nor the Coronavirus Order required the Court hold a hearing as to Dr. Dong's Motion for Rehearing or required MUSC file a response to the Motion for Rehearing.

E. Denying Dr. Dong's Motion for Rehearing Without Holding a Hearing.

Pursuant to the Coronavirus Order, Section (d), the Court was not required to hold a hearing.

¹² The Court originally gave Dr. Dong fourteen days to comment on or respond to MUSC's proposed order. However, the Court later extended Dr. Dong's time to comment or respond by ten days. Exhibit I.

¹³ Compare Exhibit J to the Order.

F. Denying Dr. Dong's Motion for Rehearing, and Other Motions, Without Opposition Filed by MUSC.

Dr. Dong cites the following South Carolina cases for his contention that an unopposed motion is admitted and must be granted by the Court: Crowe v. AAA Construction Co., 387 S.C. 183, 692 S.E.2d 542 (Ct. App. 2010); Hanebrink v. Seale, 534 S.E.2d 700 (Ct. App. 2000); and Spartanburg County v. Riddle, 616 S.E.2d 415 (Ct. App. 2005). However, as an initial issue, a search for these cases using both the case names and the case citations indicates no such cases exist, or at least not with the case names and citations cited in the Motion.¹⁴

Regardless of any issues pertaining to the legal support for his assertion, Dr. Dong's contention is wrong. For example, as noted above, under Section (d) of the Coronavirus Order, the Court was not required to hold hearings. Moreover, Section (d) of the Coronavirus Order allows the Court to rule on a motion "without waiting for a return or other response from the opposing party" when the Court "determines the motion is without merit."

V. General Inaccuracies in Dr. Dong's Motion.

Although neither bearing directly on Dr. Dong's Motion nor MUSC's response to the Motion, Dr. Dong's Motion contains various inaccurate statements and contentions, in addition to the inaccuracies previously discussed above, and it is important to draw the Court's attention to some of the other, general inaccuracies in Dr. Dong's Motion. Some of the various inaccuracies, by way of example only, are briefly addressed below.

¹⁴ The quoted language in the parenthetical cited by Dr. Dong regarding Spartanburg County does not seem to appear in any reported, or unreported, South Carolina appellate case. Because Dr. Dong is a pro se litigant, he may have mis-cited the cases inadvertently due to a lack of understanding proper case citation. However, in their current citation form, counsel for MUSC could not locate the listed cases.

A. MUSC Filed Its Summary Judgment Motion Immediately After the Close of Discovery.

The Scheduling Order required each party complete depositions no later than February 28, 2023. Thereafter, and consistent with the Scheduling Order, MUSC filed its Motion for Summary Judgment on March 31, 2023. To the extent Dr. Dong contends there was some error regarding the timing of MUSC's Motion for Summary Judgment, Dr. Dong's contentions are misplaced and wrong.

B. The Court Set the Hearing Date for MUSC's Motion for Summary Judgment for Ten Days After Filing.

Like other allegations in Dr. Dong's Motion, this assertion is inaccurate. Consistent with the Scheduling Order, MUSC filed and served its Motion for Summary Judgment on March 31, 2023. The Scheduling Order allowed Dr. Dong until April 21, 2023, to file a response, and the Court extended the time for Dr. Dong to respond until May 1, 2023.¹⁵

Although the Scheduling Order allowed the Court to schedule a hearing regarding MUSC's Motion for Summary Judgment on or after April 27, 2023, the hearing did not occur until May 26, 2023. Dr. Dong's assertion in this Motion is inconsistent with the Scheduling Order and, more notable, inconsistent with the sequence of events reflected in the record.

C. Dr. Dong Did Not Receive Notice of the Initial Date for the Summary Judgment Hearing.

See Section III above.

D. Scheduling Order Contained a Short Time to Conduct Discovery.

The Scheduling Order shows this contention is wrong. Dr. Dong was provided with almost five months to take depositions, the only discovery allowed by the Scheduling Order. However, Dr. Dong did not take depositions.

¹⁵ Exhibit H.

E. Scheduling Order Restricted Dr. Dong's Ability to Take Depositions.

A review of the Scheduling Order demonstrates this assertion is inaccurate. Other than requiring Dr. Dong to take depositions of current MUSC employees at MUSC's counsel's office, no other restrictions were imposed, other than those requirements, restrictions and limitations contained in South Carolina Rules of Civil Procedure that apply to all civil lawsuits.

F. MUSC's Counsel Interfered with Dr. Dong Taking Depositions.

Exhibits K through P, generally, show MUSC's counsel did not interfere with Dr. Dong taking depositions. To the contrary, Dr. Dong's failure to take depositions was his decision.¹⁶

1. MUSC's Counsel Used Tactics to "Hamper" Dr. Dong.

Contrary to Dr. Dong's assertions in his Motion, Dr. Dong's failure to take depositions was by his choice and not the result of some "tactic" used by MUSC's counsel that deprived Dr. Dong of adequate time. This allegation by Dr. Dong is an example of Dr. Dong making allegations that are inconsistent with the record.

2. MUSC's Counsel's Protective Orders Deprived Dr. Dong of Adequate Time to Take Depositions.

Like other allegations in Dr. Dong's Motion, this allegation is wrong. On Tuesday, October 4, 2022, the Court held a status conference and, thereafter, on October 7, 2022, issued the Scheduling Order. The Scheduling Order required depositions be completed no later than Tuesday, February 28, 2023.

Between October 7, 2022, and February 28, 2023, Dr. Dong did not take a deposition. More notable as to Dr. Dong's allegation of interference is that during the same time, MUSC's counsel

¹⁶ On January 5, 2023, in response to an email from counsel for MUSC regarding rescheduling depositions of MUSC employees, Dr. Dong stated the following: "Please give me a a [sic] couple of days to look into my schedule in February. Thanks for the follow up." (Exhibit P.) However, there is no record of Dr. Dong making subsequent requests to MUSC's counsel to reschedule depositions.

neither requested nor obtained protection from the Court. To the contrary, since October 7, 2022, MUSC's counsel requested and received court protection on a single occasion, for the period of March 27, 2023, through April 12, 2023; protection that did not begin until almost 30 days after the time to take depositions expired. Consequently, based on the record, it is inaccurate that protection granted to MUSC's counsel interfered with Dr. Dong taking depositions.

CONCLUSION

For all the noted reasons, MUSC requests the Court deny Dr. Dong's Motion.

s/Bob J. Conley
Bob J. Conley
CLEVELAND & CONLEY, LLC
171 Church Street, Suite 310
Charleston, South Carolina 29401
Telephone: (843) 577-9626
bconley@clevelandlaborlaw.com

ATTORNEY FOR DEFENDANT

August 16, 2023
Charleston, South Carolina

CERTIFICATE OF SERVICE

This is to certify that on August 16, 2023, I caused to be served a copy of Defendant Medical University of South Carolina's Memorandum in Support of Motion for Summary Judgment by regular mail and by email, addressed as follows:

Jian-Yun Dong, M.D., Ph.D.
71 Delahow Street
Daniel Island, SC 29492
johny.dong@gmail.com
johny.dong@me.com

s/ Mark Dundervill
Mark Dundervill
Paralegal

Email is not considered by courts as proper notice. Therefore, neither the email from judge's clerk nor the one from defendant's attorney served as proper notice. Dr. Dong received the court notice at a much later time than July 17. Dr. Dong completed and dated his motion on the 27th, instead of mailing it that would take 2 to 3 days for the court to enter into the ECF, Dr. Dong hand-delivered a copy to the court and entered into the ECF on the 28th. Based on the legal standard, the motion was filed on the 27th.

Even to assume, were the defendant's attorney's claim correct, but it is not; email sent by the judge's clerk were a proper notice; were a per se litigant not entitled to the extra mailing time, from July 17 to July 28 are exactly 10 days which is strictly within the timeline provided by the statute. Therefore, the Attorney's claim that Dr. Dong did not file or serve the motion within 10 days of July 17, 2023, is patently false.

The remainder of the defendant's argument is also meritless. Because defendant's attorney has access to the courts electronic filing system, the proper notice he receives is the electronic notification sent by the court electronically, no written notice is required. However, for a party who has no access to the electronic filing system, the only proper notice is a copy of the written notice sent by the court using "first class mail" of the United States Postal Service.

Here, the defendant's attorney attempts to mislead the court by first claiming July 28 is 11 days after July 17; second, claiming Defendant was not properly noticed because Dr. Dong did not mail a written notice to the defendant after filing the motion; thirdly, claiming email to a party who does not have access to the ECF system serves as proper notice and “the written notice sent by court shall not be necessary to parties who have already received notice.”

In contrary, this argument is self-defeating because the attorney received proper notice from the court through the CF system; Dr. Dong should be noticed with “a written copy sent by court through first-class mail” as required by law. (Because the nature of email, such as easily lost, caught in filters, modifiable, and automatically deleted by the server after a period, it has never be legally recognized as a proper notice.)

Therefore, Defendant’s argument that Dr. Dong’s motion is untimely fails.

II. The Defendant’s Response is untimely as statutorily prescribed.

The Defendant did not file a Response withing the statutorily prescribed 10-day limit and did not file a motion for extension of time based on good cause. Thefefer, Dr. Dong’s motion should be granted as unopposed motion under the standard established by the United State Supreme Court and the South Carolina Court of Appeals. See Dr. Dong’s Motion for argument and citations. Here, Dr. Dong also adopts Defendant’s argument as its admission that Defendant, who is

represented by attorney, did not file a timely response within the 10-day limitation prescribed by the Rules. The Defendant has abandoned its procedural right to file a response, and the Court does not have the jurisdiction to grant a response that is filed outside the statutory limitation or the authority to grant Defendant a second chance to file the response outside the statutory limit. (The Court erroneously granted defendant extra time *sua sponte* and without the Defendant filing a motion for extension prior to the deadline.) Therefore, the Defendant's Response is untimely, and Dr. Dong's motion should be granted as unopposed motion under the authority established by the Supreme Court of the United States and the South Carolina Court of Appeals. See motion for argument and citations.

III. Defendant's response is unresponsive to plaintiff's motion.

Dr. Dong stands by his motion for amendment and the arguments made within. Without a valid response, the Defendant twisted Dr. Dong's arguments by summarily "paraphrasing" them without citing Dr. Dong's motion and argued against its self-made statements. For this reason alone, the Court should Grant Dr. Dong's Motion for Amendment based on the issues raised to which Defendant failed to make a response.

Here, Dr. Dong would not reiterate what have been stated in his motion but only to cite a few examples of the defendant's tactics of substituting principals to mislead the court.

Example 1.

Dr. Dong's first issue is that court is obligated to enforce the statute as written. The statute goblins summary judgment, Rule 56(c) requires the party seeking summary judgment to prove "there is no genuine issue as to any material fact with pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits." In this case, the Defendant raised two issues, "if the statute of limitation applies" and "if the plaintiff can provide sufficient evidence to show the breach of a contract." These do not prove "there is no genuine issues as to any material fact" and cannot be the basis for summary judgment. In contrary, these are questions of material fact need to be determined by a jury.

Secondly, MUSC did not produce any witness, deposition, ulcers to interrogatories, admissions on file, and affidavits to support its summary judgment as required by the law. These are undisputable effects.

Instead of responding to the issue, the Defendant substituted the principal of the question with a false and conclusive statement, saying "it is indisputable MUSC provided evidence in support his motion for summary judgment. Most notably, MUSC provided the court with Dr. Dong's deposition testimony and the contract." *Response, P4, pp4.* This is false because none of Dr. Dong's testimony supports the two issues raised by the defendant, and the contract itself does not support the defendant's argument that Dr. Dong could not produce sufficient evidence to show

the breach of contract. As the result, Defendant failed to cite any Dr. Dong's testimony or the contract to support is argument. Instead, the attorney made up the statement and testified for it without any witness.

Furthermore, the defendant admits it failed to prove the lack of genuine issue of fact by stating that "to the extent either party failed to provide the court with deposition testimony, affidavits, interrogatory responses, or responses to requests for admission." See Response, P4,pp5. Defendants further attempted to mislead the court by shifting the burden of proof to Dr. Dong by saying "it is Dr. Dong who failed to provide the court with such materials in opposition to MUSC's motion for summary judgment." *Id.* Such statement is erroneous because the law requires the moving party, the party who is seeking a summary judgment, to provide such statutorily required materials. In this case, it is MUSC who is seeking the summary judgment, and who has the burden to prove the lack of genuine issue of fact; not Dr. Dong.

The fact is undisputed, MUSC violated the contract by not returning Dr. Dong's research assets, depriving Dr. Dong's rights to his assets to conduct research and advance his career. MUSC also did not allow Dr. Dong to continue his academic operation on campus at a tenured professor and director for biopharmaceutical development. MUSC admitted that it did not transfer Dr. Dong's research assets to

Dr. Dong based on the Agreement. However, MUSC erroneously claims that MUSC “did not take away his title for director.” This claim is false, because MUSC did not allow Dr. Dong to operate under the title, and there was nothing more to take away from Dr. Dong.

Example 2:

Defendant’s Response to the court violated the statutes and Dr. Dong's due process right is misleading and erroneous.

As stated in Dr. Dong's motion, the Supreme Court of United States has a long-established: the essential elements of due process of law and opportunity to defend.

Here, the Defendant’s Response is misleading for several reasons.

First, email has not been recognized as “proper notice” by judicial system. The notice from the court is the minimally required official notice.

Secondly, once a motion to alter a timeline is filed, the timeline is suspended until the motion is decided. Therefore, even were the emails to qualify as proper notice, the date was continued until the Court granted Dr. Dong's motion for protective order due to his eye surgeries. Record show that the Court only follows this rule in favor of MUSC, but not Dr. Dong. For example, when MUSC filed a protection motion for the allegedly that Dr. Dong want to record his deposition and

to take MUSC's deposition at his home office, while there is no rules against such practice, the dates of the deposition were suspended and delayed for months at the expenses of taking away Dr. Dong's already shortened discovery time.

Thirdly, the statute requires the motion for summary judgment to be filed at least 10 days before the hearing so that the nonmoving party have sufficient time to be prepared. Furthermore, the parties can file extensions for good cause. In this case, Dr. Dong did file motions for extension, and for protection. However, these motions were denied by the Court without the defense attorney to file an opposition and without a legitimate reason but accusing Dr. Dong "delaying due process" and "will not be tolerated." As the defendant admitted, an email was sent three days before the hearing date informing Dr. Dong that he is motion for protection was finally "granted", but the date of hearing was set only one day after the protected time for surgery. This gave no time for Dr. Dong to prepare for his hearing, no time to complete his opposition to the summary judgment, and no time to file his memorandum and affidavit. If this is not a violation of due process, then nothing is.

Example 3.

Defendant did not directly respond to court's violation rule 56, which requires MUSC to provide the statutorily required evidence "along with affidavits to show there is no genuine issue of material fact." Further, Response failed to argue against the fact the Court violated Rule 56(f) which prescribes that "when affidavits are

unavailable”, such as in this case, “the court may refuse the application for judgment or may order continuance to permit affidavits to be obtained, or depositions to be taken or discovery to be had.”

Rule 56(f) specifically applies to the current situation because the reason that Dr. Dong could not provide this material is because the unreasonably strict time limitations the Court has enforced on Dr. Dong only. Under the Rule, Dr. Dong should have been allowed additional time to conduct discovery, deposition, and submit affidavit. Under the authority of this Rule, Dr. Dong did submit this memorandum and affidavit along with a motion for a rehearing of the summary judgment. However, once again, the court denied Dr. Dong's motion without a legal basis or the defendant's opposition and did not conduct a hearing on Dr. Dong's motion and newly submitted memorandum and affidavit. The Defendant's Response provides no argument for why these conducts are not violations of statutes and Dr. Dong's due process rights.

VI. It is undisputable that MUSC violated the Agreement.

Most importantly, Defendant's Response failed to address the issue that MUSC violated the Contract by not returning and transferring Dr. Dong's research assets in order for him to continue his research off-campus. These are Dr. Dong's personal assets, which were illegally taken from Dr. Dong by the chairman of the department, James Norris for his personal benefit. The Defendant openly admits that

Dr. Dong's research assets "were not transferred," but blames such breach of contract on Dr. Dong. The Defendant's attorney claims that Dr. Dong did not show any evidence that "he provided MUSC with the prerequisite certificates for such transfer." This statement is false because there is no requirement to return Dr. Dong's personal assets. The stipulation that Dr. Dong would provide MUSC with the certificates for biological research operation at GenPhar was for protecting MUSC from violating regulations when Dr. Dong conducting his research on behalf of MUSC at the off-campus location. However, as Dr. Dong stated under oath, these certificates had been provided to MUSC when Dr. Dong submitted research proposals on behalf of MUSC to the federal agencies. Furthermore, MUSC did not provide any proof that Dr. Dong failed to provide these certificates; the burden to prove is on MUSC even if were such certificates a prerequisite for returning Dr. Dong's assets, but it is not. MUSC did admit that it did not return and transfer Dr. Dong's assets, deprived Dr. Dong's right to use his assets to conduct research and advance his career. As Dr. Dong testified in his deposition, by these actions, MUSC prevented Dr. Dong from obtaining a professorship at other universities and destroyed Dr. Dong's career. Obtaining a professorship at other universities is the prerequisite for Dr. Dong to resign from MUSC. However, after blocking Dr. Dong's ability to obtain a position at other universities, MUSC unilaterally terminated Dr.

Dong's tenure professorship, which cannot be terminated unless with proven causes through the due process specified in the faculty handbook and the University Policy.

The second undisputed violation of the agreement was that MUSC did not give Dr. Dong the access to MUSC facilities for academic operations, including the authority under the title of Director for Center of Biopharmaceutical Development. Defendant attorney does not deny that it did not allow Dr. Dong to conduct academic operations at MUSC but claims that “MUSC did not take away Dr. Dong's title.” This defense is meritless because MUSC did not allow Dr. Dong to operate under such title to begin with.

Furthermore, MUSC provides no evidence as required by the statute to support its claim. The defendant's attorney made such claim by himself without any witness or the required evidence. It is an alimentary error for the Court to allow the defense attorney to testify and rely on the attorney's testimony for the court's decision. In this case, as the defendant admitted, both the court and the defendant's attorney joined the defense by criticizing Dr. Dong for not be able to submit his affidavits in time and making the false claim that MUSC did not return Dr. Dong's research materials and equipment because of that Dr. Dong did not prove that he provided the operating certificates. Response, P7, pp4.

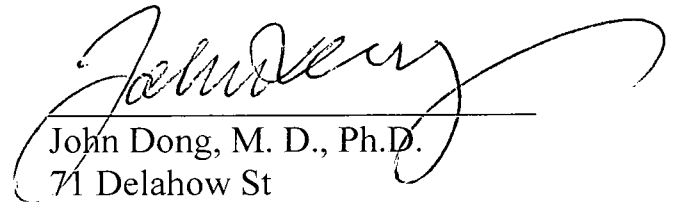
These are not only violations of due process, but also the courts obligation to be impartial and equally enforce the law.

CONCLUSION

For reasons stated above and those stated in Plaintiff's Motions, Dr. Dong respectfully requests the honorable Court to Grant the Motion to Amend the decision of granting the defendant's Motion for Summary Judgment in the interest of justice.

Sept 5, 2023
Charleston, South Carolina

Respectfully submitted, pro se,

A handwritten signature in black ink, appearing to read "John Dong", is written over a horizontal line. The signature is stylized with a large, sweeping flourish that extends to the right.

John Dong, M. D., Ph.D.

71 Delahow St

Charleston, SC 29492

Email: johnny.dong@gmail.com

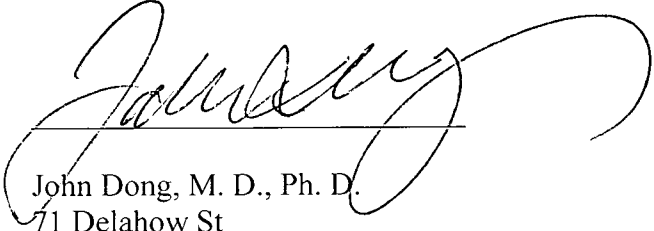
Phone: 843-991-2332

CERTIFICATE OF SERVICE

This is to certify that I have on this 5th day of July 2023, served a copy of the Plaintiff's Reply to Defendant's Response to Motion for Amendment to the ECF system, which will notify all parties electronically. In addition, a copy of this motion is served via email at bconley@clevelandlaborlaw.com and United States Mail Services addressed to the following:

Bob J. Conley, Esq.
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401

2023 SEP 28 AM 11:51
CLERK OF COURT
JULY 5 2023
JULY 5 2023



John Dong, M. D., Ph. D.
71 Delahow St
Charleston, SC 29492
Email: johny.dong@gmail.com
Phone: 843-991-2332

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-06683

V.

**The Medical University of South
Carolina**

**) PLAINTIFF'S RESPONSE TO
) DEFENDANT'S FIRST REQUEST
) OF PRODUCTION**

**TO: CAROLINE WRENN CLEVELAND AND BOB J. CONLEY ATTORNEYS
FOR DEFENDANT**

Plaintiff, Dr. John Dong, M.D., Ph.D. ("Dr. Dong") hereby respond, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, to the First Requests for Production propounded by Defendant, Medical University of South Carolina ("MUSC").

The documents requested by MUSC and are currently in Dr. Dong's possession will be sent to your office for your inspection, copying or duplications.

These documents are described in Dr. Dong's Answers to MUSC's First Interrogatories and would not be repeated here. The documents are given to Mr. Alan R. Homes, who previously represented Dr. Dong in this civil action. With this response, you are therefore authorized to obtain these documents, with exceptions of privileged communications, directly from Mr. Home. Dr. Dong will also inform Mr. Homes to provide your office with the said documents.

Dr. Dong currently do not have documents, or things other than those in Mr. Home's possession, or not be able to have access to any additional documents, as you requested in question 1-16. However, All or most of the documents related to this lawsuit are in possession of MUSC, in the offices of the administration, faculty members, including Dr. Dong's office and laboratories. These documents include ~~but not limited to~~

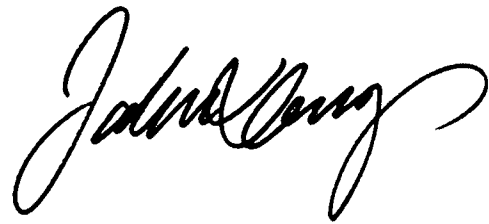
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FILED

JAN 02 2018

JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

all the documents, communications, memos, evaluations, agreements, scientific notes, records, data entries, emails, proposals, applications, certificates, publications, resolutions of disputes, records of communications and journals and data entries with various administrators, faculty members, post-doctoral fellows, and students. Dr. Dong will file a request for production of these and other documents separately.

A handwritten signature in black ink, appearing to read "John Dong", written in a cursive style.

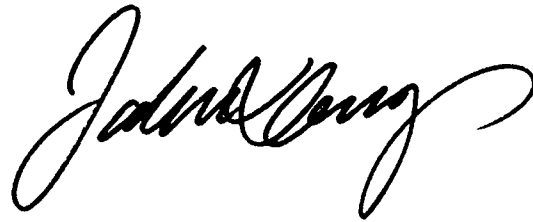
John Dong, M.D.,Ph.D.

Dec. 28th, 2017
LSCI, Butner,
North Carolina

CERTIFICATE OF SERVICE

This is to certify that I have this 28th day of December 2017, caused to be served a copy of Plaintiff's Response to Defendant's First Requests for Production via United States Mail Services with postage and addressed as follows:

Attention to: Bob J. Conley
Cleveland & Conley, LLC
171 Church Street, Suite 310
Charleston, South Carolina 29401



John Dong, M.D., Ph.D.

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JAN 02 2018

JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

**) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT**

CASE NO.: 2016-CP-10-06683

)

**) PLAINTIFF'S ANSWERS TO FIRST
) INTERROGATORIES OF DEFENDANT**

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In addition, he has some of the records on his computers at MUSC and in his office at MUSC, and all these records and computers are taken from him along with all his equipment, and scientific records by the MUSC administration.

2. Statement of total dollar amount damages that include, but limited to the follows:

- (1) Career damages: \$1,330,000 (\$190,000 X 7 or the number of years to be employed)
- (2) Biotechnologies that have significant commercial values:
 - (a) General cancer gene therapy using regulated Fas-L adeno-vector: \$1M
 - (b) Advanced and safe CApVax-TRIAL gene therapy for cancer: \$1M.
 - (c) Targeted prostate Cancer gene therapy: \$1M
 - (d) Regulated and positive-feedback loop amplified gene regulation from a CApVec for cancer Gene therapy: \$1M
 - (e) Highly efficient AAV-gene therapy for genetic diseases: \$1M.
- (3) Grant money loses: \$5M (RO1, Dengue vaccine development from NIH)
- (4) Equipment replace value: \$500,000
- (5) Essential and Biological materials: \$3M
- (6) GenPhar Stocks \$1/shares x the total number of shares awarded to MUSC. MUSC given/sold these shares to Hubner group for his hostile takeover of GenPhar.
- (7) damages caused by colluding with hostile takeover of GenPhar by Hubner Group: to be determined.

3. Dr. Dong has no, and never had any, other lawsuit against anyone other than MUSC. In 2016, Dr. Dong was named a defendant in a qui tam lawsuit against GenPhar by whistleblowers and the lawsuit has been recommended for dismissal by a Federal Judge due to lack of any particularities as required by the law, the False Claim Act. Case No: 2:9-cv-0005

4. Lay Witnesses include, but not limited to, the following individuals: Dr. James S. Norris, Dr. Stephen Lanier, Dr. John Raymond, Dr. Jeremy Reeds, Dr. Yusep Hunun, Dr. Michael Schmitt, Dr. Samyon Rubinchick, Dr. Hong Yu, Dr. Xian Liu, Dr. Brian Hole, Dr. Kenneth Roozen, Mr. Chip Hood, Dr. Jennifer Schepps, Dr. Jan

Woratanadham, Dr. Stephanie Smith-Johnson, Dr. Steve London, Dr. Lucile Landon, Mr. Scott Reeds, Ms. Beth Glidden, Mr. Joe Good. Members of Dr. James S. Norris laboratory

Biosafety officers, at the time (do not remember the names), the persons who conducted the search and seizure of Dr. Dong's biological materials in the freezers and scientific records (names are in emails)

5. Expert Witnesses are yet to be identified.

6. The names are the same, but not limited to, as in 4. All the witness would be expected to testify individually or collectively about, but not limited to the facts, events and policies around how the Department Chairman, Dr. James S. Norris abused his authority, took over Dr. Dong's research projects, used Dr. Dong's research fund for Dr. Norris' research and operations, and pressured the GenPhar, Inc. to pay by "renting out" Dr. Dong to be the chief scientific officer for the GenPhar, Inc., and about how GenPhar was established as requested by the MUSC administration to serve the mission of the university to establish knowledge-based companies, and support local economy, and about the business relationship of Foundation for Research and Development (FRD) of MUSC and the administration of MUSC. The policy and shares-holdings of FRD and MUSC, and the dealings of FRD/MUSC with Hubner group by selling MUSC's including Dr. Dong's GenPhar shares to the Hubner group and assisted Hubner's hostile takeover of GenPhar and the damages done to Dr. Dong and GenPhar shareholders, and what and how transpired the event of forcing Dr. Dong to leave MUSC, threaten to fire him, and eventually negotiated the Agreement, and how the Agreement was completely breached.

7. There is no interview or deposition taken and no written records related to discussions. Much of the records regards to the facts exist at MUSC, and in Dr. Dong's email and homerooms, and the email accounts of the all the witnesses at MUSC.

8. Dr. Dong do not recall that he had any discussion of the case outside the MUSC other than the members of the MUSC administrations.

9. Under the Agreement and the discussions, Dr. Dong was given the impression that as long as he continue his research and academic activities and improve his researches toward more benefits to MUSC, especially to get new research grant for MUSC and continued his publications and training graduate students for MUSC, MUSC will hire back Dr. Dong. In addition, Dr. Dong had extensive local connections, Dr. Dong did not interview for any other positions, but worked hard in continue the above mentioned academic activities on behalf of MUSC including obtained a \$5 million research grant for MUSC. The grant was obtained from NIH on a complete new topic because Dr. Dong's research projects could not continue for lack of the research material, documentation and equipment taken by MUSC. However, in order to maximize the punishment to Dr. Dong and find reasons not to rehire Dr. Dong, Dr. Stephen Lanier informed NIH that MUSC refused to accept the grant because Dr. Dong no longer work at MUSC.

10. Dr. Dong had not maintained an account with any social or professional network that contained any information related to MUSC or the lawsuit. Dr. Dong had a LinkedIn account after he left MUSC.

11. Dr. Dong had never been convicted of any crime or wrong doing during or before his tenure at MUSC. In 2016, Dr. Dong was convicted for "misuse grant fund to

construct the research facility" located in Mt. Pleasant, South Carolina based on the allegations of the qui tam lawsuit as described in 3. This, at least in part, is because Dr. Dong was the Principle of Investigator of a number of Research grants, and the "top manager" at GenPhar since he was pushed out of MUSC in 2010, but continued his obligation to the investors at GenPhar. Dr. Dong was not accused misuse any research fund for his personal benefit, but because the company used the fund for the research facility, which is appropriate to use the Facility and Administration Costs of the grants or the investors fund. However, the fact is that the research facility is funded by a combination of GenPhar's private fund and commercial loans. Dr. Dong has maintained his innocence throughout the trial. Dr. Dong is sentenced for 70 months and is currently serving at Low Security Correction Institute, Butner, North Carolina. The case is under direct appeal at the US Appellate Court for the Fourth Circuit. Case number 17-4268.



John Dong, M.D., Ph.D.
LSCI, Butner
P.O.Box 999
Butner, NC 27509

Butner, North Carolina,
December 27th, 2017

2016 CP 10-6683

CERTIFICATE OF SERVICE

This is to certify that I have, on this 27th day of December 2017, served a copy of Plaintiff's Answers to Defendant's First Interrogatories to Plaintiff via United States Postal Service with postage and addressed as follows:

Cleveland & Conley, LLC
Att: Bob J. Conley
171 Church Street, Suit 310
Charleston, South Carolina 29401



John Dong, M.D., Ph.D.

FILED

JAN 02 2018

JULIE J. ARMSTRONG
CLERK, C.P. & G.S.

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

Jian-Yun (John) Dong, M.D., Ph.D.

plaintiff

V.

The Medical University of South
Carolina

Defendants

) IN THE COURT OF COMMON PLEAS

) FOR THE NINTH JUDICIAL CIRCUIT

) CASE NO.: 2016-CP-10-06683

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**PLAINTIFF'S FIRST REQUEST
FOR PRODUCTION TO DEFENDANT**

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2018 JAN 17 PM 1:15
JULIE J. ARISTRONG
CLERK OF COURT

**TO: CAROLINE WRENN CLEVELAND AND BOB J. CONLEY, ATTORNEYS
FOR DEFENDANT**

Plaintiff, Dr. John Dong, hereby requests on a continuous basis, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, the Defendant respond within (90) days after the service hereof to the following Requests and that the Defendant produce copies of each of the following documents or things which may be in the possession, custody, or control of the Defendant or its counsel:

1. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's performance or employment at MUSC.

2. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, process, instigation, initiation or in any way lead to any proposed or suggested any discipline action against Dr. Dong.

3. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, process, instigation, initiation or in any way that related to, lead to the pressure of, suggest of, or the request of Dr. Dong to resign from the MUSC.

4. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, event, or process of inventorying, cataloging, transferring, taking, or removing of any documents, biological material, reagents, ingredients, chemicals, DNA, research agents, records, notebooks, protocols, research methods, and any equipment, instruments, devices, tools, computers, from Dr. Dong's laboratories, offices, vector-core spaces, storage space, or shared, common spaces, computer storages, harddrives, computer files, Homeroom account, and his email accounts. Specifically, but not limited to the inventory lists of Dr. Dong's biological materials, equipment, reagents, scientific notebooks, records, protocols, copies of Dr. Dong's grant proposals submitted from MUSC.

5. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the negotiation, discussion, decision in reaching agreement that Dr. Dong to resign from MUSC.

6. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind

from or to anybody related in any way to the discussions, decisions or suggestions of how the Agreement with Dr. Dong to be carried out, performed, including but not limited to decisions, suggestions not to transfer the biological material, equipments, reagents, scientific notebooks, records, and any conditions listed, promised, suggested in the Agreement.

7. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the discussion, decisions or suggestion to refuse accepting Dr. Dong's grant, and not to rehire Dr. Dong back to MUSC.

8. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the discussions, negotiations, agreement, contract, understanding, or decision to transfer, give, or sale GenPhar shares held by Dr. Dong, FRD, and MUSC to Hubner group, Timothy Scranton, or any other parity or entity, individual, company, or organization.

9. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the relationship, association, ownership, business dealings, between Foundation for Research and Development (FRD) of MUSC and any members of MUSC may in any related to Dr. Dong, and GenPhar, Inc.

10. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind

from or to anybody related in any way to Dr. Dong, and GenPhar, Inc. including but not limited to technology disclosures, patent applications, benefit share formulas, plans held at FRD.

11. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to technology transferring, payments from GenPhar, Inc. license agreement with GenPhar, Inc.

12. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to technology transferring, patent applications, nondisclosure agreements, or license agreement with related to technologies developed in Dr. Dong's laboratory with any individuals, company, organization, or entity of every kind.

13. Any and all publications, scientific notebooks, grant applications, records, documents, reports, meeting presentations, or communications, from anyone to anyone including any organizations, government agencies, such as National Institutes of Health, National Science Foundation, Department of Defense, private foundations, publication companies, that any biological material, vectors, DNA, reagents, technology, techniques, or information, that were directly or indirectly obtained, originated from Dr. Dong's laboratories, vector cores or obtained from Dr. James S. Norris.

14. Any and all publications, scientific notebooks, grant applications, records, documents, reports, meeting presentations, or communications, from anyone to anyone

that related to mentioned of cancer gene therapy, apoptosis, or adenovirus vector that express TRIAL, FasL, or adenovirus express cancer suppressor gene, viral antigens, or any adenovirus vector contain any gene under the regulation probacin promoter, Tet-opron promoter, inducible promoter, feedback promoter or any adenovirus vector contain more than one DNA insert (known as CAd, complex Adenovirus) and AAV, especially, but not limited to, the persons, staff, faculty members, students, post-doctoral fellows who had a relationship of any kind with Dr. James S. Norris.

15. Any and all financial records, accounting, and expenditure reports of Dr. Dong's funds, including his start up funds, all grants, payments from GenPhar and any other sources prior 2010.

16. Any and all financial records, accounting, and expenditure reports of Dr. James Norris funds from any source, prior 2010.

17. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's faculty evaluations, annual reports, career development plan, tenure application, tenure approval or Dr. Dong's academic performance.

18. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any compliant, memorandums made by Dr. Dong and communicated to any members of MUSC administration or committees.

19. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any complaint, recommendations, suggestions, and causes of actions made against Dr. Dong from anyone at MUSC.

20. Any and all documents the Defendant read, reviewed, and/or obtained relating in any way to the allegations made by Dr. Dong.

21. Copies of any and all statements made by anyone related to Dr. Dong's tenure at MUSC.

22. Any and all reports, statements prepared by anyone concerning this complaint against MUSC.

23. Any and all contents in Dr. Dong's email account (dongj@musc.edu) and in his HomeRoom account on MUSC server both in print and in electronic file on computer storage device, such as portable hard drive, or USB drive.

24. Any and all files and documents related to Dr. Dong filed at MUSC, including but not limited to Department of Microbiology and Immunology, office of grant management, and office of human resources.

25. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any complaint, lawsuit, causes of actions, recommendations or resolutions related to any members of MUSC administrations, including Department chairs, directors, managers, deans, provost, and president, especially related to, but not limited to, Dr. James S. Norris, and Dr. Stephen Lanier.

A handwritten signature in black ink, appearing to read "John Dong", with a stylized, cursive script.

John Dong, M.D.,Ph.D.

January. 16th, 2018
LSCI, Butner,
North Carolina

2016 CP10-6683

CERTIFICATE OF SERVICE

This is to certify that I have this 16th day of January 2018, caused to be served a copy of Plaintiff's Response to Defendant's First Requests for Production via United States Mail Services with postage and addressed as follows:

Attention to: Bob J. Conley
Cleveland & Conley, LLC
171 Church Street, Suite 310
Charleston, South Carolina 29401

FILED
2018 JAN 17 PM 1:15
JULIE J. ARMSTRONG
CLERK OF COURT

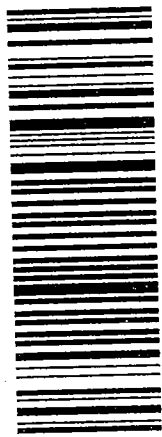


John Dong, M.D., Ph.D.

Jian-yun Dong, 23179171
P.O.Box 999
LSCI Butner
Butner, NC27509

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS. FOLD AT DOTTED LINE

CERTIFIED MAIL®



7017 0190 0001 0188 9222

U.S. POST
PAID
NORTH CH
29406
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R2303S103



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1000

The Clerk of the Court
the Hon. Julie J. Armstrong,
100 Broad Street, Suite 106
Charleston, SC 29401-2258

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT

) CASE NO: 2016-CP-10-06683

)

**) PLAINTIFF'S OBJECTION TO
) DEFENDANT'S RESPONSE TO
) PLAINTIFF'S FIRST REQUEST
) FOR PRODUCTION**

6683
FILED
2019 MAR -5 AM 11:21
JULIE J. ARMSTRONG
CLERK OF COURT
TO
TO
EST

GROUND'S FOR OBJECTIONS

Dr. Dong objects to the "general objections and reservations" from "A." through "I." because these objections are overbroad, ambiguous and non-specific. Defendant failed to inform Dr. Dong to which specific request that Defendant was objecting, and what and how a specifically requested document subjected to what objection by the Defendant.

B. Defendant's "Specific Responses and Objections" are intended to be obstructive and in bad faith.

Dr. Dong objects to each of the "specific responses and objections" from "1." through "25." because these objections are willfully to be obstructive and intended to deprive Dr. Dong of the documents and information to which he is entitled under the South Carolina Rules of Civil Procedure.

Each of the "specific Response and Objections" is repeating, recycling of the same verbiage, but fails to specifically inform Dr. Dong which part of the request is "vague" for the Defendant's counsel to understand, or which part is "overbroad" that reaches what document that falls beyond the scope of the discovery as Defendant's counsel alleges.

Dr. Dong further objects to Defendant's claims that all or any of the requested documents subject to Defendant's "attorney-client privilege" or "constitute attorney work product" without providing any specifics of what and why a document is subject to such "attorney-client privilege" or constitutes such an "attorney work product."

More specifically, nearly all documents or information requested are directly related to Dr. Dong's employment and his research work, materials, results, documentation, teaching records, achievements, and administrative matters at MUSC and records related to reasons and conditions of his departure from MUSC as a tenured professor under the agreement/settlement made with MUSC. All these documents existed at MUSC, long before Defendant obtained counsel on this specific matter. However, Defendant's counsel provided no basis for how any of these

document could subject to "attorney-client privilege" or could be an "attorney work product." Nevertheless, Dr. Dong would provide more specifics or readdress the questions if Defendant's counsel can provide specifics with regard to what and how a particular document may be subject to an attorney-client privilege or may constitute an attorney work product.

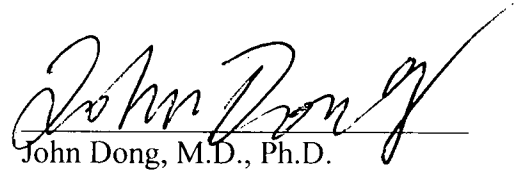
Defendant has produced no document under the Request. It simply defies credibility to conclude that none of Dr. Dong's requests, each targeted to a matter related to the Complaint and Answer, could fail to strike on a single document that exists and is preserved under the obligation at MUSC for the discovery. The Defendant is obligated to produce discoverable information and identify the withheld document subject to objection. The decision to produce no documents and to be in defiant of the procedures imposed under the South Carolina Rules for Civil Procedure is in bad faith.

This correspondence is an effort to resolve the discovery dispute prior to seeking a court order compelling discovery.

CONCLUSION

For reasons stated above, Dr. Dong believes that Defendant's Response through its counsel is willfully made to be obstructive and in bad faith in an effort to deprive Dr. Dong's discovery documents and information that he rightfully entitled under the South Carolina Rules of Civil Procedure. Dr. Dong requests Defendant to provide ALL the documents and information enlisted in *Plaintiff's First Request For Production* within 30 days.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Dong", written over a horizontal line.

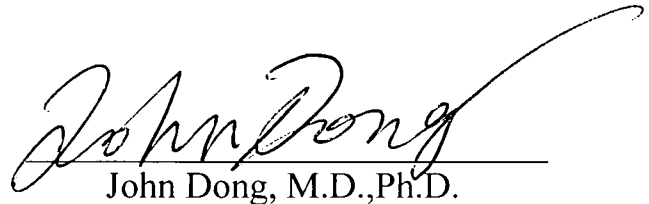
John Dong, M.D., Ph.D.
71 Delahow St.
Charleston, SC 29492

2016 CP 10 6683

CERTIFICATE OF SERVICE

This is to certify that I have this 14th day of November 2018, caused to be served a copy of *Plaintiff's Objection to Defendant's Response to Plaintiff's First Request for Production* via United States Mail Services with postage and addressed as follows:

Attention to:
Emmanuel J. Ferguson
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401


John Dong, M.D., Ph.D.

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Jian-Yun (John) Dong, M.D., Ph.D.,)
)
Plaintiff,)
v.)
The Medical University of South)
Carolina,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-10-06683

ORDER

FILED
2019 JUN 20 AM 9:36
JULIE J. AMSTUTZ
CLERK OF COURT

On March 5, 2019, *pro se* Plaintiff Jian-Yun (John) Dong, M.D., Ph.D. (“Dr. Dong”) filed a Motion to Compel Defendant’s Responses to Plaintiff’s First Requests for Production to Defendant Medical University of South Carolina (“MUSC”). This matter came before the Court on June 10, 2019. Present for the hearing was Emmanuel Ferguson on behalf of MUSC. Dr. Dong appeared on his own behalf by telephone.¹ At issue is Dr. Dong’s request the Court order MUSC produce records responsive to his discovery requests.

MUSC, in general, asserts Plaintiff’s discovery requests are vague, overbroad, and seek materials subject to attorney-client privilege. Further, in light of Dr. Dong proceeding *pro-se* and Dr. Dong’s limited access to communication due to his federal incarceration, MUSC believes any discussions with Dr. Dong regarding the exchange of discovery would not be productive and may be misinterpreted.² Therefore, after review of the arguments and filings of the parties, the Court **GRANTS** Plaintiff’s Motion to Compel pursuant to the following conditions outlined below:

¹ Dr. Dong is currently incarcerated at the Federal Corrections Institution in Salters, South Carolina (a/k/a “FCI Williamsburg”). Dr. Dong agreed to attend the hearing on this Motion to Compel by telephone.

² Dr. Dong has previously accused Counsel for MUSC of engaging in “bullying” and “unethical” behavior.

DCH
205-3

1. All discovery in this case shall be conducted pursuant to this Order and the attached Confidentiality Order incorporated herein.
2. Discovery pursuant to Rules 26 through 37, SCRCP, shall continue to the extent the parties are able while Plaintiff remains incarcerated at the Federal Bureau of Prisons (FBOP). *De bene esse* depositions shall be completed to the extent the parties are able to do so while Plaintiff is incarcerated at the FBOP.
3. In responding to Dr. Dong's discovery requests, the scope of discoverable materials shall be limited to relevant documents generated or created no earlier than April 1, 2010. The parties may at any time and for good cause, petition the circuit court to expand this limitation as discovery progresses.
4. In responding to Dr. Dong's discovery requests, the scope of discoverable materials shall further be limited to relevant documents generated by, created by, sent to, or received from Dr. Dong, Mark Sothman, Ph.D. or Stephen Lanier, Ph.D. The parties may at any time prior to the discovery deadline, and for good cause, petition the circuit court to expand this limitation as discovery progresses.
5. Documents produced to Plaintiff may be delivered by electronic means (such as compact disc or "USB" flash drive) containing password protected encryption.
6. MUSC shall serve its responses to Plaintiff's First Requests for Production to Defendant pursuant to this Order within 30 days from the date of this Order.

One additional issue came up during said hearing. That being the issue of "staying" this case. The Court recognizes that Mr. Ferguson does not consent to such. After considering the circumstances surrounding this case, namely Dr. Dong being incarcerated, discussing this issue

-206-2073

with Dr. Dong and Mr. Ferguson via email, and discussing such with Judge Roger Young, Chief Administrative Judge for Common Pleas, Ninth Judicial Circuit, the case shall be "stayed" from being called to trial until after Dr. Dong is released from the FBOP. Discovery, however, shall continue to the extent the parties are able and as set forth above.

IT IS SO ORDERED.



D. Craig Brown
South Carolina Circuit Court Judge

Charleston, South Carolina
6-13, 2019

DCB
p-207-3

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Jian-Yun (John) Dong, M.D., Ph.D.,)
)
Plaintiff,)
v.)
The Medical University of South)
Carolina,)
)
Defendant.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL CIRCUIT
CASE NO.: 2016-CP-10-06683

ORDER

FILED
2019 OCT -4 AM 11:44
CLERK OF COURT

On March 5, 2019, *pro se* Plaintiff Jian-Yun (John) Dong, M.D., Ph.D. (“Dr. Dong”) filed a Motion to Compel Defendant’s Responses to Plaintiff’s First Requests for Production to Defendant Medical University of South Carolina (“MUSC”). A hearing was held on Dr. Dong’s Motion to Compel on June 10, 2019. During the June 10, 2019, hearing, arguments regarding Dr. Dong’s Motion to Compel were made by the parties. Further, during the June 10, 2019, hearing, practical and logistical issues were raised surrounding the orderly progression of this case in light of the unique circumstances of Dr. Dong’s confinement in a federal detention facility.¹ On June 20, 2019, the Court filed an Order granting, in part, Dr. Dong’s Motion to Compel. Further, the Order stayed the trial of the case until Dr. Dong is released from federal custody but allowed the parties to continue to engage in discovery.²

On July 3, 2019, MUSC filed a Motion to Alter or Amend the June 20, 2019, Order. A hearing on MUSC’s Motion to Alter or Amend was held on September 13, 2019. Present for the

¹ Dr. Dong is currently incarcerated at the Federal Corrections Institution in Salters, South Carolina (a/k/a “FCI Williamsburg”).

² According the Federal Bureau of Prisons, Dr. Dong is not scheduled to be released until August 2022. Dr. Dong believes he qualifies for early release. However, he informed the Court he is not certain his release date will be sooner than the anticipated August 2022 date.

hearing was Emmanuel Ferguson on behalf of MUSC. Dr. Dong appeared on his own behalf by telephone.³

After review of the memoranda submitted in this case and the arguments made by the parties, the Court **GRANTS** MUSC's motion to Alter or Amend the June 20, 2019, Order. Therefore, pursuant to Rule 59 of the South Carolina Rules of Civil Procedure ("SCRCP"), the Court's June 20, 2019, Order is hereby rescinded. The Court **GRANTS** Dr. Dong's Motion to Compel. MUSC is ordered to respond to Plaintiff's First Requests for Production to Defendant pursuant to the conditions outlined in this Order.

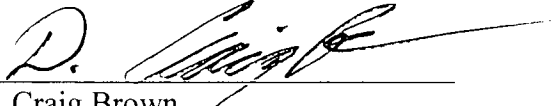
Further, the Court consulted with the current Ninth Circuit Chief Administrative Judge regarding the scheduling issues in this case. The Chief Administrative Judge consents to this Court establishing a scheduling order to ensure the orderly progress of this case. Therefore, Pursuant to Rule 16, SCRCP, the parties are ordered to adhere to the following schedule:

1. Discovery: Discovery pursuant to Rules 26 through 37, SCRCP, shall be completed no later than **February 28, 2020**. All discovery requests shall be served in time for the responses thereto to be served by or before **February 28, 2020**. *De bene esse* depositions must be completed by the discovery deadline. Either party may at any time prior to the discovery deadline, and for good cause, petition the circuit court to extend the discovery deadline.
 - a. In responding to Plaintiff's First Requests for Production to Defendant, the scope of discoverable materials shall be limited to relevant documents generated or created no earlier than April 1, 2010. Either party may, at any time prior to the discovery deadline and for good cause, petition the circuit court to expand this limitation as discovery progresses.

³ Dr. Dong agreed to attend this hearing and the June 10, 2019, hearing by telephone.

- b. In responding to Plaintiff's First Requests for Production to Defendant, the scope of discoverable materials shall further be limited to relevant documents generated by, created by, sent to, or received from Dr. Dong, Mark Sothman, Ph.D. or Stephen Lanier, Ph.D. Either party may, at any time prior to the discovery deadline and for good cause, petition the circuit court to expand this limitation as discovery progresses.
 - c. Documents produced to Dr. Dong must be served by hard copy and are subject to the attached Confidentiality Order incorporated herein. Either party may, at any time prior to the discovery deadline, petition the circuit court to produce documents in electronic form. The parties may agree in writing to produce documents in any other manner without seeking permission from the Court.
 - d. MUSC shall serve its responses to Plaintiff's First Requests for Production to Defendant within ten (10) days after this Order is filed.
- 2. Mediation: Mediation must be completed by **June 1, 2020**. Either party may, at any time prior to **June 1, 2020**, file a motion to exempt this case from mediation pursuant to the Court-Annexed Alternative Dispute Resolution (ADR) Rules.
 - 3. Trial: This case will be scheduled for trial on or after **September 7, 2020**. At any time after the date of this Order, either party may request the Chief Administrative Judge set this matter for a date certain trial on or after **September 7, 2020**.
 - 4. This Order shall only be modified, if necessary, by the Ninth Circuit Chief Administrative Judge.

IT IS SO ORDERED.


D. Craig Brown
South Carolina Circuit Court Judge

Charleston, South Carolina
9-25, 2019

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-211f. 4079



State of South Carolina
The Circuit Court of the Twelfth Judicial Circuit

D. Craig Brown
Judge

181 North Irby Street
Suite 3605
Florence, SC 29501
Phone: (843) 679-7156
Fax: (843) 679-7157
cbrownj@sccourts.org

October 2, 2019

The Honorable Julie J. Armstrong
100 Broad St., Ste. 106
Charleston, SC 29401-2210

Dear Ms. Armstrong:

Enclosed are a few Orders signed by Judge Brown. Please file the originals and send certified, clocked copies to the attorneys of record.

Thank you for your assistance and please do not hesitate to contact me if you have any questions.

Sincerely,

Stacey R. Minton

Stacey R. Minton
Secretary to D. Craig Brown

Enclosures

STATE OF SOUTH CAROLINA)
COUNTY OF Charleston)
Jian-Yun (John) Dong, M.D., Ph. D.)
Plaintiff,)
vs.)
The Medical University of South Carolina)
Defendant.)

IN THE COURT OF COMMON PLEAS
Ninth JUDICIAL CIRCUIT
CASE NO.: 2016 -CP- 10 - 06683

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: <u>Pro Se Plaintiff, John Dong, M.D., Ph. D.</u> , Bar No. _____ Address: <u>71 Delahow Street, Charleston, SC 29492</u> Phone: _____ Fax: _____ E-mail: <u>johny.dong@gmail.com</u> Other: _____	Defendant's Attorney: <u>Emmanuel J Ferguson</u> , Bar No. <u>81431</u> Address: <u>171 Church St., Ste:310, Charleston, SC 29401</u> Phone: <u>843-577-9626</u> Fax: <u>843-577-6672</u> E-mail: <u>eferguson@clevelandlaborlaw.com</u> Other: _____
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information	
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: ☐ YES / ☐ NO	
SECTION II: Motion/Order Type	
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
<u><i>John Dong</i></u> Signature of Attorney for ☒ Plaintiff / ☐ Defendant <u>01/27/2020</u>, 20__ Date submitted	
SECTION III: Motion Fee	
☐ PAID – AMOUNT: <u>\$25.00</u> ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____, 20__
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____, 20__	
☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED – AMOUNT DUE: \$ _____	

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

John Dong, M.D., Ph.D.
-plaintiff,
v.

The Medical University of South
Carolina ,
-Defendant

) IN THE COURT OF COMMON PLEAS
) FOR THE NINTH JUDICIAL CIRCUIT
)

) CASE NO.: 2016-CP-10-06683
)

) MOTION TO EXPAND DISCOVERY
)

COMES NOW, Plaintiff, John Dong, hereby moves the Court to expand the time
and scope of the discovery in the forgoing case.

As Grounds, the Plaintiff pleads as follows:

BACKGROUND

One January 17th, 2018, Dr. Dong filed the First Request for Production. However, after more than a year, the Defendant failed to produce any documents. On March 5th, 2019, Dr. Dong filed a Motion to Compel. On June 20th, after a hearing, the Court granted Dr. Dong's Motion to Compel, stayed the trial, but allow the discovery to continue, and ordered the Defendant to produce the documents as required.

On July 3rd, 2019, instead of producing the requested documents, the Defendant filed a Motion to Remand, inter alia, blaming its failure to produce the documents on that Dr. Dong is incarcerated at a Federal Camp Facility for a completely unrelated issue, and claimed that this caused difficulties and security concerns of MUSC. The Defendant alleges that for these reasons, Dr. Dong's discovery should be limited to a period that was after the fact, and to the people who have little or no direct knowledge of the circumstances in which the Agreement was the formulated, signed and eventually breached in bad faith by the Defendant. In addition, Defendant requested the Court to issue a "Confidential Order."

BY

JULIE J. ARMSTRONG
CLERK OF COURT

2020 JAN 29 PM 2:30

FILED

On October 4th, 2019, the Court granted Defendant's Motion with conditions that for good cause, either party may file a motion for extension of the time and scope of the discovery.

ARGUMENT

Under the Federal and State Rules of Civil Procedures, Parties in a controversy are entitled to discovery to obtain relevant information to support the Complaint or Defenses of a controversy under the Due Process Clause of Article III of the Constitution. There is no legal basis or precedent that allows a Defendant in the controversy to arbitrarily limit the scope of discoverable materials and the time of discovery in order to make it unreasonable and impractical for the Plaintiff.

As requested by MUSC, the Court ordered that the materials to be produced by MUSC are "limited to documents sent and received by Dr. Saltherman, Stephen Lanier and Dr. John Dong." In other words the documents are limited to only those that Dr. Dong received from Dr. Saltherman who had no direct knowledge of any of the events and the circumstances in which MUSC pressured and enticed Dr. Dong into signing an Agreement to conditionally resign as a tenured-full professor from MUSC. These limitations would allow MUSC to cover up and to deprive Dr. Dong of the information of the true reasons for MUSC to breach the contract by withholding Dr. Dong's technologies, proprietary technologic information, research protocols and biological materials, scientific records, search data, and all his research instruments and equipment, and by refusing to accept the Research Grants Dr. Dong obtained on behalf of MUSC. Dr. Stephen Lanier was involved as a decision maker and one of the masterminds in the schemes. However, Dr. Lanier would not necessarily communicate his scheme with Dr.

Saltherman, and Dr. Lanier certainly would not and did not keep Dr. Dong informed of the scheme designed to obtain Dr. Dong's intellectual properties and to block him from further developing his patent-pending technologies and researches at the expenses of damaging Dr. Dong's career. Therefore the limitations on the discovery would deprive Dr. Dong the information and evidences from the people who were directly involved, benefitted and had the interests in stealing Dr. Dong's grant money, technologies and equipment and blocking him from further advancing his technologies and his career, and from the members of the MUSC management who enabled, endorsed and showed indifference of the scheme perpetrated mainly by the Chairman of the Department of Microbiology and Immunology, Dr. James S. Norris and the Vice President for Research and Technology Development of MUSC, Dr. Stephen Lanier.

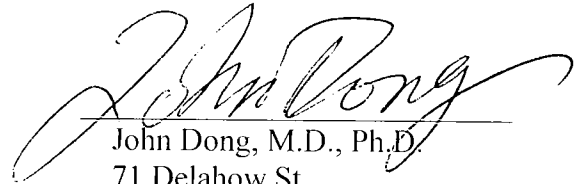
For these reasons, Dr. Dong respectfully requests the Court to lift the limitations or to expand the scope and time of the discovery to include those who directly participated, were involved or have first hand knowledge of the circumstances in which MUSC pressured Dr. Dong into signing the Agreement by threats and trickery, and eventually MUSC breached the contract completely for self enrichment. Specifically, Dr. Dong requests that the discoverable period should start from, at minimum, two years prior to the said scheme or the Agreement was executed, and the scope of the material and information to include any and all relevant information and documents, pursuant to Dr. Dong's right for Due Process afforded by the Constitution.

Hereby, Plaintiff, Dr. Dong, respectfully moves the court to grant this Motion.

Plaintiff does not request a hearing of this motion unless it is directed by the Court, because the issues and the law are clearly on the side of the Plaintiff.

Dated: January 27, 2020

Respectfully,

A handwritten signature in cursive script, reading "John Dong", written over a horizontal line.

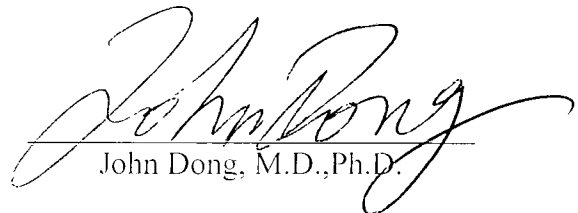
John Dong, M.D., Ph.D.
71 Delahow St
Charleston SC 29492

CERTIFICATE OF SERVICE

This is to certify that I have this *27th day of January 2020*, caused to be served a copy of ***MOTION TO EXPAND DISCOVERY*** via United States Mail Services with postage and addressed as follows:

Attention to:
Emmanuel J. Ferguson
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401

FILED
2020 JAN 29 PM 2:30
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____


John Dong, M.D., Ph.D.

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2016-CP-10-06683
	)	
Jian-Yun (John) Dong, M.D., Ph.D.,	)	
	)	
Plaintiff,	)	ORDER DENYING
v.	)	PLAINTIFF'S SECOND
	)	MOTION TO COMPEL AND
The Medical University of South	)	GRANTING EXPANDED TIME
Carolina,	)	TO COMPLETE DISCOVERY
	)	
Defendant.	)	
_____	)	

This case came before the Court for hearing on Monday, December 13, 2021, regarding Plaintiff's pending motions. For the reasons stated below, the Court denies Plaintiff's Second Motion to Compel. Additionally, the Court grants, in part, Plaintiff's Motion to Expand Discovery Schedule Due to COVID-19 Pandemics, and approves a schedule for the case as to the completion of discovery, mediation, filing dispositive motions, and, if necessary, trial. All Plaintiff's other pending motions were moot at the time of the hearing.

BACKGROUND

Plaintiff Jian-Yun Dong, M.D, Ph.D. ("Dr. Dong") and Defendant Medical University of South Carolina ("MUSC") entered into a separation agreement on or about May 3, 2010. In his Complaint, Dr. Dong alleges MUSC breached the separation agreement. Dr. Dong's sole cause of action in his Complaint is for breach of contract – the separation agreement.

Dr. Dong filed his Complaint on September 2, 2014. Subsequently, on October 22, 2015, Dr. Dong dismissed the lawsuit under Rule 40(j), SCRCF. Thereafter, on December 14, 2016, Dr. Dong's lawsuit was restored to the general docket, under Rule 40(j), SCRCF. Although Dr. Dong

was previously represented by counsel, Dr. Dong's counsel withdrew in January 2017. Dr. Dong remains a pro se litigant. (Dr. Dong appeared pro se at the hearing on December 13, 2021.)

In April 2011, before Dr. Dong filed his Complaint, Dr. Dong was indicted for various federal felonies in federal district court. In April 2013, a Third Superseding Indictment was entered as to Dr. Dong. Thereafter, on August 4, 2015, before Dr. Dong's Complaint was dismissed under Rule 40(j), SCRCF, Dr. Dong was convicted in the federal district court.

On or about October 3, 2017, approximately ten months after Dr. Dong restored the case to the active roster, Dr. Dong was sentenced and committed to the custody of the Federal Bureau of Prisons for a term of seventy months. Based upon Dr. Dong's statements at the hearing on December 13, 2021, it is understood Dr. Dong is now residing at his home in Charleston, South Carolina, and he is available to participate in discovery, mediation and, if necessary, a trial.

MUSC and Dr. Dong proceeded with discovery after the case was restored, including the exchange of written discovery requests and associated responses. In March 2019, Dr. Dong filed a motion to compel ("First Motion to Compel"). The First Motion to Compel was subsequently heard by the Honorable D. Craig Brown. Dr. Dong appeared for the hearing by telephone. As a result of the hearing, Judge Brown issued an order on June 20, 2019, granting, in part, the First Motion to Compel. Judge Brown's order also stayed the case pending Dr. Dong's release from federal confinement.

Subsequently, on July 3, 2019, MUSC filed its Motion to Alter or Amend as to Judge Brown's June 20, 2019, order. Thereafter, Judge Brown held a hearing regarding MUSC's Motion to Alter or Amend. Dr. Dong appeared for the hearing by telephone. As a result of the hearing, Judge Brown issued an order on October 4, 2019, granting MUSC's Motion to Alter or Amend.

The order issued by Judge Brown on October 4, 2019, became the controlling order in this matter as to the First Motion to Compel and further discovery.¹ Judge Brown's October 4, 2019, order also contains a "scheduling order" establishing various deadlines.

In compliance with Judge Brown's October 4, 2019, order, MUSC provided discovery responses to Dr. Dong on October 14, 2019. Additionally, on November 18, 2019, counsel for MUSC sent Dr. Dong a letter inquiring about scheduling his deposition for the week of January 13, 2020.

On January 16, 2020, counsel for MUSC served Dr. Dong with a Notice of Taking Deposition, scheduling Dr. Dong's deposition for February 14, 2020, before the February 28, 2020, discovery deadline set by Judge Brown in his October 4, 2019, order. However, on January 27, 2020, Dr. Dong filed his Response to Taking Deposition, requesting, in general, his deposition be delayed until after March 15, 2020. Consequently, Dr. Dong's deposition did not go forward as noticed for February 14, 2020.

On January 29, 2020, Dr. Dong filed his Motion to Expand Discovery. On the same date, Dr. Dong served counsel for MUSC with Plaintiff's Second Requests for Production to Defendant. Thereafter, and in response, MUSC served its responses to Dr. Dong's Second Requests for Production on March 18, 2020.

By late February and early March 2020, the COVID-19 pandemic was ongoing and evolving. On or about March 4, 2020, the South Carolina Supreme Court issued an initial memorandum regarding the pandemic. By March 12, 2020, the operations of certain circuits courts in South Carolina began to close or otherwise alter operations due to the pandemic.

¹ This Order incorporates by reference Judge Brown's October 4, 2019, order.

On or about September 2, 2020, Dr. Dong filed a Notice of Change of Address indicating he is now residing on Daniel Island, South Carolina, not in a Federal Bureau of Prisons facility. On January 11, 2021, Dr. Dong filed Plaintiff's Motion to Expand Discovery Schedule Due to COVID-19 Pandemics. Subsequently, and finally, on January 20, 2021, Dr. Dong filed Plaintiff's Second Motion to Compel Production ("Second Motion to Compel").

FINDINGS

The Court, at the hearing on December 13, 2021, understood the following motions of Dr. Dong were pending resolution: 1) Response to Taking Deposition filed January 27, 2020; 2) Motion to Expand Discovery filed January 29, 2020; 3) Plaintiff's Motion to Expand Discovery Schedule Due to COVID-19 Pandemic filed January 11, 2021; and 4) Plaintiff's Second Motion to Compel Production filed January 20, 2021. From a practical standpoint, Dr. Dong's motions filed in January 2021 are the motions requiring resolution because the Response to Taking Deposition is moot as of March 15, 2020, because the date Dr. Dong requested his deposition not be taken before in his Response to Taking Deposition is now in the past. Further, Dr. Dong's Motion to Expand Discovery Schedule Due to COVID-19 Pandemics appears to be a resubmission/reassertion of Dr. Dong's previous Motion to Expand Discovery.

MUSC, within this framework, responded to Plaintiff's Motion to Expand Discovery Schedule Due to COVID-19 Pandemics, and Plaintiff's Second Motion to Compel Production. MUSC asserted, and the Court finds, the resolution of these two motions resolves all pending motions and places this matter on course to complete discovery and trial, if necessary.

A. Plaintiff's Motion to Expand Discovery Schedule Due to COVID-19 Pandemics.

Based upon the submissions of MUSC and Dr. Dong, and considering their respective arguments and representations at the hearing on December 13, 2021, the Court concludes an amended scheduling order allowing for the orderly progress and resolution of this matter is necessary and appropriate, particularly given the circumstances created by the COVID-19 pandemic since February/March 2020 and Dr. Dong's related incarceration. To that end, the Court concludes an amended scheduling order containing the following deadlines is appropriate: 1) June 30, 2022, complete discovery; 2) July 29, 2022, engage in mediation or request a party or the parties be relieved from the obligation to participate in mediation; 3) August 31, 2022, file dispositive motions; and 4) case not eligible for trial until on or after September 30, 2022.²

The remaining discovery is limited to taking and concluding depositions only. No further written discovery is allowed unless approved by the Court.

B. Plaintiff's Second Motion to Compel Production.

Judge Brown, in his October 4, 2019, order, limited Dr. Dong's First Requests for Production as follows:

3. In responding to Dr. Dong's discovery requests, the scope of discoverable materials shall be limited to relevant documents generated or created no earlier than April 1, 2010. The parties may at any time prior to the discovery deadline, and for good cause, petition the circuit court to expand this limitation as discovery progresses.

² Attached as Exhibit A to this Order is an Amended Scheduling Order that contains the noted deadlines. Upon entry of this Order, the Court will forward this Order and Exhibit A to the Chief Administrative Judge for the Ninth Judicial Circuit, so the Chief Administrative Judge can sign and approve the Amended Scheduling Order. Doing so is in keeping with Judge Brown's October 4, 2019, order, and its requirement that the schedule established by Judge Brown "shall only be modified, if necessary, by the Ninth Circuit Chief Administrative Judge."

4. In responding to Dr. Dong's discovery requests, the scope of discoverable materials shall further be limited to relevant documents generated by, created by, sent to, or received from Dr. Dong, Mark Sothman, Ph.D. or Stephen Lanier, Ph.D. The parties may at any time prior to the discovery deadline, and for good cause, petition the circuit court to expand this limitation as discovery progresses.

On October 14, 2019, consistent with Judge Brown's orders, MUSC produced documents to Dr. Dong. Dr. Dong did not subsequently move to further compel production under Judge Brown's October 4, 2019, order or otherwise assert MUSC failed to comply with Judge Brown's October 4, 2019, order concerning the documents produced. Instead, Dr. Dong, in January 2020, filed his Motion to Expand Discovery and served Plaintiff's Second Requests for Production. On March 18, 2020, MUSC served its responses to Plaintiff's Second Requests for Production.

As noted in MUSC's responses to Plaintiff's Second Requests for Production, Plaintiff's Second Requests for Production are subject to objection, and rejection by the Court, for two particular reasons. First, Dr. Dong did not obtain leave of the Court to request materials beyond those expressly required by Judge Brown's prior orders. However, even if Dr. Dong's Second Requests for Production can be viewed as impliedly requesting the Court's permission to request materials beyond the express parameters in Judge Brown's October 4, 2019, order, the Court denies Dr. Dong's request. Dr. Dong, neither in his submissions to the Court nor his arguments at the December 13, 2021, hearing provided sufficient basis, reason, or "good cause" for expanding the scope of discovery.

Moreover, and more importantly, the requests contained in Plaintiff's Second Requests for Production are the very same (i.e. identical or virtually identical) requests contained in Plaintiff's First Requests for Production – being the requests previously ruled upon by Judge Brown in his

October 4, 2019, order. In particular, requests for production 1 and 16 through 40 in Plaintiff's Second Requests for Production are also in Plaintiff's First Requests for Production. In other words, twenty-six of the forty requests contained in Plaintiff's Second Requests for Production, and that Dr. Dong moves to compel MUSC to respond to, were previously reviewed and limited by Judge Brown in his October 4, 2019, order. Finally, even in respect to the remaining fourteen requests, being requests 2 – 15, that do not appear to be identical to those requests contained in Plaintiff's First Requests for Production, the noted requests seek the very same, broad materials sought by Dr. Dong in Plaintiff's First Requests for Production.

For the reasons stated, and based upon the submissions of the parties and the arguments presented at the hearing on December 13, 2021, Dr. Dong's Second Motion to Compel is denied.

CONCLUSION

For the reasons discussed, the Court grants an expanded period for the parties to complete discovery, conduct mediation, file dispositive motions, and, if necessary, prepare for trial. However, the Court denies Dr. Dong's Second Motion to Compel.

Honorable R. Ferrell Cothran, Jr.
Circuit Court Judge
Third Judicial Circuit

_____, 2022



Charleston Common Pleas

Case Caption: Jian Yun Dong M D , plaintiff, et al VS Medical University of South Carolina The

Case Number: 2016CP1006683

Type: Order/Other

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

Electronically signed on 2022-02-07 14:59:31 page 8 of 8

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

JIAN-YUN (JOHN) DONG, M.D., Ph.D.,

Plaintiff(s)

vs.

THE MEDICAL UNIVERSITY OF
SOUTH CAROLINA

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

14-CP-10-5332

Submitted By: Allan R. Holmes

Address: Gibbs & Holmes, Suite 110, 171 Church Street,
Charleston, SC 29401

SC Bar #: 2576

Telephone #: 843-722-0033

Fax #: 843-722-0114

Other:

E-mail: aholmes@gibbs-holmes.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☒ **JURY TRIAL** demanded in complaint. ☐ **NON-JURY TRIAL** demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

Contracts

- ☐ Constructions (100)
☐ Debt Collection (110)
☐ Employment (120)
☐ General (130)
☒ Breach of Contract (140)
☐ Other (199)

Torts - Professional Malpractice

- ☐ Dental Malpractice (200)
☐ Legal Malpractice (210)
☐ Medical Malpractice (220)
Previous Notice of Intent Case #
20-CP-_____
☐ Notice/ File Med Mal (230)
☐ Other (299)

Torts - Personal Injury

- ☐ Assault/Slander/Libel (300)
☐ Conversion (310)
☐ Motor Vehicle Accident (320)
☐ Premises Liability (330)
☐ Products Liability (340)
☐ Personal Injury (350)
☐ Wrongful Death (360)
☐ Other (399)

Real Property

- ☐ Claim & Delivery (400)
☐ Condemnation (410)
☐ Foreclosure (420)
☐ Mechanic's Lien (430)
☐ Partition (440)
☐ Possession (450)
☐ Building Code Violation (460)
☐ Other (499)

Inmate Petitions

- ☐ PCR (500)
☐ Mandamus (520)
☐ Habeas Corpus (530)
☐ Other (599)

Administrative Law/Relief

- ☐ Reinstate Drv. License (800)
☐ Judicial Review (810)
☐ Relief (820)
☐ Permanent Injunction (830)
☐ Forfeiture-Petition (840)
☐ Forfeiture-Consent Order (850)
☐ Other (899)

Judgments/Settlements

- ☐ Death Settlement (700)
☐ Foreign Judgment (710)
☐ Magistrate's Judgment (720)
☐ Minor Settlement (730)
☐ Transcript Judgment (740)
☐ Lis Pendens (750)
☐ Transfer of Structured Settlement Payment Rights Application (760)

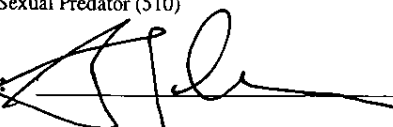
Appeals

- ☐ Arbitration (900)
☐ Magistrate-Civil (910)
☐ Magistrate-Criminal (920)
☐ Municipal (930)
☐ Probate Court (940)
☐ SCDOT (950)
☐ Worker's Comp (960)
☐ Zoning Board (970)
☐ Public Service Comm. (990)

Special/Complex /Other

- ☐ Environmental (600)
☐ Automobile Arb. (610)
☐ Medical (620)
☐ Other (699)
☐ Pharmaceuticals (630)
☐ Unfair Trade Practices (640)
☐ Out-of State Depositions (650)
☐ Motion to Quash Subpoena in an Out-of-County Action (660)
☐ Sexual Predator (510)

- ☐ Confession of Judgment (770)
☐ Petition for Workers Compensation Settlement Approval (780)
☐ Other (799)

Submitting Party Signature: 

Date: September 2, 2014

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

FOR THE NINTH JUDICIAL CIRCUIT

JIAN-YUN (JOHN) DONG, M.D., Ph.D.,)
)
Plaintiff,)
)
vs.)
)
THE MEDICAL UNIVERSITY OF)
SOUTH CAROLINA,)
)
Defendant.)
_____)

SUMMONS

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2014 SEP -2 PM 4:29
CLERK OF COURT
BY

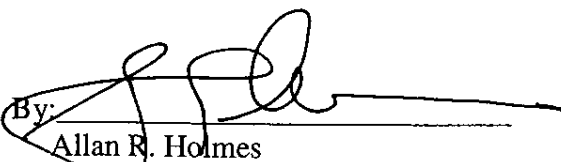
TO: THE DEFENDANT ABOVE NAMED

YOU ARE HEREBY SUMMONED and required to answer the Complaint herewith served upon you and to serve a copy of your Answer to the said Complaint on Plaintiff's attorney, Allan R. Holmes, Esquire, Gibbs & Holmes, 171 Church Street, Suite 110, Post Office Box 938, Charleston, South Carolina 29402, within thirty (30) days after the service hereof, exclusive of the day of such service.

YOU ARE HEREBY GIVEN NOTICE FURTHER that if you fail to appear and defend and fail to answer the Complaint as required by this Summons within thirty (30) days after the service hereof, exclusive of the day of such service, judgment by default will be entered against you for the relief demanded in the Complaint.

GIBBS & HOLMES

September 2, 2014

By: 
Allan R. Holmes
Suite 110, 171 Church Street
Charleston, South Carolina 29401
Phone: 843-722-0033

ATTORNEYS FOR PLAINTIFF

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS

FOR THE NINTH JUDICIAL CIRCUIT

JIAN-YUN (JOHN) DONG, M.D., Ph.D.,)
)
Plaintiff,)
)
vs.)
)
THE MEDICAL UNIVERSITY OF)
SOUTH CAROLINA,)
)
Defendants.)
_____)

COMPLAINT

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JULIE J. ARMSTRONG
CLERK OF COURT
SY

The above-named Plaintiff, by his undersigned counsel, complains of the above-named Defendant and alleges that:

1. Plaintiff is a citizen and resident of Charleston County, South Carolina;
2. Defendant is a body corporate and politic organized under the laws of South Carolina with authority to sue and be sued.
3. Plaintiff holds Doctor of Philosophy and Doctor of Medicine degrees, is an internationally renowned scientist, and served as a tenured faculty member and employee of the Defendant from 1998 until March 31, 2012.
4. Disputes between the Plaintiff and Defendant led to their entry into an Agreement dated May 3, 2010. A copy of said Agreement is attached hereto as Exhibit On May One and its terms are incorporated herein by reference.
5. On, or about, September 29, 2011, the Defendant breached the May 3, 2010, Agreement. A summary of some of the breaches of the Agreement is provided by the September 29, 2011, letter of the Defendant authored by its agents, Mark S. Sothman, Ph.D., and Vice President for Academic Affairs and Provost, and Stephen M. Lanier, Ph.D., Associate Provost

for Research. A copy of this letter is attached as Exhibit Two and incorporated fully herein. *Inter alia*, these breaches violate the May 3, 2010, Agreement, and constitute actionable breaches of contract. They include:

- a. The placement of the Plaintiff on administrative leave and denying him all his duties and responsibilities as a faculty member of the Defendant;
- b. The complete failure to relocate his laboratory equipment and the destruction of his laboratory research materials thereby depriving the Plaintiff of his research, the opportunity to conduct research, the value of his research and diminished his ability to conduct research and obtain research funding and continue or advance his position at another university.
- c. The denial to him of this right to conduct research under the auspices of the National Institutes of Health and other funding agencies, and the destruction of grant activities which he had already secured;
- d. The failure to return to the Plaintiff various biological materials which were wrongfully taken from the Plaintiff by the Defendants and used by other employees of the Defendant;
- e. The failure to support Plaintiff's applications for research funds;
- f. The blocking of the Plaintiff's anticipated research at the biotech firm, GenPhar, Inc., by supporting an unlawful take over of GenPhar, Inc. *Inter alia*, the Defendant, through its agents, contributed to GenPhar shares of stock. These shares included those which the Plaintiff had obtained for the Defendant, and included shares owned by the Plaintiff. These actions caused the full control of GenPhar, Inc., to be given to a German national unlawfully, and unlawfully deprived the Plaintiff of the value of his shares while destroying his efforts to conduct research.

6. The foregoing acts and omissions of the Defendant constitute its breach of its Agreement with the Plaintiff, and have proximately caused damages to the Plaintiff in an amount to be determined at trial.

DEMAND FOR JURY TRIAL

7. Plaintiff demands a trial by jury on all claims.

WHEREFORE, plaintiff requests that this Court:

- a. Set this case down for trial by jury;
- b. Enter Judgment in favor of the Plaintiff in an amount of damages to be determined at trial;
- c. Tax costs and fees against the Defendant;
- d. Grant such other and further relief as is deemed just and proper.

GIBBS & HOLMES

September 2, 2014

By: 
Allan R. Holmes
Suite 110, 171 Church Street
Charleston, South Carolina 29401
Phone: 843-722-0033

ATTORNEYS FOR PLAINTIFF

EXHIBIT ONE

A Final Separation Agreement between
The Medical University of South Carolina including its College of Medicine,
and Dr Jian-yun Dong, Professor of Microbiology and Immunology

This Final Separation Agreement between The Medical University of South Carolina including its College of Medicine (the "University"), and Jian-yun ("John") Dong, MD, PhD, ("Dr. Dong") Professor of Microbiology and Immunology, is entered into this 3rd day of May, 2010.

By their entering into this final agreement, the University agrees that Dr Dong's compensated appointment as Professor of Microbiology and Immunology will continue through March 31, 2012. Dr. Dong agrees to withdraw any and all pending or future grievance(s) for actions prior to the date of this agreement (above) and agrees that this final separation constitutes full settlement of any and all past grievances or claims that Dr. Dong may have against the University, its employees and against any and all of its affiliated entities up to and including the date of this agreement.

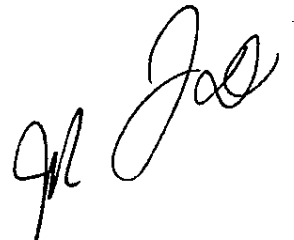
During the term of this final agreement, the University will continue Dr. Dong's employment, faculty appointment and make scheduled salary payments to him. In consideration, Dr. Dong acknowledges that this final agreement constitutes his irrevocable resignation of his tenured faculty appointment to be effective no later than March 31, 2012. Dr. Dong will retain his faculty appointment, tenure and title until the effective date of his resignation.

The University retains the right to provide him a modified, non-tenure faculty appointment and title after March 31, 2012, in light of any continuing mutual benefits that may accrue to the parties.

In his execution of this final separation agreement, Dr Dong understands that he is advised to seek legal advice before signing any final document, and shall have forty-five (45) days after the execution of the agreement to revoke it.

Payment of Faculty Compensation

The University will pay Dr. Dong his current level of monthly compensation through March 31, 2012. This amount will equal but not exceed his effective annual rate of pay (\$105,313.00/year) at November 1, 2009.



Retention of Faculty Appointment and Faculty Duties

The University agrees that Dr. Dong will retain his current appointment and rank through March 31, 2012. Dr. Dong's primary appointment will be in the Department of Biochemistry with a secondary appointment in the Department of Microbiology and Immunology. During this time he will receive annual evaluations and receive and respond to critical inputs and comply with reasonable faculty duties and requests. The University, in turn, acknowledges that Dr. Dong will work predominantly off site in the Charleston area and will travel for academic and commercial purposes.

Dr. Dong agrees to carry his customary share of teaching, lecturing and instructional responsibilities as assigned and communicated to him in writing by the chairman of each department.

During this period Dr. Dong may use the title "Director of Biotherapeutics and Vaccine Development."

Dr. Dong is free to seek academic and research collaborations, including secondary appointments, within MUSC during the remainder of this agreement. Dr. Dong may consult with Drs. Yusuf Hannun and James Norris regarding any proposed change of primary department. Any and all MUSC academic appointments are understood to be term limited, not to extend beyond March 31, 2012 or the date of his employment at another institution or company, whichever may come first.

Irrevocable Resignation effective no later than March 31, 2012

Dr. Dong agrees and commits to submitting an Irrevocable Letter of Resignation effective no later than March 31, 2012. He may submit this letter at any time. Should Dr. Dong accept fulltime employment, including a faculty appointment, at another institution or company prior to March 31, 2012, then the agreed upon payments and continuing appointment will cease at the time of his first day of paid employment. Dr. Dong may request the University's continuation of a modified, non-tenure appointment. The University retains the right to bestow upon him such appropriate title after that time in light of any continuing mutual benefits that may accrue to the parties.

Irrevocable Resignation under this agreement

Should Dr. Dong not elect to send a formal letter of resignation either upon assuming full-time employment at another institution or company or at the end of March 31, 2012, this agreement is recognized by Dr. Dong and the University as an irrevocable resignation effective the time of his first day of paid employment at another institution or March 31, 2012, whichever is sooner.



Access to Campus Research Laboratories and Resources

Dr. Dong agrees to relinquish his future use of approximately 700 sq. ft. of laboratory space after the listed equipment and materials (Inventory list is attached as Exhibit A) have been transferred to his new space. This allows the University to reassign space unused or underused for the needs of other researchers during a time of building renovations.

Dr. Dong must submit an additional list of Vector Core equipment items (to be attached as Exhibit B and approved by the University) he is requesting no later than 10 days after the date of entry into this agreement. The University intends to equip a temporary Vector Core facility in so far as the temporary relocation of that equipment does not disadvantage the grant funded research of other faculty members.

In lieu of rental payments for space in the GenPhar Building (once occupied), the University will waive the direct charging of Dr. Dong's salary to any grants or contracts he receives during the period of this agreement. The University will cost-share this expense in compliance with federal rules and regulations.

The University will continue to provide the customary fiscal support and oversight for research awards received through MUSC and the Division of Basic Science.

The University agrees to relocate at its expense the equipment listed in Exhibit A. It will also relocate at its expenses such Exhibit B equipment as it may evaluate from the remaining Vector Core equipment which can be temporarily relocated without jeopardizing other on-going funded faculty researchers. This includes equipment which Dr. Dong purchased from UCSF and for grants on which Dr. Dong was the named original PI as permitted by law and University policy to the GenPhar location, provided that all certificates of occupancy, governmental permits and insurance coverages are in place for that site. Other items purchased and owned by MUSC with Vector Core NIH and HCC funding shall remain on MUSC's campus, except as listed in Exhibit A, or in the approved Exhibit B request. All equipment shall remain within the MUSC property accounting system. Likewise, any equipment purchased through extramural grants written by Dr. Dong as the sole PI and which was in Dr. Dong's laboratory at the time of relocation to the 700 sf laboratory space (including listed freezers and refrigerators also located in nearby equipment rooms of CSB) shall be relocated to GenPhar in 30 days from the effective date.

Dr. Dong's access to campus facilities and to their use shall not be limited during his remaining years of appointment and employment. All normal laboratory policies and safety practices are to be followed by all faculty members and technicians, including Dr. Dong and his team. All parties acknowledge that this agreement does **NOT** supersede the University's normal laboratory policies and safety practices.

A handwritten signature in black ink, appearing to be 'J. Dong' or similar, located at the bottom right of the page.

Equipment relocated to GenPhar under this agreement will be returned to the MUSC campus at the University's expense at the end of Dr. Dong's appointment, unless otherwise permitted by existing university policies and external sponsor policies and approvals.

Dr. Dong will transfer any research material including genetic materials, DNA constructs, viral and plasmid vectors, antibodies, and enzymes to Dr. Dong's new research location for his continued research, including the materials which were provided by Dr. Dong to the Vector Core for services while Dr. Dong was the Director. Any vectors provided to faculty members during the operation of the Vector Core will remain with the respective faculty members who acquired the product.

In recognition of his offer to perform Vector Core services from his off-campus location for the approximate twenty-three month interval above, the University will pay Dr. Dong a sum of \$30,000 directly from the Chairman's budget in the Department of Microbiology and Immunology, to be paid no later than day 50 following the signing of this agreement. These payments will enable him to perform Vector Core functions and to begin to replicate and to re-propagate vectors which have been lost.

At the direction of Dr. Yusuf Hannun, Mr. Scott Reid and Mr. Ronald Bycroft will attempt to locate any vectors or similar materials shared with other investigators for re-propagation by Dr. Dong and will attempt to locate written, enduring, hard-copy records which have been lost. This will occur in the 45 day window above. Any additional items located after that time of search will also be provided Dr. Dong.

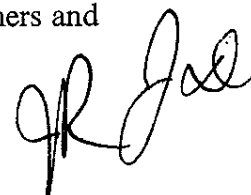
Active Grants at the Time of Resignation

The University agrees to relinquish any and all active, commercially funded research awards received by Dr. Dong to Dr. Dong as permitted by the sponsor upon his resignation. Active, federally funded research awards received will be relinquished directly back to the federal agencies as obligated in the award agreements.

Enduring grant materials, records, lab books and any other documentation required by law or University policy, will be secured, catalogued and maintained by MUSC, in the office of its General Counsel. Dr. Dong may make copies of his enduring grant materials, records, and lab books. Listed laboratory equipment and computers, printers may be released to Dr. Dong, only as permitted under existing university policies and guidelines.

MUSC will cover Dr. Dong's legal fees and other costs in this matter, through a second one-time payment of \$20,000, also to be made to Dr. Dong no later than day 50 following the signing of this agreement.

All parties enter this agreement in good faith and with respect for the intellectual property and scientific contributions of all current, past or future students, faculty researchers and university administrators.



The Parties have set their hand and seal this 3rd day of May 2010.

Medical University of South Carolina

Witness

By: 
J.G. Reves, MD
Vice President for Medical Affairs
and Dean, College of Medicine

Witness

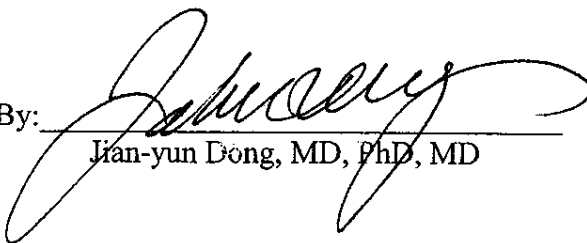
By: 
Jian-yun Dong, MD, PhD, MD

Exhibit A is to be attached and is to be initialed and dated by both parties.

Exhibit B to be provided by Dr. Dong no later than 10 after the signing of this agreement

Descriptions Inventory BSB 211 Lab	Funding	MUSC Tag #
Desk chairs 1 each	Startup	
Regulator in use on CO2 cylinder	No tags	
Epson scanner	No tags	
Compac computer	UCSF	
Igloo Cooler Blue and White	No tags	
Imac broken Two each	Startup	
Lamp for Luminator Mod vf15H	No tags	
Picker	Paddock	
Power Mac G5	GenPhar	
rotor buckets 3 each	No tags	
Two foot stools	No tags	
UVP Trans Luminator	Paddock	83009591
Apple Personnel Lazer Writer	No tags	
BRL Mod 250 Electrophoross systems	No tags	
Corning Stirrer PC-353	Arrigo	
Cylinder Regulator Gauges (3 each)	No tags	
Fisher FB 105 Electrophoross systems	No tags	
Fisher microprobe	No tags	
GCA Precision Water bath	No tags	
Imac and Keyboard and two mice	Startup	
Pipet-Aid Lot # 276	No tags	
Pipet-Aid Lot 221	Arrigo	
keyboards 4 and 4 mice	No tags	
Book cases Mahogany 72" high	Startup	
Fellows Shredder	Startup	
Two Book cases Mahogany each	Startup	
-86C ULT Freezer two door	Vector Core	83083054
Barnstead NanoPure-Diamond	Vector Core	83085260
Bell Stirrer	No tags	
Bio-Rad Biologic BioFrac Fraction collector	Vector Core	
Bio-Rad Bio-logic LP part of 31 above	Vector Core	
Boekel Microcooler	Paddock	83023135
Cryo Biological Storage System JR not in use	No tags	
Fisher Biotech Hybridization Incubator	Startup	
Fisher Dry Bath Incubator	No tags	83075059
Fisher ISO temp 1250	Vector Core	
Fisher ISO temp 205	Vector Core	
Fisher Vortex Genie	No tags	
Fisher Vortex-gene	Paddock	
Forma Scientific -80 Freezer	UCSF	
Forma Water jacketed Incubator	Startup	
G3 computer /keyboard/monitor	Startup	
Kenmore Chest Freezer Large	Dong NIH	
Kenmore Freezer	Dong NIH	
Kenmore Microwave Quiet touch	Dong NIH	
Kenmore Refrigerator/Freezer	Startup	
Kenmore under the counter refrigerator	UCSF	
Parameter Select SN 030	No tags	
Power Mac G4/monitor/keyboard	Startup	
VWR Under the counter refrigerator	UCSF	
Precision Water bath	UCSF	



3 drawer Lat file cabinet (HON)	No tags	
ALPS Printer and box of ribbins Mod 2300	No tags	
Amana Microwave Range	82027-01	
Apple I book	Genphar	83082919
Apple I book no battery	Genphar	
Apple monitor	Startup	
Bio-Rad Gene Pulser	Arrigo	83075041
BMG Fluostar with Dell computer	Vector Core	83072286
Bockel Microcooler	Paddock	83075052
Boekel Microcooler	Arrigo	83025050
Boi-Rad Trans Blot SD	No tags	
Branson 450 Sonofoer	UAB	
Camera connected to Scope above (HBO 100)	Vector Core	
Computer in Office	No tags	
Corning Stirrer/Hot Plate	UCSF	
Cryo Biological Storage System 6 Plus	Vector Core	
Cryo Biological Storage System 6 plus not in use	Startup	
Dell Computer & monitor 17"	No tags	
Dell monitor 24"	Genphar	
Deluxe Mixwe S8220	No tags	
Desk And Chair	Startup	
Eppendorf Centrifuge 5402	Paddock	83022926
Eppendorf Centrifuge 5415C	Paddock	83031565
Eppendorf Centrifuge 5415C	Arrigo	83031566
Eppendorf Centrifuge 5417C	Paddock	83056787
Eppendorf Centrifuge 5417R	Paddock	83052851
Eppendorf Easypet Pipette	Vector Core	
Eppendorf Easypet Pipette	UCSF	
Eppendorf pipette P10 =10 each	tor Core=3 Dong NIH=4	
Eppendorf pipette P100 = 1 each	No tags	
Eppendorf pipette P1000 =3 each	No tags	
Eppendorf pipette P20 =7 each	tor Core=5 Dong NIH=4	
Eppendorf pipette P200 = 5 each	vector Core=4	
Equathon Temp Blok	UCSF	
File Cabinet	Startup	
Finnpipette Digital 5-50 ul	UCSF	
Fisher Dry bath Incubator	Vector Core	
Fisher Electrophoresis Systems	UCSF	
Fisher ISO Temp	No tags	
Fisher ISO temp 125D	No tags	
Fisher Manathon 16 KM	vector core	
Fisher Mini Vortexer	UCSF	
Fisher PH Meter Mod AB15	UCSF	
Fisher Regular Mod 10-572-E	No tags	
Fisher Sterrer/ hotplate	UCSF	
Fisher Water bath 205	UCSF	
Fisher Waterbath	Vector Core	83075057
Fisher Waterbath 220	UCSF	
Forma Chest freezer (locked)	UCSF	
Forma Orbital Shaker	UCSF	
Forma Water Jacketed Incubator	Kalivas	
Fotodyne UV	No tags	



Gallen Kamp Orbital Incubator	Genphar	
General Electric Reader	No tags	
Harvard Trip Balance (2kg – 5 lb) two each	1=UCSF	
Hot Plate	Paddock	83075048
Hot Plate Nuova II	No tags	
HP 4050N printer	Startup	
IEC Centrx CL3R	Paddock	83073686
IEC HN-SII Centrifuge	UCSF	
IEC Micromax	UCSF	
IEC Micromax	No tags	83073687
IEC micromax	UCSF	
IMAC	Startup	83074995
IMAC	Startup	83075045
IMAC /keyboard	Startup	
Imac and Keyboard S/N YMO1112QJ88	Donation/26000	83075063
Kenmore 19 Freezer (locked)	Dong NIH	
Kenmore Chest Freezer small (1)	Dong NIH	
Kenmore Freezer Chest Small (2)	UCSF	
Kenmore microwave	Vector Core	
Kenmore Ref/freezer	No tags	
Kenmore Refrigerator / Freezer	No tags	
Kenmore Refrigerator/Freezer	No tags	
Kenmore refrigerator/Freezer 293	UCSF	
Kodak Carsusel 80	No tags	
MJ Research PTC-200 DNA Peltier Thermal Cycler	Vector Core	
OHAUS Balance	UCSF	
Olympus CK2 Microscope	Vector Core	83037762
Opti-Quip Mod 1200 power supply	Paddock	83075065
Orbital Shaker	Paddock	83075037
Panasonic Phone with Answering machine	No tags	
Perkin Elmer Gene AMP PCR system 2400	Paddock	83049405
Perkin Elmer Gene AMP PCR system 9600	Startup	83027077
Picker Reader	Paddock	
Pipet- Aid lot 205	Startup	
Pipet Aid Lot 205	TAL (Ken's)	
Pipet Aid pipette SN 35452	UCSF	
Pipet-Aid Sn # 21576	UCSF	
Pipetman pipette P10 = 1 each	No tags	
Pipetman Pipette P100 =1 each	No tags	
Pipetman Pipette P1000 = 9 each	No tags	
Pipetman Pipette P1000 = 9 each	No tags	
Pipetman Pipette P20 = 20 each	vector Core=3	
Pipetman Pipette P200 = 9 each	No tags	
Power PC & monitor plus old scanner and CD-Rom	Startup	
Power PC and 5 keyboards in a box	No tags	
Precision Standard Balance	Paddock	83031568
Precision Waterbath	Paddock	83075039
Precision Waterbath	Paddock	83075042
Precision Waterbath Mod 181	Paddock	83075047
Printer	Startup	
Safety Glass two pair	No tags	
Savant SpeedVAC SC100	Paddock	83075049



Sears Seal n Save	No tags	
Spenger	UCSF	
Steel Cart (Lake side Inc.)	No tags	
Stratagene RoboCycler 40	UCSF	
Survey Meter (Ludlum MD23)	UCSF	
Two Chairs	Startup	
Vortex	No tags	
Vortex-2 Genie	Arrigo	
Vtech phone base with three phones	GenPhar	
VWR 1230 Waterbath	UCSF	
VWR 50-200ul pipette	UCSF	
VWR Rocking Platform Mod 100	Vector Core	83075060
Wooden 6 shelf book case	Startup	
Zeiss Microscope 200 and power supply	Vector Core	83082917
Zip 250 drive 3 each	Startup	



STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

COURT OF COMMON PLEAS
FOR THE NINTH JUDICIAL
CIRCUIT

JIAN-YUN (JOHN) DONG, M.D., Ph.D.

Plaintiff,

vs. CASE NO. 2016-CP-10-06683

THE MEDICAL UNIVERSITY OF SOUTH CAROLINA,

Defendant.

DEPOSITION OF: JIAN-YUN (JOHN) DONG, M.D., Ph.D.

DATE: October 18, 2022

TIME: 10:00 a.m.

LOCATION: 171 Church Street
Charleston, SC

TAKEN BY: Counsel for the Defendant

REPORTED BY: Roxanne Easterwood, RPR

Page 2 1 APPEARANCES OF COUNSEL: 2 3 PRO SE PLAINTIFF 4 JIAN-YUN (JOHN) DONG, M.D., Ph.D.: 5  6 7 ATTORNEYS FOR DEFENDANT 8 THE MEDICAL UNIVERSITY OF SOUTH 9 CAROLINA: 10 Cleveland & Conley, LLC 11 By: Bob Conley 12 171 Church Street, Suite 310 13 Charleston, SC 29401 14 bconley@clevelandlaborlaw.com 15 843-577-9626 16 17 (INDEX AT REAR OF TRANSCRIPT) 18 19 20 21 22 23 24 25	Page 4 1 and, maybe more importantly, the answers you give. 2 She can only do that if you and I do a few things 3 that I'll talk to you about that are meant to help 4 to do that, okay? 5 A. All right. 6 Q. The first one is if I ask you a 7 question today that you don't understand, don't 8 hesitate to ask me to -- say, Bob, Mr. Conley, can 9 you restate that? Can you ask it again? I'm not 10 sure I understand what you were saying. Okay? 11 A. All right. 12 Q. If you will do that, I'm happy to 13 rephrase the question, break it into small parts, 14 whatever I need to do so that I don't confuse you 15 with the question, because it's not meant to 16 confuse you. That doesn't do you or I any good to 17 confuse you, all right? 18 A. All right. 19 Q. So just make sure, if you don't 20 understand something -- and I know you will 21 anyway. I just tell people, don't be bashful 22 about saying I don't understand what you're asking 23 me, and I'll try to rephrase it, okay? 24 A. Okay. 25 Q. The second one is people, when they
Page 3 1 PROCEEDINGS 2 * * * * * 3 JIAN-YUN (JOHN) DONG, M.D., Ph.D. 4 being first duly sworn, testified as follows: 5 EXAMINATION 6 BY MR. CONLEY: 7 Q. Good morning, Dr. Dong. 8 A. Good morning. 9 Q. Nice to see you today. You and I have 10 met on a number of occasions, so we're familiar 11 with each other. 12 A. Yes. 13 Q. Have you ever been deposed before? 14 Have you ever sat in a room with a lawyer and a 15 court reporter and had questions asked? 16 A. No. No. 17 Q. I'm going to go over a few things with 18 you that you need to know about about the process, 19 since you've never done it before. Most of these 20 things are really meant to help this lady at the 21 end of the table. 22 A. I understand. 23 Q. The reason is, Dr. Dong, is we want to 24 make sure, both you and I, that she is able to 25 make an accurate transcript of the questions I ask	Page 5 1 ask and answer questions, have a tendency 2 sometimes to speak over one another. Usually 3 that's because we all start to think with our 4 brains about our answer before someone is finished 5 asking the question. So what I generally tell 6 witnesses is if you can agree to let me ask my 7 entire question before you begin to speak with an 8 answer, I will, likewise, agree I'm not going to 9 ask you another question until I'm sure you're 10 done with your answer. 11 It becomes very hard for her, if you 12 and I start to talk over one another, to get an 13 accurate record. So if from time to time I might 14 ask you, Hey, wait, let me finish asking my 15 question, I'm not doing that to be rude. It just 16 means you have done what we all tend to do, and 17 that is sometimes start to give an answer before 18 somebody is finished asking a question; is that 19 fair enough? 20 A. That's fair. 21 Q. The other item is, is that -- I don't 22 have a tendency to do this. I think, if anything, 23 I probably speak too slow, not too fast. But it 24 is important that you do talk at a sort of a 25 measured pace. Again, for the convenience of the

Page 6 1 court reporter, to make sure she gets your answers 2 correctly. It's generally helpful, too, if, you 3 know, you're in a good posture. Right now she can 4 sort of see your face. That's fine. That helps 5 her make sure she's getting correct testimony on 6 the record as well. If we can do all of those 7 things, that will really help do this efficiently; 8 is that fair enough? 9 A. All right. 10 Q. If you have any questions as we go 11 along today, don't hesitate to ask them. Meaning, 12 you're a pro se party; you have never been through 13 a deposition in this posture before, so if you 14 have a question, you're free to ask me a question 15 at any point. 16 A. All right. 17 Q. Whether I can answer it or not, I'd 18 have to know what the question is, but if you do 19 have a question, just ask. The process isn't 20 designed or meant to confuse you. It's solely a 21 discovery tool so that I can get your testimony 22 about your claims in this case, all right? 23 A. All right. 24 Q. A couple other items. One, I 25 generally take a break every hour because I get	Page 8 1 ask you now -- I generally save this to the end of 2 the deposition to ask the witness, but I'll go 3 ahead and do this with you now because I think 4 it's more efficient to do it this way. 5 You, as the witness in the case, have 6 the option to do under the rules what's called 7 "reading and signing your deposition transcript." 8 A. Right. 9 Q. In its most simplistic terms, what 10 that means is after the deposition is concluded 11 today and the court reporter prepares a transcript 12 of it, you can elect to tell the court reporter "I 13 want to read and sign my transcript." If you do 14 that, what she will do is once it's prepared, she 15 will email it or mail it to you -- you can work 16 out with her how you want to get it -- and she 17 will provide you with a copy of it. At that point 18 in time you have 30 days to review it under the 19 rules, okay? 20 A. All right. 21 Q. I presume you probably want to read 22 and sign your transcript; is that right? 23 A. Yes, I do. 24 Q. So that's good. Once the transcript 25 is prepared, the court reporter will take care of
Page 7 1 tired of asking questions, and I presume the 2 witness is probably, likewise, tired of answering 3 my questions. So I try to take a ten-minute break 4 or so every hour. However, with that said, you're 5 welcome to take a break at any time. You can look 6 at me at any moment and say, You know, can I take 7 ten minutes? That's fine, we'll take ten minutes. 8 The only thing I would ask is that if I have a 9 question I have asked you, that you go ahead and 10 finish answering before we take the break. 11 Otherwise, you can take a break whenever you want. 12 all right? 13 A. All right. 14 Q. One of the things you have to agree to 15 abide by, since you're the witness that's being 16 deposed, is until the deposition is over, you're 17 not allowed to speak to anybody about your 18 testimony. Meaning, you know, if we take a break, 19 you can't call somebody on the phone and talk to 20 them about your testimony. You can't text 21 somebody about your testimony until the deposition 22 is concluded. Obviously, once it's concluded, 23 talk to whoever you want about it, okay? 24 A. I understand. 25 Q. The other thing I want to go ahead and	Page 9 1 getting that to you, and you can look at the 2 rules. The rule lays out what your obligations 3 are once you receive it, okay? 4 A. All right. 5 Q. Any questions about any of those 6 things? 7 A. No. 8 Q. Any questions before we sort of get 9 started about sort of the general methodology of 10 doing this? 11 A. No. Just remind me to silence my 12 phone. 13 Q. Yes, I have to remember to do that as 14 well. 15 Can you give me your full name for the 16 record? 17 A. It's J-i-a-n - Y-u-n. I go by John. 18 Last name, Dong, D-o-n-g. 19 Q. Can you give us your current 20 residential address? 21 [REDACTED] 22 Q. I'm not looking for exact dates, 23 Dr. Dong, but approximately how long have you 24 lived at that address, generally? 25 A. [REDACTED].

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1 Q. Do you need to finish something on
2 your phone?
3 A. I'm trying to silence it.
4 Q. So you have lived at the [REDACTED]
5 address since [REDACTED]?
6 A. Yes.
7 Q. Just prior to your address on [REDACTED]
8 [REDACTED] where did you reside? What was your
9 residential address?
10 A. I lived there briefly -- well,
11 actually, let me give you the [REDACTED]
12 [REDACTED]
13 Q. I think it's [REDACTED].
14 A. Yes, exactly right, [REDACTED].
15 Q. That is the address you were residing
16 at before you started living on [REDACTED]?
17 A. Right. I also lived briefly in
18 [REDACTED]. I could not remember the address.
19 Q. [REDACTED] being [REDACTED]
20 [REDACTED]?
21 A. Right.
22 Q. Over in [REDACTED] on [REDACTED]?
23 A. Right.
24 Q. The address or the residence you lived
25 in in [REDACTED], did you live there alone, or did

Page 11

1 someone live there with you?
2 A. I lived there alone. I was divorced.
3 Q. What about the address you gave us up
4 in [REDACTED], did you live there with someone, or
5 did you live there alone?
6 A. I lived there alone.
7 Q. What about the address on [REDACTED]
8 [REDACTED], do you live there alone, or do you live
9 there with someone else?
10 A. I live with my wife, my second
11 marriage.
12 Q. Can you give us your current wife's
13 name?
14 A. It's officially P-e-n-g. Last name
15 Z-h-a-o. She goes by Allison Dong.
16 Q. I don't need exact dates, but about
17 how long have you and your current spouse been
18 married?
19 A. 2015 or '16 -- 2016.
20 Q. I think you mentioned just a minute
21 ago that this is your second marriage; is that
22 right?
23 A. Correct.
24 Q. Can you give me the name of your first
25 spouse?

Page 12

1 A. D-a-n-h-e-r. Last name W-a-n-g.
2 Q. Any other marriages, other than the
3 two you mentioned?
4 A. No.
5 Q. That reminds me of something else I
6 need to mention to you that I didn't. Sometimes
7 when you're answering questions, we have a
8 tendency to nod our head or something. The court
9 reporter, as you might imagine, can only take down
10 verbal responses.
11 A. I see.
12 Q. So try to remember to say yes or no
13 and not nod your head. And I will remind you if
14 you nod your head, is that a yes or no. I'm not
15 doing that to be rude. I just want to make sure
16 she gets your testimony correctly.
17 A. All right.
18 Q. Your first spouse, do you remember
19 what year you were divorced?
20 A. I have a problem with my memory of
21 dates.
22 Q. Just general.
23 A. I think it was -- dates and years,
24 because I suffer from memory suppression due to
25 when I grew up under the communist rule, and my

Page 13

1 parents was persecuted all their life.
2 Q. So do you remember what year you were
3 divorced?
4 A. Because it's bad events, I think. So
5 I don't know. If I remember, I think -- let me
6 guess. It's about 2012.
7 Q. Do you remember if that divorce was in
8 [REDACTED]?
9 A. Yes.
10 Q. Did you have a lawyer who represented
11 you in that divorce?
12 A. No.
13 Q. Do you know if your ex-spouse had a
14 lawyer?
15 A. She did.
16 Q. Do you remember who her lawyer was in
17 that divorce?
18 A. No.
19 Q. You have to say no.
20 A. No. But actually, I did have a
21 lawyer, but just for the -- not for the whole
22 process. It was -- I could not remember his name,
23 but it may come back.
24 Q. That's fine. It sounds to me like
25 your memory is you had a lawyer for part of the

4 (Pages 10 - 13)

Page 14

1 divorce process, but perhaps not all of it?
2 A. Just the -- right.
3 Q. And your recollection is you don't
4 recall your ex-spouse having a lawyer at any time
5 during the process?
6 A. She had lawyer for the entire file.
7 Q. She did?
8 A. Right.
9 Q. The entire time, but you just don't
10 remember that person's name?
11 A. No, because I was completely removed
12 from the process. So basically I agreed to
13 everything they asked for. Actually, I never met
14 her lawyer.
15 Q. Do you and your first wife have any
16 children?
17 A. Yes, we have a daughter.
18 Q. Can you give us her name?
19 A. Deanna, D-e-a-n-n-a, Dong.
20 Q. Any children by your second marriage?
21 A. No.
22 Q. Your ex-spouse, does she still live in
23 the greater [REDACTED] area? Do you know where
24 she lives?
25 A. She still lives in the [REDACTED]

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1 That's [REDACTED]
2 [REDACTED].
3 Q. Is that the house in [REDACTED]?
4 A. No.
5 Q. No, it's not?
6 A. No. It's at [REDACTED].
7 Q. You describe that as the [REDACTED]
8 Is that a residence where you lived at one time?
9 A. Yes.
10 Q. The address you gave at [REDACTED]
11 [REDACTED]?
12 A. Yes, during the marriage.
13 Q. We have to be careful about talking
14 over one another.
15 A. Sorry, about that.
16 Q. That's okay. You've given me a couple
17 of addresses: the [REDACTED] address, the [REDACTED]
18 address, the address in [REDACTED] that you don't
19 remember the exact address, and then you also gave
20 us a fourth address where you've resided, which is
21 the [REDACTED] address; is that right?
22 A. Right. Correct.
23 Q. Your ex-spouse, do you know if she's
24 employed anywhere? Do you know if she works?
25 A. She should be retired, too.

Page 16

1 Q. She what?
2 A. She should have been retired, too.
3 Q. But do you know if she works anywhere?
4 You can just tell me if she doesn't or if you
5 don't know.
6 A. I do not know for sure.
7 Q. Your daughter, does she live in [REDACTED]
8 [REDACTED]?
9 A. She is a surgeon in -- somewhere in
10 [REDACTED]. I don't remember the name of the
11 hospital or the area.
12 Q. Your current wife, does she work
13 anywhere? Is she employed?
14 A. No. She's retired, too.
15 Q. She's retired?
16 A. Right.
17 Q. What did she do before she retired?
18 A. She was a teacher in medical college
19 in Beijing.
20 Q. To your knowledge, has she ever held a
21 job here in the local area?
22 A. No.
23 Q. Dr. Dong, is she a U.S. citizen? Has
24 she been naturalized? What is her status?
25 A. She's permanent resident based on

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1 marriage.
2 Q. Other than your current wife and your
3 ex-wife, anybody else in South Carolina that
4 you're related to in any way?
5 A. No.
6 Q. No other family members?
7 A. No.
8 Q. At all?
9 A. No.
10 Q. Are you currently employed anywhere?
11 A. No. I'm retired.
12 Q. When you say retired, that can mean a
13 lot of different things to different people. What
14 does that mean when you tell me you're retired?
15 A. I reached the age of retirement.
16 Q. How old are you?
17 A. I'm 65, going on 66.
18 Q. When I hear someone say they're 65 and
19 they're retired, in my mind, I'm generally
20 thinking they're drawing Social Security. Are you
21 drawing Social Security at this point?
22 A. Yes.
23 Q. Are you receiving any other retirement
24 benefits other than Social Security? Meaning, do
25 you have any other retirement benefits that are

Page 18

1 providing you, like most retirees, with income on
2 a monthly basis?
3 A. I've been working at many universities
4 where I've been a professor and doctor my whole
5 life.
6 Q. That's what I'm trying to find out.
7 What other sources of retirement income do you
8 have? You told me Social Security. Do you
9 receive retirement income by way of your
10 employment at the Medical University of South
11 Carolina?
12 A. Yes, I do.
13 Q. So that's probably through the South
14 Carolina Public Employee Benefits --
15 A. Deferred.
16 Q. We can't talk over each other. You
17 have to let me finish.
18 A. Sorry.
19 Q. It's okay. But just wait.
20 I presume that retirement you receive
21 in respect to your work at MUSC, you receive that
22 by way of what's called the South Carolina Public
23 Employee Benefits Association. Do you receive a
24 retirement check each month?
25 A. No, I don't. Actually, I haven't

Page 19

1 activated it yet.
2 Q. So you're not receiving any retirement
3 benefits you accrued as a result of your work at
4 MUSC?
5 A. No.
6 Q. So where are you -- what other sources
7 of income do you have right now, other than your
8 Social Security that you receive each month?
9 A. I also rented out my house in [REDACTED]
10 [REDACTED].
11 Q. The house, is that the house at the
12 address that you told us about earlier?
13 A. Right. That's my house.
14 Q. When you say you rent it, does that
15 mean -- rent nowadays can mean a lot of things.
16 It may mean you rent it Airbnb, or you can rent it
17 permanently to somebody.
18 A. No. I rent it permanently to someone.
19 Q. Your sources of income right now are
20 your Social Security, whatever rent you receive on
21 the house on [REDACTED]. Any other sources of
22 income right now.
23 A. No.
24 Q. Do you receive any sources of income
25 from any other places where you've worked in the

Page 20

1 past?
2 A. I'm not clear how the system works,
3 because I believe all the work, the pensions that
4 I had at differing universities all follow me to
5 MUSC in the end. So I worked at UCSF before. I
6 worked in California. That has the best pension
7 system nationwide.
8 Q. To your knowledge, are you receiving
9 any kind of pension through -- from California
10 right now?
11 A. I think I'm not quite sure, because I
12 never take care of my financial before, and I
13 didn't follow up. I believe it was all
14 transferred, combined into MUSC.
15 Q. So sitting here this morning, the only
16 sources of income you can identify right now are
17 your rent income from your house on [REDACTED]
18 and your Social Security income?
19 A. That's correct.
20 Q. The house on [REDACTED], is that a
21 house you own outright, or is there a mortgage on
22 it? Do you know?
23 A. Actually, that's my wife's house.
24 Q. So you don't own the house at all?
25 A. No, I don't own that house.

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1 Q. Have you ever had an ownership
2 interest in that house on [REDACTED]?
3 A. No.
4 Q. Since your employment ended at MUSC,
5 have you applied for positions at any other
6 universities or colleges?
7 A. I did not actually actively look for,
8 but I did look at -- monitor employment
9 opportunities from number of universities out of
10 science journal. The reason is I have no way
11 because I have no academic -- no more academic
12 background. I do not have academic research
13 anymore, because all my material was taken away.
14 All my research material was taken away. I have
15 no equipment.
16 Unless you start from over again, from
17 my position, if you don't have facility, research
18 materials and research -- active research projects
19 going, you do -- you are not hireable, unless I
20 want to be janitor.
21 So actually, being full professor like
22 what I did at MUSC, they recruited me from UCSF, a
23 much prestigious university. That actually was
24 done great move on my side, but I could, because I
25 have active research project and a lab full of

Page 22	Page 24
1 technician, post-docs, and trainees, and I have my 2 research funding. And that's -- all the equipment 3 was transferred with me. So I have means to 4 conduct academic research. When all of those was 5 taken away from me, I have no means to conduct 6 academic research, and I have no way to apply a 7 position lab work. 8 Q. So the answer would be no, since your 9 employment with MUSC ended, you could not -- 10 A. I could not. 11 Q. You have to let me finish with the 12 question. I promise you I will sit here and let 13 you give your full answer before I ask another 14 question. But for the court reporter's benefit, 15 you have to let me ask my question before you give 16 an answer. 17 So the answer would be you have not 18 applied for any other academic positions since 19 your employment at MUSC ended? 20 MR. DONG: Objection. 21 Can I give my answer instead of you 22 give me the answer and let me say yes or no? 23 MR. CONLEY: You can say whatever you 24 want, Dr. Dong. 25 THE WITNESS: I could not because of	1 Q. I'm going to ask you about -- 2 generally, about the eleven people you have asked 3 to depose in the case. Mark Sothmann, can you 4 tell me just generally? I'm looking for a rough 5 idea so I have some knowledge of what connection 6 Mr. or Dr. Sothmann has to your claims against 7 MUSC in the case. 8 A. Basically there's no connection. MUSC 9 limited my discovery only to Mark Sothmann, and I 10 think he was interim provost or whatever for brief 11 period of time. He was not involved before or 12 after the real events, what happening -- what 13 happened. He was not involved. 14 I never met him before. I don't 15 remember. He was not -- I did not remember -- I 16 do not remember. He might be copied on some 17 emails. I do not remember actually seeking him 18 out for the problems I had at MUSC. 19 Q. Do you remember having any meetings 20 with Mr. Sothmann or him being involved in any 21 meetings before you signed the agreement -- 22 A. No. 23 Q. -- with MUSC? 24 A. No. 25 Q. Do you ever remember meeting with him
Page 23	Page 25
1 reason I stated above. 2 BY MR. CONLEY: 3 Q. Because you could not, does that mean 4 you have not? 5 A. I could not. That means I could not. 6 Q. Setting aside academic positions, have 7 you applied for any positions in private industry 8 since your employment at MUSC ended? 9 A. I'm not employable for private 10 industries because I have no, so, industrial 11 background experience. 12 Q. Can you identify any jobs you have 13 applied for anywhere with any type of employer 14 since your employment with MUSC ended? 15 A. The only option for me was to find 16 academic background, as I said. As I say, because 17 of those limitations, I could not apply for 18 academic background, academic professorship. I'm 19 not applying for trainee. I'm not applying for 20 start or technician. So I could not do anything I 21 want to do. 22 If you take away a surgeon's 23 equipment, ability to perform operation, you ask 24 the surgeon have you applied for any other jobs, 25 the answer will be, obviously, no, you cannot.	1 after you signed the agreement in regard to 2 anything related to it? 3 A. No. 4 Q. Beth Gladden, can you give me a 5 general idea of what it is you believe she knows 6 about your claims in the case? 7 A. She should have known everything 8 because she's the business administrator for 9 Dr. James Norris, who was the chairman at the 10 time, and she basically included James Norris on 11 everything they done to me. I don't know if she's 12 honest or not, if she can tell the truth, or 13 whether she will be a material witness. 14 Q. Do you recall ever having any 15 conversations with Ms. Gladden in regard to the 16 agreement that you entered into with MUSC? 17 A. No. She wasn't at that level. 18 Q. Do you remember her ever being 19 involved in any meetings or conversations leading 20 up to you entering into that agreement with MUSC? 21 A. She was involved, deeply involved, in 22 the events taking away my research material, 23 spending my money by Dr. James Norris. And 24 actually, she was there when I was blocked from 25 entering my laboratory, and she was claiming --

7 (Pages 22 - 25)

Page 26 1 she was claiming there was a criminal 2 investigation because somebody stole my genetic 3 material. 4 That was the excuse at the time to 5 block me entering my lab, tell me there was an 6 auditing ongoing. So, therefore, I could not 7 enter my lab. That's the first event I find that, 8 really, Dr. Norris basically just stop from 9 hiding, basically wanted to take away my genetic 10 material, my money and equipment for his own use. 11 Q. Thank you for telling me that. Do you 12 remember Ms. Gladden ever being involved in 13 discussions about the written agreement that you 14 signed with MUSC? 15 A. No, she wasn't. 16 Q. That's all I'm asking. You don't 17 remember her being involved in that agreement? 18 A. No, I do not. But she is behind all 19 the events that's transpired to the agreement 20 which compromised between the administration and 21 me regarding to -- to prevent me from actually 22 reporting to what James Norris did. 23 What he did was he -- actually what 24 I've been accused of and charged with, because he 25 misusing contract grant fund of another person for	Page 28 1 many, many of the biosafety committee auditing 2 examination and filing reports, and in the end I 3 did not violate anything. 4 Q. Was Dr. Schmidt involved, to your 5 recollection, in any way in the agreement that you 6 reached -- entered into with MUSC? 7 A. It's not agreement per se, but it was 8 the old events transpired the agreement. The 9 agreement is, retrospect, is in bad faith, just 10 try me get off MUSC. So that's why the 11 agreement -- actually, the discussion and 12 background of the agreement was way beyond the 13 agreement, which at the time I was just 14 desperately trying to get my research projects 15 going, because in my career if you stop doing 16 research, and your career will be severely 17 damaged. 18 Q. Do you recall ever having any 19 discussions with Dr. Schmidt about that written 20 agreement? 21 A. No. 22 Q. Dr. Stephen -- Stephen, with a P-h, 23 Tomlinson, he was someone else. You indicated you 24 wanted to take Dr. Tomlinson's deposition. Can 25 you tell me why it is you want to take
Page 27 1 his own use. That can trigger the auditing in all 2 of the MUSC grants, as well as disqualify MUSC 3 from applying for federal grants if that's 4 actually be proven. 5 That's why I have intention not to 6 harm MUSC, not to harm all my colleagues. So 7 that's a compromise position to reach the 8 agreement so I can get my research material and 9 lab equipment back quickly, because I have a 10 career to follow, instead of fighting with MUSC at 11 the time and also causing severe damage to MUSC. 12 Q. What about Michael G. Schmidt? He's 13 someone you indicated you wanted to take his 14 deposition. What does he know, or what is it you 15 believe he knows that has some connection to your 16 claims in this lawsuit? 17 A. Of course, he knows the actual events. 18 At least he knows some of the actual events. He 19 was vice president -- no, no -- vice chairman of 20 the department, and I believe he let James Norris 21 did what he did, but he wasn't helping me in any 22 way. But he knows a lot of details. 23 Also, he was on the biosafety 24 committee and being used against me to auditing me 25 for biosafety violations. So I was put through	Page 29 1 Dr. Tomlinson's deposition, including what it is 2 you think he knows that relates to your lawsuit? 3 A. He knows -- well, he was one of the 4 collaborators of mine. He definitely knows the 5 event and also all the activities transpired to 6 the agreement. 7 Q. Do you recall ever having any 8 conversations with Dr. Tomlinson about the actual 9 written agreement you entered into with MUSC? 10 A. No. He doesn't have the -- any part 11 in the written agreement, but it was -- he have 12 significant knowledge of the events that have 13 transpired to the agreement, and also he was one 14 of my scientific collaborators when I was the 15 professor at the department, and he was actually 16 -- I was on his recruitment committee when I was 17 at the department. 18 And his career was not impacted, 19 because I do not believe Dr. Norris was interested 20 in his research. And he also very experienced. 21 He will protect his money from being abused by Dr. 22 James Norris. 23 Q. What about Christina Voelkel-Johnson, 24 Dr. Voelkel-Johnson? Can you give me some idea of 25 what it is you believe she may know that pertains

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1 to your lawsuit, Dr. Dong?
2 A. Also involved in the activities, and
3 she used to be a trainee of Dr. James Norris.
4 Actually, Dr. James Norris take my material and
5 giving to one of the person in his laboratory,
6 Christy or Christina, sorry, and she will get the
7 benefit of obtaining my material, conducting her
8 research, advance her career while -- without
9 giving me credit.
10 So she was the one in a way indirectly
11 benefitted from Dr. James Norris taking my genetic
12 material and research resources and for her to
13 advance her career, which will be under James
14 Norris. So when she had publication, James Norris
15 will be the correspondent author, who will be the
16 ultimate person in charge on the research projects
17 and obtain federal funding based on those
18 research.
19 And she was one of them took my
20 research material and my research projects for her
21 benefit as the beneficiary or recipient of
22 Dr. Norris illegally and immorally taking my
23 genetic material and lab research, as well as
24 equipment for his own use.
25 Q. Do you know of any involvement that

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1 Dr. Johnson directly had in the agreement that you
2 entered into with at MUSC?
3 A. This is not only agreement. This is
4 the event taking my genetic material and research
5 projects and research funding from me and research
6 equipment from me and block my research advantage,
7 block my career in order to advance James Norris's
8 career, funding. So that's -- actually, the
9 agreement is one small part of the equation.
10 Q. I understand that's your position.
11 I'm just asking if Dr. Johnson, to your knowledge,
12 had any involvement in the written agreement.
13 That's all I'm asking.
14 A. She does not.
15 Q. You also indicated you wanted to
16 depose Lisa Saladin. That's S-a-l-a-d-i-n. Can
17 you give me a general idea of what you believe
18 Dr. Saladin may know about your lawsuit and the
19 claims you make?
20 A. She's current provost, if I'm correct,
21 and she will have to -- I assume, because I never
22 met her before -- assume she will know the general
23 policy of MUSC.
24 The administration policy of MUSC, the
25 faculty handbooks was governed -- governed the

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1 relationship between the Medical University and
2 all of the faculty members. And she will also
3 have knowledge, direct knowledge, of how a
4 tenureship worked at MUSC.
5 Q. Have you ever met Dr. Saladin?
6 A. No, I have not.
7 Q. I don't believe she was the provost
8 when your time at MUSC ended; is that right? She
9 wasn't the provost then, was she?
10 A. No, she wasn't. She is now. The
11 provost at the time was John Raymond.
12 Q. To your knowledge, did Dr. Saladin
13 have any involvement in the written agreement you
14 reached with MUSC?
15 A. She represented MUSC, now. She
16 actually should be able to testify about the --
17 how the -- as I said, how the MUSC system works as
18 a continuous process between a faculty member and
19 MUSC.
20 Q. Do you recall ever having any
21 communications with Dr. Saladin prior to entering
22 into the --
23 A. No.
24 Q. -- agreement with MUSC?
25 A. No.

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1 Q. You have to let me finish my question,
2 Dr. Dong.
3 A. All right.
4 Q. David J Cole, current president at
5 MUSC, can you give me some idea of why you
6 identified Dr. Cole as someone who you want to
7 depose?
8 A. He was one of my close collaborator on
9 assignment of projects, and we have joined the
10 research projects. I also trained his graduate
11 student as post-doc fellows, and he intimately
12 knows my -- the value of my research and, in
13 general, how research and medical practice was
14 conducted as a professor, as a faculty member, and
15 he has certain knowledge of the importance of the
16 biomedical research materials and projects taken
17 away from me.
18 And so actually, he was one of my
19 close -- closest collaborators and one of the
20 close collaborators at MUSC, and so he will be
21 able to shed some lights on how the events
22 transpired.
23 Q. To my knowledge, Dr. Cole was not the
24 president of MUSC when your time there ended; is
25 that right?

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1 A. No. I wasn't depose him as a
2 president. I would depose him as one of my
3 colleagues, close -- had a close relationship with
4 me during my research, during my tenure at MUSC
5 and all of the research events and the importance
6 of my materials and was taken away from me by
7 Dr. James Norris.
8 Q. Dr. Jerry Reves, can you tell me why
9 he's someone that you had -- or you want to depose
10 in the case and what he may know about your
11 lawsuit?
12 A. Actually, he was the one single person
13 negotiated with me on the so-called compromised
14 position, and he made a lot of -- sorry, I
15 probably used she. He.
16 Q. It's okay.
17 A. He promised me a lot, but it was not
18 in the final agreement. And he was the one tends
19 to be, for lack of better way, the good one, good
20 person, wearing the white hat during the
21 negotiation.
22 Q. I think what you just said to me is
23 your impression was he was playing what we might
24 call "the good guy" during his negotiation with
25 you?

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1 A. Yes. Basically he was explaining to
2 me this is just provide a mechanism to hold down
3 so I can continue my research at different
4 location, one I -- if I can prove I can do good
5 research, especially get funding to MUSC -- get
6 more funding to MUSC, and MUSC will bring me back.
7 And also he promised me to continue my
8 research, as well as teaching graduate students,
9 training post-docs fellows, do all the academics
10 research as I have done before.
11 Q. You also indicated you wanted to take
12 the deposition of somebody by the name of Scott
13 "Reid or "Reids."
14 A. Scott Reids (sic).
15 Q. Can you tell me, in general, what -- I
16 don't know if it's Mr. or Dr. Reid may know about
17 your claims in the lawsuit?
18 A. He was in charge to implement the
19 material transfer. He was the business manager,
20 the counterpart of Beth Gladden, but he was in the
21 department of biochemistry and more like biology.
22 He was under Dr. Yusuf Hannun, which is my second
23 appointment.
24 But one of the piece of equipment
25 missing, not on the list, he was the go-to person

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1 to find out if that piece of equipment exists,
2 where it was located, and he was given -- on the
3 paper, he was given the authority to oversee the
4 smooth transfer my laboratory documents, my
5 genetic material, my lab equipment, and doing all
6 the administrative matters during my research,
7 so-called, off campus.
8 Q. Dr. Steven Lanier, he's also someone
9 who you indicated you wanted to take Dr. Lanier's
10 deposition. Can you, like you've been good enough
11 to do with the other witnesses, give me a general
12 idea of what you believe Dr. Lanier may know about
13 the claims in your lawsuit?
14 A. Dr. Lanier was the, ultimately,
15 responsible person, because he was close friend of
16 Dr. James Norris while he was the chairman -- no,
17 he was not the chairman. He was a faculty of
18 department of biochemistry while he was competing
19 for the chairmanship of biochemistry, which
20 eventually given to Yusuf Hannun, and he left
21 university, moved to --
22 Q. Wayne State maybe?
23 A. No. He was -- at that time he left
24 for Tulane or university somewhere Louisiana, and
25 he was recruited back when Dr. John Raymond left

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1 or somewhere about and become the executive vice
2 president for research. Maybe he had other title,
3 but he was ultimately in charge of the research
4 activities at the MUSC, and he backed up for
5 Dr. James Norris.
6 He was the one, as vice president,
7 block me from entering my laboratory. He was the
8 one actually take away from my research
9 laboratory, my office using his authority as the
10 vice president of the university, and he was the
11 one I reported to administration what Dr. Norris
12 was doing to me, as well other problems Dr. Norris
13 may have in terms of misusing grant money of other
14 people, and he was appointed to be the person in
15 charge.
16 And I'll skip that. I don't want to
17 give that. He was the one ultimately tricked me
18 into the agreement and eventually breached the
19 agreement and benefitted, actually, for MUSC, as
20 well as for James Norris, to take my research
21 projects, technologies, and research documents and
22 lab equipment.
23 Q. Dr. Dong, in the lead-up to you
24 entering into the written agreement with MUSC, did
25 you have a lawyer representing you?

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1 A. No, I did not. 2 Q. You did not? 3 A. No. I understand there was a sentence 4 slipped into the agreement before I signed it, but 5 at the time I was more anxious to -- I believed 6 Dr. -- Dean Reves or -- because I have tendency to 7 believe every -- my colleagues, because they are 8 doctors, they are all highly ethical 9 professions -- professionals, with the exception 10 of James Norris and Steven Lanier. 11 I can't remember if I also noticed Dr. 12 Rosen. 13 Q. Can you spell the last name? I'm not 14 sure I caught that. 15 A. Rosen, R-o-s-e-n. Ken Rosen. 16 Q. Dr. Rosen? 17 A. Right. He is the director of FRD, 18 Foundation For Research and Development, of MUSC. 19 Q. What is it Dr. Rosen knows about your 20 lawsuit or the claims you made? 21 A. He was involved actually, as well as 22 Dr. John Raymond, involved in setting up the 23 company, GenPhar, with New York investors, and he 24 was also involved -- played a part recruiting me 25 from UCSF to specifically help MUSC to develop	1 was involved in my complaint and also tried to 2 follow the process before he actually transferred 3 to become the president or vice president of 4 another university. 5 Q. Do you have any recollection of 6 Dr. Raymond being involved with the written 7 agreement you entered into in this -- 8 A. He was not. 9 Q. You have to let me finish. 10 Do you have any recollection of 11 Dr. Raymond being involved in the written 12 agreement that you entered with MUSC? 13 A. He was not directly involved in the 14 written agreement. Only person directly involved 15 in written agreement was Joe Goodman, was the 16 general counsel of MUSC, and Dean Reves and Steven 17 Lanier, but Steven Lanier is kind of in the shadow 18 because he knows he was -- he is the one that was 19 the dirty work. 20 Q. You mentioned the name at the hearing 21 two weeks ago of Samyon Rubinchick. Samyon is 22 S-a-m-y-o-n, and Rubinchick is 23 R-u-b-i-n-c-h-i-c-k. 24 Can you tell me what Dr. Rubinchick 25 knows or you believe he knows about the claims
Page 39	Page 41
1 biotech industries for MUSC under the mandate of 2 State of South Carolina. 3 So he will know how the interplay 4 works between the company which lend me the lab 5 space and also the -- how I actually got involved 6 with the biotech company on behalf of MUSC. 7 Q. Is Rosen R-o-s-e-n? 8 A. R-o-s-e-n, or I think R-o-s-o-n. But 9 he was director FRD for a long time, and anybody 10 will know his... 11 Q. There are some other people you listed 12 in responses to our interrogatories. I want to 13 ask you about a few of these people. You listed 14 Dr. John Raymond -- 15 A. He was the provost, sorry. 16 Q. That's all right. So Dr. Raymond was 17 the provost at the time you entered into the 18 agreement -- the signed agreement? 19 A. That's where the -- because that's my 20 report to administration started that -- when John 21 was the provost, and -- but I had a good 22 collaboration relationship with Dr. Raymond. But 23 once I started the complaint, that potentially can 24 cause serious problem for MUSC, and so he -- and 25 we did not have any communications, but I think he	1 you're making? 2 A. He knows all of the actual events. He 3 was the assistant professor, work under me in my 4 laboratory. But because Dr. Norris hold the 5 bacon, in a way, to promote him any further, so he 6 was basically using Dr. Rubinchick to do his work 7 while Dr. Rubinchick was on my payroll and 8 using -- have access to all my research materials. 9 And also the words that Dr. Norris 10 once said, "I like this because I can take money 11 out of one pocket, put into the other; I got all 12 the work done." 13 Guess who was the one being taken 14 advantage of? That was me. 15 So actually, Dr. Rubinchick did all, 16 everything, including doing the auditing, transfer 17 my genetic material, and he was involved at the 18 time. 19 Q. Do you know if Dr. Rubinchick had any 20 involvement in the agreement you reached with 21 MUSC, the written agreement? 22 A. He does not have the agreement. The 23 agreement only small part of it. It's not the 24 whole thing. The agreement covers a lot, which is 25 because that's the compromise for what Dr. Norris

Page 42 1 did to me so I can start my research at a 2 different -- continue my research at a different 3 location, while the breach of the agreement 4 completely stop me from conducting my research, 5 stopped my career cold because I have no genetic 6 material, no research equipment, no personnel and 7 no documents. 8 Because research is not done by one 9 person. It's all of the lab notes and everything, 10 everything done by the people working for you. So 11 I will not enter lab notes. So without lab notes 12 I will not know what happen, and I will not know 13 how to repeat some of the experiments. So I'm the 14 scientific engineer in a way, but I do not do the 15 construction. I do not do the work. 16 Q. To go back to my question: Do you 17 know of any involvement Dr. Rubinchick had in the 18 written agreement? That's all I'm asking. 19 A. That's -- the answer is no. 20 Q. What about Dr. Brian Hole, H-o-l-e? 21 You listed him. Can you tell me who Dr. Hole is 22 and what you believe he may know about your claims 23 in this lawsuit? 24 A. He does not. He's one of the graduate 25 students sent to my lab by Dr. Norris as a	Page 44 1 into with MUSC? 2 A. No. 3 Q. You also listed a Dr. Jennifer 4 Schepps, S-c-h-e-p-p-s. 5 A. Yes. 6 Q. Do you know what she may know about 7 your lawsuit and the claims in it? 8 A. She does not know lawsuit, but she was 9 my graduate student. She will know what events 10 transpired before the agreement was signed, why 11 actually I signed the agreement, and what's the 12 agreement for. 13 Q. I'm not going to be able to pronounce 14 this last name. I'll do the best I can. Dr. 15 Woraratanadharm? 16 A. Woraratanadharm. 17 Q. It's spelled 18 W-o-r-a-r-a-t-a-n-a-d-h-a-r-m. Do you know who 19 I'm speaking about? 20 A. She involved with -- 21 Q. Can you tell me what you believe she 22 may know about the claims in the lawsuit, 23 Dr. Dong? 24 A. She was also one of my graduate 25 students. So she knew what I went through.
Page 43 1 condition for my promotion, and basically that -- 2 so legitimize he using my research material to 3 Dr. Hole's research project, graduation project, 4 which become Dr. Norris project. So that's the 5 setup. 6 Q. You have a Dr. Kenneth Roozen, 7 R-o-o-z-e-n. Who is that? 8 A. I think that's what I'm saying. 9 Q. That must have been the "Rosen" or 10 "Roson" we were talking about earlier? 11 A. Roozen. 12 Q. I don't know how you spell it either, 13 but we know who we're taking about. 14 Then you have Mr. Chip Hood listed in 15 your interrogatories, too. Can you tell me what 16 Mr. Hood knows about your claims in this lawsuit? 17 A. He was the director of our FRD 18 following Dr. Roozen left. He has intimate 19 knowledge of my research project and technologies, 20 and he was trying to ask me to file patent 21 disclosures so he will know the value of the 22 technologies and the importance of the technology 23 I had that was being taken by Dr. Norris. 24 Q. Do you know if Mr. Hood was involved 25 at all in the written agreement that you entered	Page 45 1 Q. You also listed a Dr. Stephanie 2 Smith-Johnson. Do you know, or can you tell me 3 what you believe she knows about your lawsuit and 4 the claims in it? 5 A. Stephanie. 6 Q. It says "Stephanie Smith-Johnson." 7 A. I think that's a misspelling. I think 8 that's Christy Johnson. 9 Q. The same person we talked about 10 earlier? 11 A. Yes. 12 Q. Very good. 13 A. Sorry. 14 Q. That's fine. Dr. Steve London is 15 someone you listed in your interrogatories. Can 16 you tell me, in general, what it is you believe 17 that Dr. London may know about the claims in your 18 lawsuit? 19 A. He was one of my colleagues. He 20 actually had a dispute with Dr. Norris on the same 21 or similar issues, and, basically, I think the 22 university covered it up and promoted him to, I 23 think, even the vice president. So put him away 24 from the department. 25 I think for the same issue that what

Page 46 1 James Norris did, could have a major impact on the 2 overall funding of MUSC, but I wasn't ready to be 3 a whistleblower. I wasn't going to do anything to 4 harm the university or harm any of my colleagues, 5 opposite from what they did to me. 6 Q. Did Dr. London, to your knowledge, 7 have any involvement with the written agreement 8 you entered into with MUSC? 9 A. No. No. 10 Q. Looks like the last person I have here 11 is a Dr. Lucile "Landon," L-u-c-i-l-e, 12 "L-a-n-d-o-n." 13 A. That's the husband, sorry. 14 Q. Can you tell me, in general, what 15 Dr. Landon may know about your lawsuit and the 16 claims in it? 17 A. Lucile, actually, is Dr. London's 18 wife, and she also -- I think she went to 19 professor. 20 Q. So this should be Lucile London, not 21 Landon? 22 A. Right. Same person. 23 Q. So that's Dr. Steve London's spouse? 24 A. Wife, right. 25 Q. Tell me what you believe she may know	Page 47 1 about your lawsuit and the claims in it. 2 A. She actually work next door with me in 3 the laboratory position, and actually, she -- 4 Dr. Norris actually tried to start some dispute 5 over equipment, over sharing facilities between me 6 and Dr. Lucile London and to distract me from 7 actually reporting what he did. 8 So Dr. London will have knowledge what 9 transpired during the process, what the problem 10 had with Dr. James Norris, which he eventually 11 transpired to or lead to me to signing the 12 agreement. 13 Q. Was Dr. Norris directly involved, to 14 your knowledge, in the written agreement that you 15 entered into with MUSC? 16 A. He didn't actually -- he cannot sign 17 agreement with me because he is the target of my 18 complaint, and I think he was taken off the 19 picture, but he worked closely with Steve London 20 -- Steve Lanier. Actually, the two conspired to 21 took my material, research material, equipment, 22 everything for his own use. 23 And Dr. Steve Lanier actually came to 24 GenPhar, talk to me, wanted me to give him 25 something. I did not know what. I thought what	Page 48 1 he meant was on behalf MUSC, but now I think back, 2 that may not be true. 3 Q. Did you and Dr. Norris ever have any 4 conversations about the written agreement you 5 entered into at MUSC? 6 A. He was the target. He was the 7 transpirer(sic). That's how the -- that agreement 8 was reached. 9 Q. I understand that. My question was 10 did you ever have any conversations with 11 Dr. Norris about the written agreement? 12 A. I have all the conversations regarding 13 to the problems I had, and that was transpired to 14 the agreement. So how -- he was the -- intimately 15 involved with the agreement was about. 16 That's actually -- he probably set up 17 the -- he would be the one provide the list of 18 equipment, and there is many pieces missing from 19 the list. And also actually, he took some of the 20 equipment and my contract, but -- and over -- so 21 for center grant, and he considered that was his. 22 Yet he wasn't signing any part of it. 23 He was intimately involved, because 24 Dr. Reves doesn't know anything directly. He was 25 just the representative MUSC to do the -- also was	Page 49 1 the dean of medical school. So he was the one 2 actually presented as white hats, being good 3 person, and try to calm down the situation and so 4 I can quickly continue my research instead of go 5 through the process at the time which will be -- 6 end up with serious damage to my career. 7 Because research is a competition, 8 that 100-meter dash. If you stop in the middle 9 working on the logistics, you will -- for sure 10 will be losing. 11 Q. You also listed -- the last person is 12 Joe Good. Obviously, I know Mr. Good. He was the 13 former in-house counsel at MUSC. 14 Did you have conversations with 15 Mr. Good about the written agreement before it was 16 entered into? 17 A. I do not have direct conversation, but 18 I had some emails copying him. I believe he was 19 the one drafted the agreement, and he also had a 20 close communication with James Norris. So there 21 are a lot of things sort of sneaked into the 22 agreement before I sign it, and that is -- all the 23 legal languages, that is all from Dr. Joe Good -- 24 Mr. Good. 25 Q. But you understand what I'm asking?

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1 Have you had any direct conversations with
2 Mr. Good? Did you --
3 A. I -- I did not. I did not have direct
4 conversation with him.
5 Q. Thank you.
6 A. I don't remember. I might, but I
7 don't remember.
8 MR. CONLEY: This is a good place to
9 take ten minutes and get some more coffee.
10 (A recess was taken.)
11 MR. CONLEY: Back on the record.
12 (Exhibit 1, Civil Action, Dong v. MUSC,
13 marked for identification.)
14 BY MR. CONLEY:
15 Q. Dr. Dong, I'm going to hand you what I
16 have marked as Exhibit 1 to your deposition. And
17 I'll just represent to you that is the lawsuit
18 that you filed, including the two exhibits that
19 were attached to the last. You can take a minute
20 to look at it, though, before we talk about it at
21 all.
22 A. Yes.
23 Q. Just keep it in front of you.
24 Dr. Dong, I asked you earlier if you
25 were represented by a lawyer before you signed the

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1 written agreement with MUSC, and you indicated, I
2 think, that you did not have a lawyer; is that
3 right?
4 A. Correct.
5 Q. Obviously, at the time you filed the
6 lawsuit initially in 2014, you did have a lawyer,
7 which was Mr. Holmes, directly down below us?
8 A. Yes.
9 Q. Do you remember when in that time span
10 you actually hired Mr. Holmes to represent you? I
11 mean, obviously, it was sometime before
12 September 2, 2014, when the lawsuit was filed. Do
13 you remember if it was days before the lawsuit was
14 filed, months before it was filed, that you hired
15 Allen?
16 A. It was almost a year or maybe even
17 more than a year.
18 Q. Meaning you think it might have been a
19 year or more before you filed the lawsuit that you
20 retained Mr. Holmes's law firm?
21 A. Correct.
22 Q. Nonetheless, Mr. Holmes did not
23 represent you at the time you entered into that
24 written agreement with MUSC?
25 A. That's correct.

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1 Q. Before you signed that written
2 agreement with MUSC that we'll talk about in a
3 minute, did you take it to a lawyer to review with
4 you and discuss at all?
5 A. No. I was being a good faculty
6 member. I didn't want to cause any problems for
7 MUSC, also any of my colleagues. I was going to
8 resolve the problem so I can -- I have a career to
9 take care of at the time. So I wasn't interested
10 in getting in a dispute with my employer, with the
11 university.
12 Q. After you entered into the written
13 agreement with MUSC, was Mr. Holmes the first
14 lawyer you took the agreement to?
15 A. Yes.
16 Q. In other words, other than Mr. Holmes,
17 you never took it to any other attorney to review
18 or discuss with you after you signed it?
19 A. Right. I do not -- I could not
20 remember how I ended up with Mr. Holmes. I think
21 maybe at the suggestion of Mr. Joe Good. I think
22 that the delay was -- I should probably not have
23 read it at the time (sic), and Mr. Joe Good was
24 leaving, and Holmes actually put his hat into the
25 ring for potential general counsel for MUSC. So

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1 he did not tell me at the time, but he keep
2 delaying, delaying, delaying it until he knew he
3 was out of the competition, and then he filed the
4 lawsuit for me.
5 Q. Can you turn to Exhibit 1 that's a
6 part of Defendant's Exhibit 1? Just turn back to
7 it and go to Exhibit 1.
8 A. Oh, Exhibit 1?
9 Q. Yes. You just went by it, Dr. Dong.
10 A. Oh, here?
11 Q. Yes.
12 A. I have early stage of cataracts, so I
13 have my glasses, but I have hard time to read it.
14 Q. That's fine. You take your time.
15 Defendant's Exhibit 1 contains Exhibit 1 that
16 we're looking at right now. That is a five-page
17 document that's entitled "Final Separation
18 Agreement between the Medical University of South
19 Carolina, including its College of Medicine, and
20 Dr." -- I'll just say -- "Dr. Dong, professor of
21 microbiology and immunology," correct?
22 A. Correct. That's my first appointment.
23 Q. If you look back on the fifth page of
24 that document, Dr. Dong, there is a signature line
25 with your name below it and then a signature above

Page 54 1 it. Is that your signature? 2 A. Yes. 3 Q. Do you recall if May 3rd, 2010, is the 4 date you signed it? 5 A. I can't recall, but this is -- 6 clearly, that's the date, 2010, yes. 7 Q. The rest of my questioning, to make it 8 simple for the record, I'm going to refer to this 9 five-page document as the agreement, all right? 10 A. Okay. 11 Q. So if I reference the agreement, I'm 12 talking about this five-page document, all right? 13 A. All right. 14 Q. And you can use the same label for it. 15 If you would also look at each page of 16 the five-page document, Dr. Dong. Other than the 17 last page where your signature appears, in the 18 other preceding four pages there are some initials 19 down in the bottom right-hand corner of each page. 20 Can you tell me if any of those initials on each 21 page are yours? 22 A. Yes. 23 Q. Is that your initials that appear on 24 each page? 25 A. Yes.	Page 56 1 A. I believe so, yes. 2 Q. Do you remember if anybody else was 3 there, Dr. Dong, or just the two of you? 4 A. Of course, his secretary. 5 Q. Other than his -- what I might call 6 his administrative staff, anyone else who was 7 there, other than you and Dr. Reves, that you 8 remember? 9 A. No, I don't believe there was anybody 10 else. 11 Q. Do you remember if Dr. Reves signed it 12 during the same meeting? 13 A. I could not remember. Must be 14 actually, this -- it was quite formal. 15 Q. Let me ask a follow-up to that that 16 might help. When you left Dr. Reves's office that 17 day, do you remember leaving with a fully-signed 18 copy of it just as it appears in front of you 19 today? 20 A. I could not remember. What I can 21 remember was print out two copies. I think I 22 might have an original copy. I believe I give to 23 Mr. Holmes, and then he could not find it anymore 24 and give me a scanned copy. I remember that all 25 the papers then was MUSC official paper.
Page 55 1 Q. Do you recall how this agreement was 2 given to you to sign? What I'm asking in that 3 regard, for clarity, Dr. Dong, so I don't confuse 4 you, is I'm really asking how did you physically 5 get it? Was it emailed to you? Was it given to 6 you in hard copy by somebody to sign? Do you 7 remember how you got the copy that you actually 8 signed? 9 A. I could not remember, but likely to be 10 email. 11 Q. If it was emailed, I presume you would 12 have then printed it out in order to sign it? 13 A. I could not remember I printed out or 14 Dr. Reves printed out. I think I was asked to 15 sign, so I went to Dr. Reves's office. I believe 16 I signed -- was on the -- was print out, official 17 print out by Dr. Reves. I believe there was two 18 copies on the MUSC paper, not the white paper. 19 Q. Did I understand you correctly, 20 correct me if I'm wrong, that your recollection is 21 you actually signed it in Dr. Reves's office? 22 A. I believe so, yes. I was specifically 23 went to Dr. Reves's office. 24 Q. Was Dr. Reves there when you signed 25 it?	Page 57 1 Q. Before you signed this agreement in 2 Dr. Reves's office on that day, did you read it 3 before you signed it? 4 A. I probably scanned through. I was 5 more interested looking to the equipment. I find 6 a few missing. Actually, I did talk to Scott 7 Reid, and he eventually located those equipment 8 that was not on list and still after signing. So 9 the equipment, he find them. He said he was going 10 to work on it, and never got anything back from 11 Reid -- Reid, Scott. 12 At the time my focus, everything is 13 how to -- because I was extremely anxious to get 14 my research started, and that completely block my 15 ability to do research. So I wasn't paying much 16 of interest -- attention to the formality or even 17 reading documents because I was not an order. I 18 was a faculty member, a professor, and I was more 19 interested to research, and I believe Dr. Dean 20 Reves, and I believe all my colleagues, except 21 James Norris and Steve Lanier. 22 Q. Do you remember, do you have any 23 substantive memory of any conversation you and 24 Dr. Reves had that day in his office before you 25 signed the agreement?

15 (Pages 54 - 57)

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1 A. Before I signed agreement I had
2 extensive discussion with Dr. Reves.
3 Q. That day in his office?
4 A. On that day I do not think so. I
5 thought he had reached agreement. I am not very
6 clear, but I remember I walked into his office and
7 he was -- and I was waiting in the room, and he
8 was -- his secretary brought two copies, identical
9 copies. I signed, I believe, and I -- based on my
10 memory, he signed, initial everything else, and he
11 said that's he's glad to get everything put behind
12 us and let's continue and he believe that I have a
13 bright career and that I continue my research.
14 Q. Anything else you remember about the
15 meeting with Dr. Reves that day?
16 A. No. I just remember he was -- I still
17 believed Dr. Reves is a good dean. Actually,
18 people say Dean Reves, Dean Reves. I think here
19 is also vice president of medical affairs.
20 Q. What I was going to ask you was --
21 this may sound weird, but was Dr. Reves mean that
22 day when you met with him? I mean --
23 A. No. No.
24 Q. -- was he congenial? Nice?
25 Professional?

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1 A. Never.
2 Q. If you look on the first page of the
3 treatment, Dr. Dong, and if you go down to the
4 fifth paragraph on the first page, and you see
5 that paragraph? You can take a minute to look at
6 it.
7 (The witness reviews the document, as
8 requested.)
9 THE WITNESS: Right. I did not read
10 this, but at the time I think it was somebody --
11 actually, I did. I was told I have a right to
12 seek legal advice. I didn't think I needed to
13 because it's just an internal matter with MUSC,
14 and I didn't pay much attention to this, but I
15 did -- also did not have any attorney.
16 BY MR. CONLEY:
17 Q. Am I correct that --
18 A. I believe this Dr. Joe Good is
19 responsible, too, for everything.
20 Q. Am I correct that within the 45 days
21 after you signed the agreement you did not take it
22 to a lawyer to have any lawyer look at it?
23 A. No.
24 Q. I haven't seen this anywhere, but is
25 it also correct that in the 45 days after you

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1 signed the agreement you didn't ask to revoke it
2 or rescind it?
3 A. No, because, actually, I was just
4 waiting for them to transfer my material, continue
5 my research.
6 Q. If you go up to the second paragraph
7 on that first page -- and you can read the whole
8 thing. I just have a couple of questions for you
9 on it.
10 (The witness reviews the document, as
11 requested.)
12 THE WITNESS: Yes, I read.
13 BY MR. CONLEY:
14 Q. A couple of questions about that
15 paragraph. Was your official title or position at
16 MUSC at the time you entered the agreement,
17 Dr. Dong, "Professor of "Microbiology and
18 Immunology"?
19 A. I'm just a professor. Actually, the
20 department is microbiology and immunology. So I
21 had the second -- actually, I could not remember
22 which one, second appointment at department of
23 medicine, and also have a more active role in
24 department of biochemistry and microbiology. I
25 was also member -- full member of Strom Thurmond

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1 Cancer -- Hollings Cancer Research in the Strom
2 Thurmond Building.
3 Q. Did you have any kind of formal
4 written grievance pending at the time that you
5 entered into this agreement? I haven't seen one,
6 so I'm asking.
7 A. No. Actually, in my emails -- we only
8 communicate through emails. But my email was
9 turned off abruptly, and also I was deleted from
10 the website. That's the whole violation of the
11 agreement for me to continue my research and
12 teaching.
13 So actually, they also shut off my
14 Homeroom, which is all the storage, equipment
15 storage. So it's internal storage. It's called
16 "Homeroom." So all my communication, everything
17 would be stored in the Homeroom. So the acting --
18 Steve Lanier ordered everything was turned off.
19 Q. I probably didn't ask the question
20 well. I'm just trying to find out did you have
21 any kind of formal written grievance pending at
22 the time that you signed the agreement?
23 A. No, I did not. If you -- actually, if
24 you -- including the complaint to the
25 administration of MUSC, yes, I do. But if you

Page 62 1 think other legal agreements, no. 2 Q. I didn't see where you had filed -- 3 had yet filed a formal grievance, for instance, 4 under the faculty handbook at that point. Had you 5 done that at that point? 6 A. What is formal? Once you send emails? 7 I communicated with the administration, yes. 8 Those considered formal. 9 Q. Nonetheless, any form of grievance 10 that you had pending at the time you signed this 11 agreement would have been in the form of your 12 email communications with -- 13 A. Right. 14 Q. -- MUSC personnel? 15 A. Right. You write to administration. 16 Those would not be included with Steve Lanier. 17 Probably would be John Raymond, and maybe include 18 Ray Greenberg at the time. 19 Q. If you go down to the last paragraph, 20 Dr. Dong, on the first page. Last paragraph on 21 the first page, Dr. Dong. I'm still on the first 22 page. I'll try to go page by page so you don't 23 have to flip back and forth. 24 A. All right. 25 Q. Did MUSC pay you your monthly	Page 64 1 That actually, in a way, kept me close by. It 2 would be to the benefit of the company, because I 3 was the one providing technology, advice on behalf 4 of MUSC to the company. That would be the company 5 GenPhar. 6 Q. At the time you signed this agreement, 7 which we're in May of 2010, Dr. Dong, where was 8 GenPhar's facility here locally? 9 A. It's just in Mount Pleasant, Sea Coast 10 Parkway. 11 Q. That's where GenPhar would have 12 been -- 13 A. Physically located. 14 Q. -- physically located in May of 2010? 15 A. Yes, the research lab. 16 Q. Of 2010? 17 A. Yes. It has been all the time until 18 it was closed 2018. 19 Q. At the time you signed this agreement 20 in May 2010, Dr. Dong, what was your position with 21 GenPhar? 22 A. Official position, I was the 23 consultant on behalf of MUSC, but I was also the 24 principal investigator of the contracts based on 25 the technologies. I was consulting with
Page 63 1 compensation all the way through March 31, 2012? 2 A. That's my salary. 3 Q. Yes. Did they pay that through 4 March 31, 2012? 5 A. Yes. 6 Q. We can go over to Page 2 now. I think 7 I'm done with Page 1 for now. 8 A. All right. 9 Q. Let's look at the first paragraph. 10 You can read it first. 11 (The witness reviews the document, as 12 requested.) 13 THE WITNESS: Yes. 14 BY MR. CONLEY: 15 Q. The last sentence, Dr. Dong, says: 16 "The university, in turn, acknowledges that 17 Dr. Dong will work predominantly offsite in the 18 Charleston area and will travel for academic and 19 commercial purposes." 20 When this says "work predominantly 21 offsite," where was that? What was your 22 understanding of where that work was to 23 predominantly occur? 24 A. I think they reached agreement 25 with the company, FRD, established with GenPhar.	Page 65 1 Department of Defense. 2 Q. Did you have any other title at 3 GenPhar? President? Anything like that? 4 A. They give you empty title at the time, 5 president, because the company is run by CEO and 6 the chairman of the board. So just make me feel 7 good, but I didn't feel good or anything about it 8 because my -- if I was interested in company, I 9 would have done so in California, San Francisco, 10 which funding was plentiful, and the company get 11 full support from the state, eventually become 12 public companies, and here it was basically a 13 desert of biotech companies and funding. 14 Q. Were you on the GenPhar board in 15 May 2010? 16 A. Yes, I was board, because I was 17 assigned it. There was five members. Five board 18 members has to be investors except the -- me was 19 the exception, because I was -- would present what 20 the -- the technical directions for the companies. 21 Q. In May of 2010, you were both the 22 president -- 23 A. No, I wasn't that. Actually, I 24 probably jumped too early. I wasn't anything 25 other than consultant.

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1 Q. In May 2010? 2 A. Right. I do not know when. I could 3 not remember the time. All of the executives 4 resigned, and then I was given the -- so-called, 5 the titles. They have to actually have somebody 6 to... 7 Q. Were you on the board in May 2010 at 8 GenPhar? 9 A. I could not remember. I could not 10 remember when, but I will also say so. Mostly 11 they question me about the technologies and what 12 is the potentials and everything by the board 13 members, because they are the one actually own the 14 company and invested over \$13 million their own 15 money, not institution money, to own the company. 16 Q. In May 2010, were you an employee of 17 GenPhar? 18 A. No. I was a consultant. 19 Q. So in May of 2010, it's your 20 recollection you didn't hold any particular title 21 or position with GenPhar, you weren't employed by 22 GenPhar, and you weren't on the GenPhar board; is 23 that right? 24 A. That's my best recollection, but I was 25 also asked by the board to answer questions, and I	1 A. Yes. 2 Q. What you just told me? 3 A. Yes. 4 Q. Did you testify at either criminal 5 trial you were involved in? Did you testify at 6 those trials? 7 A. Yes. 8 Q. You testified at both of them? 9 A. No. One. 10 Q. Which one, the first one or the second 11 one? 12 A. The second one, the bench trial. 13 Q. The bench trial with Judge Norton? 14 A. Yes. 15 Q. You actually testified at that trial? 16 A. Yes, but they -- well, hopefully, this 17 is irrelevant. But I was convicted because Judge 18 Norton's law clerk was negotiating U.S. attorney's 19 position in the U.S. Attorney's Office during the 20 time while she was doing everything for Judge 21 Norton, and Judge Norton recuse himself 22 afterwards, and they transferred to another judge. 23 And the judge basically wasn't involved in the 24 trial and everything else. 25 Q. If you turn over to the third page of
Page 67	Page 69
1 did attend some of the board meetings. But mostly 2 I do not have a say-so about financials in-house, 3 other than they ask me about the technology. So I 4 basically -- I was basically -- I still a 5 scientist, not for the company -- to the company. 6 Q. Were you ever on the GenPhar board? 7 A. Later. As I said, later. I could not 8 remember when. There was a board split, and the 9 company -- I think there is a agreement 10 settlement, actually, both sides, there is -- 11 basically the investors divide into two, and both 12 sides basically make the executive resign, so 13 basically make the company to only exclusively 14 operate -- provide contract service to the 15 Department of Defense. 16 So there's no more investment money 17 coming in. So they can't be paid with DoD 18 contract funds, and also their share disagreement 19 of who was in control of the company with one of 20 the now deceased local billionaire, Jerry Zucker. 21 That's all above my involvement how 22 the company run, how the investor runs. So I 23 don't know. 24 Q. That's the full extent of your 25 involvement with GenPhar?	1 the five-page agreement, please. 2 A. Sorry? 3 Q. Turn to the third page of the 4 five-page agreement, please, Dr. Dong. So we're 5 on Page 2. I'm asking you to turn over to the 6 third page of it. The next page, Dr. Dong. 7 A. All right. 8 Q. Let's take a look at the first 9 paragraph. If you can read that first paragraph, 10 and I'll ask you some questions about it. 11 (The witness reviews the document, as 12 requested.) 13 THE WITNESS: Yeah, but that's already 14 taken away from me. 15 BY MR. CONLEY: 16 Q. The agreement says: "Dr. Dong agrees 17 to relinquish his future use of approximately 700 18 square foot of laboratory space." 19 What 700 square feet is this talking 20 about? Is that a specific place down at MUSC? 21 A. That's my -- 22 Q. Your lab? 23 A. -- lab and the -- 24 Q. Where was that? Do you remember the 25 building?

18 (Pages 66 - 69)

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1 A. Second floor, BHS.
2 Q. And it says: "Dr. Dong agrees to
3 relinquish his future use of approximately
4 700 square feet of laboratory space after the
5 listed equipment and materials" -- and in parens
6 it says "(inventory list is attached as Exhibit
7 A) has been transferred to his new space."
8 A. Right.
9 Q. My question is do you know what the
10 reference to new space is? Do you know what new
11 space that's referencing?
12 A. That's actually transfer the new space
13 to GenPhar.
14 Q. At that point in time that would be
15 GenPhar's facility on Sea Coast Parkway?
16 A. Yes. But it was taken away from me,
17 but the material was never transferred. So this
18 is -- this is also one of the breach. At the time
19 back then they already took away from me.
20 Q. Let's go to the second paragraph,
21 Dr. Dong. Actually, let me take that back. The
22 first paragraph references "attached Exhibit A,"
23 which is an inventory list. If you turn over to
24 Exhibit A, Exhibit A is attached to the agreement
25 we're talking about.

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1 A. Right.
2 Q. I think, if you look on the inventory
3 list, which is four pages long, down in the bottom
4 right-hand corner it has a set of initials. Are
5 those your initials? Are one of those sets of
6 initials yours?
7 A. Right, it has my initials.
8 Q. On all four pages, right?
9 A. Right.
10 Q. Did you review this inventory list at
11 the time you signed the agreement?
12 A. I did not, but I think I just trusted
13 it was generally accurately based on the record.
14 And I was also later find out some of the
15 equipment was not included, and then I called --
16 because Scott Reid was the person appointed to
17 administratively take charge of the transfer of
18 equipment and material.
19 So I contacted him and had a
20 conversation. I pointed out one of the -- some of
21 the material -- the equipment, where it was, and
22 he went to verify that. He said, "Those will be
23 moved to you."
24 Q. Did you prepare this list of equipment
25 that's a four-page exhibit to the agreement, or

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1 did somebody else prepare it?
2 A. Somebody else prepared it. I didn't
3 do any administrative work at MUSC. I believe
4 actually at the time this, the equipment I
5 transferred with me from UCSF. So the only listed
6 equipment transferred from UCSF they put in a box
7 with my grants at MUSC.
8 They all considered equipment MUSC,
9 which is not -- no, but there was a small room for
10 them to claim that. In general, as principle, all
11 equipment follow the faculty members, because the
12 grants awarded through the institution to the
13 faculty members.
14 Q. If you go to the second paragraph on
15 Page 3 of the agreement. We just talked about the
16 first paragraph, so now I've moved down to the
17 second paragraph. So it's Page 3 of the
18 agreement, Dr. Dong, second paragraph from the
19 top.
20 (The witness reviews the document, as
21 requested.)
22 THE WITNESS: I believe I did provide a
23 list through the emails. That's all the Vector
24 Core facility, and also they wanted to keep the
25 Vector Core facility at MUSC because based on that

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1 will not disvalue MUSC. It turn out, actually, my
2 money, Vector Core facility, everything was used
3 James Norris.
4 BY MR. CONLEY:
5 Q. Let me ask a question about that
6 second paragraph. I have never seen it, and it
7 wasn't attached to the agreement that's attached
8 to your complaint, which is what we're looking at
9 right now, any kind of Exhibit B approved by the
10 university.
11 A. It's just what -- it disappeared,
12 actually. That's why they breach the entire
13 contract once it done. Basically giving a person
14 to direct contact was Scott Reid, and that he said
15 he was not authorized to do this and do that. So
16 basically, I run into a stonewall.
17 Q. My question is, is it your testimony
18 today that you did submit an additional list of
19 this Vector Core equipment?
20 A. Yes.
21 Q. You submitted it within ten days of
22 May 3rd, 2010?
23 A. I could not remember the date I submit
24 it, but I did submit it with the email. And
25 actually, I was asking for the Vector Core

Page 74 1 facilities, and I think at the time I was told do 2 not interrupt Vector Core facility operation. So 3 actually, I was allowed to continue Vector Core 4 operation at MUSC. I think that was the 5 communication to me, so, based on the Vector Core 6 facility was essential for the funded products, 7 which I was the director. 8 So actually, I don't know how they 9 took away my Vector Core facility and kick me out 10 of MUSC. At beginning, as it says, I will 11 continue in my function research actually using 12 the Vector Core facility as here. So this only 13 can be transferred, but not to interrupt the 14 operation and the damage to the function Vector 15 Core facility. 16 Q. I'm asking about Exhibit B. Do you 17 have an Exhibit B that you can produce to me? 18 Have you ever seen it? 19 A. Because they actually locked down 20 my -- completely locked down my emails and block 21 my Homeroom. At the time that's the only way of 22 communication I had. I don't actually write 23 physical letters. No faculty members does that at 24 the time. 25 Q. Do you have any recollection of Page 75 1 whether you submitted this within ten days of 2 May 3rd, 2010? 3 A. I do not have recollection of exact 4 date. 5 Q. Do you have any recollection of if you 6 did submit it within ten days that the university 7 actually approved it? 8 A. The university did not respond. 9 Actually, after the signing they basically become 10 stonewalling. 11 Q. If you look down at the third 12 paragraph on that page, you can go ahead and read 13 it. I have a couple of questions for you about 14 it. 15 (The witness reviews the document, as 16 requested.) 17 THE WITNESS: Yes. 18 BY MR. CONLEY: 19 Q. The first sentence says: "In lieu of 20 rental payments for space in the GenPhar building" 21 -- in parens, it says "(once occupied)." 22 Do you know why it says "once 23 occupied"? Weren't y'all already occupying the 24 building on Sea Coast Parkway? 25 A. Once the equipment, everything been	Page 76 1 transferred. So actually, I will occupy that part 2 on behalf MUSC. So actually, right now -- before 3 that MUSC is still charging costs into my contract 4 while not providing me nothing. 5 Q. I'm just trying to figure out what 6 GenPhar building this is referencing in the 7 contract or the agreement. 8 A. It's development. GenPhar actually 9 loan me a space. 10 Q. I'm asking if you know. Do you know 11 -- 12 A. GenPhar is not a party. 13 Q. Dr. Dong, I understand that. My 14 question is what's your understanding of what 15 GenPhar building that is referencing; the GenPhar 16 building on Sea Coast Parkway or the GenPhar 17 building that was under construction? 18 A. It could not be under construction 19 because it was not finished. 20 Q. Was it under construction? Was there 21 another GenPhar building under construction? 22 A. It's not GenPhar -- the space GenPhar 23 was operating out of. 24 Q. So GenPhar -- did GenPhar lease or own 25 the building on Sea Coast Parkway? Page 77 1 A. GenPhar leased. 2 Q. Did GenPhar have another building that 3 it was building in Mount Pleasant in May 2010? 4 A. Yes. That's how the problems started 5 with GenPhar, because they -- actually, the 6 investor put in \$13 million, including the 7 facility, and the facility cost \$5 million. 8 Q. Did you believe that your equipment 9 was supposed to be transferred to the Sea Coast 10 Parkway location, or was it supposed to be 11 transferred to the new building that was under 12 construction? 13 A. That's not material with regard to the 14 contract. 15 Q. I'm asking you what your understanding 16 was. I'm not asking whether it was material or 17 not. 18 A. My understanding, it was transferred 19 to GenPhar, the space we already used. 20 Q. Which was where at the time? 21 A. Have nothing to do where, which would 22 be at Sea Coast, where GenPhar operating. They 23 transfer me to a parking lot. 24 Q. Did you read that paragraph at the 25 time you signed this agreement?

20 (Pages 74 - 77)

Page 78 1 A. I did not read it very carefully in 2 any of the so-called legal jargons and all the 3 details, but I signed it based on spirit they 4 allowed me to quickly restart my research in the 5 other space in GenPhar, transfer all the materials 6 timely so I can continue my research. That's all 7 I cared about. 8 Q. How much time do you think you spent 9 reading this five-page agreement before you signed 10 it? 11 A. I can't remember, but I probably 12 scanned it through. It sounds all right in the 13 superficially. I don't want to dig in too much 14 into one specific words. In the context, I think 15 this is all consistent with what Dr. Reves 16 presented to me. 17 Q. If you look down at the fifth 18 paragraph, Dr. Dong, you can read that whole fifth 19 paragraph, and I've got a few questions to ask 20 you. 21 (The witness reviews the document, as 22 requested.) 23 THE WITNESS: Yes. 24 BY MR. CONLEY: 25 Q. If you look down at the very -- the Page 79 1 last full sentence of that paragraph, Dr. Dong, it 2 says: "Likewise, any equipment purchased through 3 extramural grants written by Dr. Dong as the sole 4 PI and which was in Dr. Dong's laboratory at the 5 time of relocation to the 700 square foot 6 laboratory space, including listed freezers and/or 7 refrigerators also located in nearby equipment 8 rooms of CSB, shall be relocated to GenPhar in 9 30 days from the effective date." 10 A. They didn't do that. 11 Q. That's what I was going to ask you. I 12 think you are already told me that. They did 13 not -- they -- I shouldn't say "they." 14 MUSC did not relocate the equipment in 15 Exhibit A within 30 days of May 3, 2010? 16 A. Correct. Also did not relocate the 17 research grants, including the Vector Core. Very 18 specific, Vector Core they were talking about it. 19 Q. We'll get to those things. I'm 20 talking about the equipment right now. 21 Your testimony is that MUSC within 22 30 days of May 3, 2010, did not relocate the 23 equipment in Exhibit A? 24 A. And B. 25 Q. Per the agreement?	Page 80 1 A. And the contract money. 2 Q. Correct, they also -- 3 A. They relocated nothing. 4 Q. They also didn't relocate any other 5 equipment, to the extent it would have been listed 6 in Exhibit B, right? 7 A. Which should be Vector Core facility. 8 Q. So you and I would agree that within 9 30 days of May 3rd, 2010, MUSC did not relocate 10 any equipment, as required by this agreement? 11 A. Correct. 12 Q. That's your testimony, correct? 13 A. That's correct. 14 Q. Is it, likewise, your position that 15 the agreement required MUSC to relocate all of 16 this equipment, both the equipment listed in 17 Exhibit A, and to the extent there was Vector Core 18 equipment, they were required to do that within 30 19 days of May 3rd, 2010? 20 A. That's what the agreement. 21 Q. That's what the agreement requires, 22 right? 23 A. Yes. And I was presented they will do 24 it as soon as they can, as soon as they can, and 25 also was -- Scott Reid was in charge of the Page 81 1 logistics. 2 Q. I'm trying to find -- just make sure I 3 understand that -- strike that. Better way to 4 ask. 5 I think I understand you correctly 6 that one of the breaches of this agreement, just 7 one, that you claim MUSC engaged in was failing to 8 relocate this equipment within 30 days of May 3rd 9 of 2010? 10 A. One of them. 11 Q. That's what I said. I said "one." I 12 didn't say "all." I said "one." That is one of 13 the breaches, right? 14 A. Correct. As well as none of my 15 research material, documents, and funding. It was 16 a complete breach. After that was the, basically, 17 stonewalling. I could not reach anybody, and 18 nobody respond to my emails other than at the time 19 they want to send me. 20 Q. If you go up to the fourth paragraph 21 on that same page -- so we're going to go back up 22 one paragraph. It's actually just a one-sentence 23 paragraph, Dr. Dong. 24 A. One, two, three, four. 25 Q. Exactly. It's very short.

21 (Pages 78 - 81)

Page 82 1 (The witness reviews the document, as 2 requested.) 3 THE WITNESS: Yes. Actually, MUSC -- 4 MR. CONLEY: Let me ask you -- 5 Dr. Dong, part of the deposition is I'm going to 6 ask you questions, and you can give me answers. 7 It's not an opportunity for you just to go on 8 narratives. I'll ask you a question, and you can 9 then give me as lengthy of an answer as you want, 10 but -- 11 THE WITNESS: Ask a question. 12 MR. CONLEY: -- there needs to be a 13 question before we just go with some narrative. 14 THE WITNESS: You ask me if I see the 15 paragraph. I'm telling you I see the paragraph, 16 what it means. 17 MR. CONLEY: I haven't asked you what 18 it means. I've just asked you to take a look at 19 -- 20 THE WITNESS: Strike my answer. 21 MR. CONLEY: -- look at it, and then 22 I'll ask you some questions. 23 THE WITNESS: Please do. 24 BY MR. CONLEY: 25 Q. Did you have any grants, active	Page 84 1 A. I was the PI. I was the director. 2 Q. I'm no expert on grants, but my 3 presumption is on -- to your recollection, on 4 May 3rd, 2010, there was still existing funding to 5 be spent under this Vector Core grant or grants, 6 right? 7 A. Yes. 8 Q. Because you were the -- I'm just 9 trying to understand. Because you were the PI on 10 the Vector Core grants, in my mind that would 11 indicate you were also the person who applied for 12 those grants? 13 A. Yes. 14 Q. Is that right? 15 A. Correct. 16 Q. It wasn't somebody else at MUSC who 17 applied for them and they just got assigned to 18 you? You actually applied for and were awarded 19 those grants? 20 A. Correct. No one else can assign 21 someone else's grants to you, or you can't use 22 anyone else's grants. 23 Q. Was anybody else a co-PI on those 24 grants, or was it just you as the sole PI, if you 25 remember? I don't know. I'm just asking you.
Page 83 1 grants, on May 3rd, 2010, when you signed this 2 agreement? 3 A. Yes, the Vector Core grants. And also 4 I actually start a fund as reserve. I never had 5 to need to dip into it. 6 Q. So what active grants did you have at 7 the time you signed this on May 3rd? 8 A. The Vector Core grants. 9 Q. Any others? 10 A. I could not remember, but also I had 11 my start-up fund. 12 Q. The Vector Core grants, where are 13 those grants provided by? Are those provided by 14 the federal government somehow? NIH? 15 A. Correct. 16 Q. Was there more than one Vector Core 17 grant, or was there just one? You used plural. 18 I'm just trying to find out. I don't know. Was 19 there, like, one Vector Core grant, or were there 20 multiple Vector Core grants? 21 A. I could not remember, but actually, 22 Vector Core can be used in multiple grants, but I 23 was the -- I think there was a center grant or 24 program project grants. 25 Q. Do Vector Core grants have a PI?	Page 85 1 A. I don't remember, because I'm the 2 person. 3 Q. Turn over to the fourth page, 4 Dr. Dong. We'll skip around on this page. Not to 5 confuse you, but -- 6 A. Here is -- 7 Q. -- if you can go down to the bottom of 8 Page 4, the next-to-last paragraph, where it 9 starts off with: "MUSC will cover." Do you see 10 that paragraph? 11 A. Last paragraph? 12 Q. Next-to-last paragraph, Dr. Dong. 13 Excuse me. Take a look at that for me for a 14 minute. 15 (The witness reviews the document, as 16 requested.) 17 THE WITNESS: Yes. 18 BY MR. CONLEY: 19 Q. Did MUSC ever make this one-time 20 \$20,000 payment? 21 A. I could not remember. 22 Q. Then if you look up at the third 23 paragraph on the page, Dr. Dong. So if you count 24 three down. 25 A. Right.

22 (Pages 82 - 85)

Page 86 1 Q. Take a minute and read that paragraph. 2 I have a couple of quick questions. 3 (The witness reviews the document, as 4 requested.) 5 THE WITNESS: Yes. 6 BY MR. CONLEY: 7 Q. Do you have any recollection of 8 whether that \$30,000 payment was ever made? 9 A. I think so. Actually, but that's less 10 than my salary portion in Vector Core, which is 11 funded by NIH, not the department. 12 Q. My question is was the \$30,000 payment 13 made? 14 A. I believe so, yes. 15 Q. Just to go back to make clear, you 16 don't know, sitting here today, if the \$20,000 17 payment was made in that -- towards attorneys' 18 fees or legal fees in that paragraph down towards 19 the bottom of Page 4? 20 A. Correct, because I did not believe I 21 claimed it. I didn't have attorney involved. 22 Q. That was going to be my next question 23 about that. You had earlier told me that you 24 wouldn't have had any legal fees at this point in 25 time because you never obtained --	Page 88 1 within 45 days of signing it. 2 Do you have any recollection of taking 3 it to a lawyer within 50 days of signing it? 4 A. No. I never took it to any lawyer or 5 anything for almost a year later or over a year 6 later. 7 Q. That would have been when you took it 8 to Mr. Holmes? 9 A. Correct. He's the first lawyer I 10 talked to. 11 Q. If you can go up to the paragraph 12 above the next paragraph, directly above that, 13 that says: "Enduring grant materials." Take a 14 minute to read that, Dr. Dong. 15 (The witness reviews the document, as 16 requested.) 17 THE WITNESS: Right. 18 BY MR. CONLEY: 19 Q. Did you ever -- have you ever -- well, 20 before you brought the lawsuit, did you ever ask 21 the office of general counsel, the legal office at 22 MUSC, if you could see or make copies of, you 23 know, lab books and things like that? 24 A. Actually, that is verbally presented 25 to me, they will provide all the document --
Page 87 1 A. That's what I'm saying. 2 Q. -- never obtained a lawyer? 3 A. That's what they write in -- written 4 in. So actually, I have no involvement. I did 5 not claim legal fees from them. 6 Q. That's because you didn't incur any 7 legal fees, right, because you didn't take it to a 8 lawyer before you signed it? 9 A. No, I didn't. Correct. 10 Q. And you didn't take it to a lawyer -- 11 we've already talked about you didn't take it to a 12 lawyer for much, much later after you had signed 13 it, which would have been when you took it to 14 Mr. Holmes? 15 A. Right. Correct. 16 Q. You didn't take it to a lawyer within 17 50 days of signing this agreement, did you, to 18 review the agreement with you? 19 A. I'm sorry? 20 Q. We've already talked about that. 21 You -- 22 A. I think you already asked me the 23 question. 24 Q. I mean, you indicated earlier that you 25 don't have recollection of taking it to a lawyer	Page 89 1 copies of the documents. Didn't say I have to go 2 to copy myself. So that would be too cumbersome 3 for me to make copies, because, actually, it says 4 by law. Actually, there's no law suggest that 5 general counsel keep my scientific notebooks. 6 Q. My question is simply this -- 7 A. No law, no regulation to allow general 8 counsel to keep my scientific notebooks, and they 9 should provide me the copy, based on my reading 10 this paragraph. So if there was a law, there was 11 regulations, yes, they can keep it. But if 12 there's no law, no regulations to allow MUSC to 13 keep my notebooks, that is especially after 14 repeated requests, did not provide my copies. 15 So without the scientific documents, 16 without notebooks, I will not be able to continue 17 my research. 18 Q. Did you ever ask MUSC if you could 19 make copies? 20 A. I asked MUSC provide me the copies. 21 Actually, they did not say I have -- they give me 22 the notebook, I made copy myself. They said copy 23 will be provided to me. I agreed, but at least 24 that allow me to continue my research. 25 And I did not think the legal office

Page 90 1 have any use of the document, and if there -- and 2 I didn't have no -- I did not believe -- I still 3 don't believe there was any law or regulations to 4 allow general office to keep my scientific 5 documents. 6 Q. Did you read that document on Page 4 7 before you signed the agreement? 8 A. I signed the agreement with 9 understanding there has to be law and regulation. 10 They have law and regulation to keep it. When 11 there is no law, no regulation, they should not 12 keep my scientific notebooks, and they should also 13 at least provide me copies of my scientific 14 notebooks. 15 Q. My question is simply this: Did you 16 read that paragraph on Page 4 of the agreement 17 before you signed the agreement? 18 A. I cannot remember whether I read the 19 agreement. It was a long time ago. But as I 20 said, I scanned through the entire document. 21 Q. What does scanned mean when you use 22 the word "scan"? 23 A. I just read superficially, not each 24 words, like what you did as a lawyer. So I 25 basically, general understanding, the spirit of	Page 92 1 received will be relinquished back to the federal 2 agencies as obligated in the award agreements." 3 A. That should not be the language, 4 because -- and also, I do not believe they were 5 ever relinquished back to the funding agencies, 6 but they spent them themselves -- not themselves, 7 but James Norris. 8 Q. Did you read that paragraph before you 9 signed the document? 10 A. As I said, I only read the spirit of 11 the entire agreement. I did not split hair on any 12 phrases. Also, I do not believe they relinquish a 13 penny back to funding agencies, but spent the 14 money by James Norris. If you want to split hair, 15 those are just plain lies. 16 Q. Go up to the paragraph above that one, 17 Dr. Dong. 18 A. Above? 19 Q. Yes, the next paragraph up. It says: 20 "At the direction of." 21 A. Dr. Yusuf Hannun. 22 Q. Correct. 23 THE WITNESS: Mr. Scott Reid, that's 24 another person we were talking about, and Mr. 25 Ronald Bycroft. I don't even -- they didn't do
Page 91 1 the agreement. So I don't want to split hairs 2 with one phrase, one terminology. You probably do 3 as a professional, but that's not my profession. 4 Q. If you look up at the next paragraph 5 above that, where it says: "The university agrees 6 to relinquish," next paragraph right above the one 7 we were just speaking about, Dr. Dong. 8 (The witness reviews the document, as 9 requested.) 10 THE WITNESS: Right. 11 BY MR. CONLEY: 12 Q. At the time you -- so I asked you 13 about grants you had at the time you signed the 14 agreement. Did you have any commercially-funded 15 research awards at the time you signed this 16 agreement, if you recall? 17 A. I believe there was some funding from 18 GenPhar to MUSC and FRD. Actually, those funding 19 I never see a penny. Those GenPhar agreed to 20 funding my research in the laboratory in exchange 21 for me being the consultant at the GenPhar. I 22 think either FRD, I believe is mostly Steve -- 23 sorry, James Norris spent all the money. 24 Q. The second sentence in that paragraph 25 says: "Actively federally-funded research awards	Page 93 1 any of those. Also Yusuf Hannun was -- 2 MR. CONLEY: Again, Dr. Dong, I need 3 to ask you a question. This isn't an opportunity 4 for you just to sit in a deposition and tell me 5 everything you want to say. I haven't even asked 6 you a question yet. 7 THE WITNESS: You asked me if I see 8 this. I tell you what I see. 9 MR. CONLEY: I asked you to review the 10 paragraph, and then -- 11 THE WITNESS: Yes, I did. I told you 12 what my impression was. 13 MR. CONLEY: I didn't ask you your 14 impression. I haven't asked you your impression. 15 I haven't asked you a single question. 16 THE WITNESS: Ask me a question. 17 MR. CONLEY: The way the deposition 18 works, Dr. Dong -- 19 THE WITNESS: Don't give me lessons. 20 MR. CONLEY: I'm not giving you 21 lessons. There is a set of rules that apply, and 22 it requires that I ask you a question. I'll ask 23 you a question, and you can give an answer. 24 THE WITNESS: Go ahead. 25 THE REPORTER: I can only get one

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1 person at a time, please.
2 THE WITNESS: So he speak too fast.
3 BY MR. CONLEY:
4 Q. Dr. Dong, this paragraph says: "At
5 the direction of Yusuf and Mr. Scott Reid and
6 Mr. Ronald Bycroft will attempt to locate any
7 vectors or similar materials shared with other
8 investigators for repropagation by Dr. Dong, and
9 will attempt to locate written enduring hardcopy
10 records which have been lost?"
11 Did you read that sentence before you
12 signed the agreement?
13 A. As I said, you are splitting hair
14 again. I do not know other than the spirit of the
15 agreement is they're going to locate the vectors
16 and give me back for propagation.
17 Q. Does that paragraph say they're going
18 to locate or they're going to attempt to locate?
19 A. As I said, it's not my profession to
20 split the hairs. I think that means they going to
21 locate it.
22 Q. That paragraph goes on to say:
23 "This" -- meaning the attempt to locate this
24 information -- "will occur within the 45-day" --
25 "within the 45-day window above."

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1 A. They didn't do it.
2 Q. It would be one of your contentions in
3 this lawsuit that that is another -- that is one
4 of another -- of other breaches of the agreement,
5 right?
6 A. Anything in the agreement they
7 breached will be point of complaint.
8 Q. Correct. But that's one of them,
9 correct? They didn't do this within this 45-day
10 window, right?
11 A. They didn't do any of those.
12 Q. And then it says: "Any additional
13 items located after that time and search will also
14 be provided to Dr. Dong."
15 Do you know if any of those three
16 gentlemen ever located any information after the
17 45-day period ran?
18 A. I don't know if they did or didn't do.
19 Actually, I did contact Scott Reid a number of
20 times. He was the chairman, so he would be very
21 busy. I didn't think it would be proper to bother
22 him for the details. But Scott Reid is very
23 capable person, and he is also the base manager.
24 He was a good person. He used to be the business
25 manager at the department of biochemistry until

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1 they had fallout with James Norris.
2 I do not know who is Ronald Bycroft.
3 Q. If you go up to what would be,
4 Dr. Dong, the second paragraph on that page, so
5 the second paragraph from the top. It starts
6 with: "Dr. Dong." If you could read that, and
7 then I'll have some questions for you about it.
8 (The witness reviews the document, as
9 requested.)
10 THE WITNESS: Right.
11 BY MR. CONLEY:
12 Q. Have you read it, sir?
13 A. Yes.
14 Q. That paragraph says: "You will
15 transfer any research material, including genetic
16 materials, DNA constructions, viral and plasma
17 vectors, antibodies, and enzymes to Dr. Dong's new
18 research location for his continued research,
19 including the materials which were provided by
20 Dr. Dong to the Vector Core for services while
21 Dr. Dong was the director."
22 Did you do that? Did you make -- did
23 you transfer those material?
24 A. They took the material from me. They
25 locked me from the lab. Are you going to split

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1 words again? How do I transfer when they took the
2 position, lock me out of my lab? Those my
3 materials should be transferred.
4 Q. So, again, I wasn't there when any of
5 this happened, so I'm just asking you. Do I
6 understand you correctly that you couldn't
7 transfer it yourself because they locked you?
8 A. Out of my office.
9 Q. They locked it in a fashion that you
10 couldn't access it, right?
11 A. Correct. They changed the lock. They
12 never done nothing in the history of United States
13 in any universities, certainly not in the history
14 of MUSC. That's completely illegal. Actually, I
15 was funded by NIH. That's complete violation of
16 NIH rules. If I was any administrator, I was part
17 of NIH.
18 Q. As I understand what you're telling me
19 is you couldn't transfer it yourself because you
20 couldn't even access it; is that correct?
21 A. Yes.
22 Q. Did you ask for access to it?
23 A. Of course. That's the whole thing
24 I've been asking for. That's whole agreement. It
25 was in order for me to get access to my research

25 (Pages 94 - 97)

Page 98 1 materials to continue my career. 2 Q. What were you told when you asked for 3 access to it so you could move it? What were you 4 told? 5 A. After I signed this agreement, 6 everything will be available, everybody will 7 cooperate with me to make the transfer. Once this 8 signed, it become a stonewall. I could not 9 contact anybody. Nobody respond to me. 10 And I talk to Scott Reid. He is going 11 to ask for my permissions, and then there is no 12 response. 13 Q. If you go up to the top paragraph, 14 first paragraph, you can read it, and I'll have a 15 few questions for you about it. 16 (The witness reviews the document, as 17 requested.) 18 THE WITNESS: Correct. 19 BY MR. CONLEY: 20 Q. Again, same question: Did you read 21 that paragraph before you signed the agreement? 22 A. I as -- again, I did not -- I read in 23 the context of the agreement. I did not try to 24 split the meaning of each specific words. 25 Q. That paragraph says: "Equipment	Page 100 1 those equipment as well as my equipment never been 2 transferred. 3 Q. If you can look at what is Exhibit A 4 to the agreement, which is the list of equipment. 5 A. Right. 6 Q. I have a couple of questions about the 7 middle column, Dr. Dong. I don't know if you can 8 shed some light on this or not. But the middle 9 column is titled "Funding." Do you see that? 10 A. Right. 11 Q. Then it's got various labels, as I 12 read under here. So I see one says "Startup." Do 13 you know what that references? Why it says 14 "Startup"? What does that mean, if you know? 15 A. It's the startup funds. 16 Q. I don't know what those are. Maybe 17 you can explain? 18 A. As a condition to recruit me from 19 MUSC, I think MUSC offer me -- I could be wrong -- 20 \$65,000 startup funds. That means the money for 21 me to spend. 22 Q. On equipment? 23 A. On equipment, set up lab, everything 24 else, and also the expenses of transfer my 25 equipment, laboratory, personnel, and everything
Page 99 1 relocated to GenPhar under this agreement," which 2 would, apparently, be everything listed in Exhibit 3 A or Exhibit -- 4 A. No, actually -- 5 Q. Let me finish my question. 6 A. Sure. 7 Q. -- which, apparently, would be 8 everything listed in Exhibit 1 to the agreement -- 9 or A to the agreement, excuse me, and presuming 10 there were or was an Exhibit B, would be returned 11 to MUSC at its expense at the end of your 12 appointment in March 2012, right? 13 A. That's not right. My understanding 14 is, based on otherwise permitted by existing 15 university policy or extra -- sorry, external 16 sponsor policies and approvals. 17 So actually, there is no university 18 policy or external sponsor policy, especially NIH, 19 they will not allow to take my equipment back to 20 university. However, there is a narrow gap; if 21 the Vector Core continues and function at MUSC, 22 those equipment should be returned to MUSC to 23 continue any funded research. I will not be able 24 to take them away from MUSC, which is consistent 25 with external policies, which I agreed. However,	Page 101 1 for you to start a new location. 2 Q. Then there is another label under that 3 same "Funding" column. Some of them say "No 4 Tags." Do you know what that means? 5 A. It's because those are my equipment, 6 and it's already lost track where the funding come 7 from, but those are my equipment. 8 Q. Everything that says "No Tags"? 9 A. Correct. It's just that no longer 10 have track where it -- the initial funding was 11 from. 12 Q. Then there is another label under that 13 column that says "UCSF." I assume that's 14 equipment you brought from the University of 15 California, San Francisco when you moved to MUSC? 16 A. I think all of the equipment, 17 including no tag, was transferred from -- either 18 from MUSC or the university before that. 19 Q. I'm asking -- we have talked about no 20 tag. I'm asking you about the UCSF tag now. Is 21 that tag -- where it says "UCSF" under that 22 "Funding" column, Dr. Dong, does that mean that 23 that's a piece of equipment that came from UCSF 24 when you moved to MUSC? 25 A. That means, actually, that tag was not

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1 removed. So UCSF tag was still on it.
2 Q. But you brought it here with you from
3 UCSF?
4 A. All of the equipment I brought with me
5 from UCSF, because actually when they transfer to
6 you, relinquish the right to the PIs, which most
7 universities would do. They remove the tag.
8 However, one of the equipment they forgot to
9 remove or failed to remove, the tag will still be
10 on the equipment.
11 Q. The startup equipment you would not
12 have brought here with you? That's something you
13 would have gotten once you got here?
14 A. Awarded to me as a condition for me to
15 transfer.
16 Q. I get that. But I'm just asking,
17 startup equipment would be equipment that you got
18 once you got here by way of startup funds?
19 A. Yes.
20 Q. What is "Paddock"? There is a label
21 under this that says "Paddock" on some of the
22 equipment.
23 A. Actually, those are -- I bought from
24 Dr. Paddock. Dr. Paddock also let me have -- he
25 actually had his own company as a faculty of MUSC.

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1 So that's James Norris himself. So when he left,
2 the equipment move with him. However, he retire.
3 He has no use of it. And actually, he sold to me.
4 So that was...
5 Q. So Paddock just means that's from a
6 former professor at MUSC?
7 A. Correct.
8 Q. That you bought the equipment from
9 him?
10 A. Correct.
11 Q. I'm just trying to figure out what the
12 label is.
13 A. That's what tells you the equipment
14 follows the person. It belongs with a person.
15 Q. What about "Arrigo"? So there's some
16 on there that say -- I assume that's like Paddock.
17 It's A-r-r-i-g-o.
18 A. Where?
19 Q. If you read on down that "Funding"
20 column, you see some that say "Arrigo,"
21 A-r-r-i-g-o. Is that a former MUSC professor,
22 like Paddock?
23 A. No. Arrigo is -- I think was -- I do
24 not remember. Actually, I can't remember, but I
25 don't think Arrigo was a person at MUSC.

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1 Q. Then some are labeled "Vector Core."
2 I presume that means they were --
3 A. Vector Core equipment.
4 Q. -- that equipment -- let me finish my
5 question, Dr. Dong.
6 I presume that is equipment that was
7 purchased with Vector Core grant funds?
8 A. Correct.
9 Q. Do you have any idea why the Vector
10 Core equipment all seems to have an MUSC tag
11 number and most of the other stuff doesn't? Any
12 idea?
13 A. Because I applied Vector Core on
14 behalf of MUSC. I was at MUSC. For example, you
15 apply the grant at UCSF; in addition to my name,
16 there's also UCSF on it.
17 Q. If you go over to the second page of
18 this list, Dr. Dong, there's some on there that
19 say "GenPhar." So under that same column, the
20 "Funding" column, there are some that show
21 GenPhar.
22 A. Right.
23 Q. I don't know. So that's why I'm
24 asking. Why would some of them be labeled
25 GenPhar?

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1 A. Some of them, actually, the funding is
2 provided by GenPhar on my behalf. For example,
3 computer is most difficult equipment to adjust --
4 to justify in the academic grant because most
5 people like to buy computers actually. So
6 instead, simplify the process, GenPhar provide the
7 money for me to buy the computer. So that's one
8 of the top-line computer at the time.
9 Q. If I see GenPhar, that, to me, as a
10 layperson, not knowing how grants work, that would
11 indicate to me that that piece of equipment was
12 purchased by way of monies given to MUSC by
13 GenPhar --
14 A. Under my name, correct.
15 Q. -- correct?
16 A. Yes.
17 Q. On that same page, if you go down
18 about the middle of the page, Dr. Dong, there's
19 some that have a very weird tag that say "TOR
20 Core=3," and then "DongNIH=4."
21 Do you know -- I'm on the second page.
22 A. Those are -- that's what I'm saying,
23 Vector Core is for several grants. So actually,
24 this is internal designation which grants coming
25 from. Regardless, those my money, my funding

Page 106 1 bought under my name. 2 Actually, so there is meaningless for 3 you or any layman. It's -- the equipment is mine, 4 bought under my name, but originally there may be 5 designation to trace which grant that money coming 6 from. So you are not supposed to mix the grants 7 by spending grants on different research projects. 8 That's just a designation at that time. 9 For the purpose of this contract, it 10 is meaningless. But at that time, yes, there is 11 meaning for which grants that equipment came from, 12 so that equipment will be charged to that grant 13 and serve the purpose for that grant specifically, 14 predominantly. 15 Vector Core is generally used on 16 facilities, or can be served for multiple grants. 17 MR. CONLEY: Let's take about 18 45 minutes for lunch, and then we'll come back. 19 This is a good point to take a break. 20 (A lunch recess was taken.) 21 MR. CONLEY: Back on the record. 22 BY MR. CONLEY: 23 Q. Do you still have the exhibit in front 24 of you, Dr. Dong? 25 A. Yes, I do.	Page 108 1 and also blocked my email, Homeroom. So I 2 completely blocked from my function as a 3 professor. That's part of the breach. 4 Q. The next paragraph down is a 5 one-sentence paragraph that says: "During this 6 period, Dr. Dong may use the title, quote, 7 'Director of Biotherapeutics and Vaccine 8 Development,'" end quote. 9 After you entered into this agreement 10 with MUSC did you use that title any longer? 11 A. I don't remember, but that's the part 12 of the agreement. Because as a condition, 13 actually have to expand my research area, and, in 14 a way, actually for the benefit of MUSC, so I can 15 differentiate my research area from those being 16 taken away from me by James Norris. 17 Q. Sitting here today, do you ever recall 18 using that title after you entered into the 19 agreement? 20 A. I can't remember, but I did get, in 21 fact, research grant in the amount of \$4.5 million 22 by MUSC and was denied by Steven Lanier, which 23 actually one of the conditions, at least presented 24 to me, if I get more grants, I would be back for 25 MUSC.
Page 107 1 Q. Great. We're going to go back to 2 Exhibit 1, which is the agreement itself, not the 3 list of property, Dr. Dong. I'll skip through 4 here and ask you a few questions that I jumped 5 over initially. 6 So if you can first go to Page 2 of 7 the agreement, the second paragraph on that page 8 says: "Dr. Dong agrees to carry his customary 9 share of teaching, lecturing, and instructional 10 responsibilities as assigned and communicated to 11 him in writing by the chairman of each 12 department." 13 My question is after you entered into 14 this agreement with MUSC, did you do any more 15 teaching, lecturing, or what you and I might call 16 instruction down at MUSC? 17 A. I was blocked. Actually, that was 18 part of the violation of the agreement, because I 19 was presented I could continue my research, 20 teaching, because my whole career was being a 21 professor, and then I was deleted from the 22 department website, and I was given no access to 23 any graduate students or candidates. 24 I blocked from attending any of the 25 faculty meetings and any function, for example,	Page 109 1 Q. If you look down at the fifth 2 paragraph, it starts with: "Dr. Dong agrees and 3 commits." 4 It says: "Dr. Dong agrees and commits 5 to submitting an irrevocable letter of resignation 6 no later than March 31, 2021." 7 You and I would agree that letter -- 8 such a letter was never submitted by you, right? 9 A. No, because I could not apply for any 10 job. I had been professor, and entire ability of 11 my scientific career had been abruptly stopped. 12 Q. Go over to the next page, Page 3. The 13 next page, Dr. Dong, Page 3. I think you're still 14 on Page 2, sir. Page 3, fourth paragraph down. I 15 asked you about this earlier, but I'll circle back 16 to it. It's a one-sentence paragraph. 17 It says: "The university will 18 continue to provide the customary physical support 19 and oversight for research awards received through 20 MUSC in the division of basic science?" 21 A. They never did. 22 Q. My question is you just mentioned some 23 type of one -- excuse me, \$4.5 million grant you 24 received. Is that something that MUSC agreed to 25 provide physical support and oversight for, or did

28 (Pages 106 - 109)

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1 they say they would not do that?

2 A. They agreed to support and provide.

3 And actually, it was one of the conditions

4 presented to me: If I get more grant for MUSC,

5 they will definitely support.

6 Q. My question is the \$4.5 million grant

7 you mentioned, was that an NIH grant?

8 A. Yes.

9 Q. Were you actually awarded the grant?

10 A. Yes.

11 Q. Do you remember what year and month it

12 was, Dr. Dong?

13 A. I could not. That's why, actually, I

14 wanted the more material, discovery material.

15 None of this I could give you the exact date.

16 Q. I presume it was after you entered

17 into the agreement, you were awarded this NIH

18 grant, correct?

19 A. Yes. As a part of the agreement, they

20 will provide -- basically, not only accept the

21 grants, but they provide administrative management

22 of grants. That's part of the essential

23 components for anybody, professor, to receive NIH

24 grants.

25 Q. Go to the bottom paragraph on the same

Page 111

1 page, Dr. Dong. It says: "Dr. Dong's access to

2 campus facilities and their use shall not be

3 limited during his remaining years of employment."

4 I think you've already told me earlier

5 they did limit your access to campus facilities

6 and such, right?

7 A. They didn't give me any access.

8 Q. Just so I know the timeline, when you

9 say they didn't give you any access, did they cut

10 your access off immediately upon you signing this

11 agreement, or was it sometime after --

12 A. They -- they --

13 Q. Let me finish. You will get to

14 answer.

15 -- or was it sometime after -- weeks

16 or months after you signed the agreement that they

17 cut off all your access to facilities and email?

18 A. They cut off my -- all my access to my

19 research laboratory, to my office, to my material,

20 to my personnel basically by locking me out and

21 changing the locks. Never done to any faculty

22 member at MUSC, not -- there was a precedence at

23 any university, especially funded by -- faculty

24 member is funded by NIH.

25 They are obligated to support me, to

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1 support my research. As part of my agreement, I

2 was receiving NIH grants. Actually, that's not

3 only violation of all faculty rules; they also

4 violate the regulations with NIH, the admission.

5 If I was mean-spirited, I would file

6 report with NIH, and all of their grants will be

7 under review and would be freezed. So actually, I

8 was never intending to harm MUSC in any way. I

9 was only interested to continue my research.

10 Q. My question was when did they cut off

11 your access? You said they cut it off. I'm just

12 trying to figure out when, Dr. Dong. Was it

13 immediately upon you signing the agreement, or was

14 it weeks or months after that they cut off your

15 access to your lab and to email? I'm trying to

16 figure out when it occurred, not why or how, but

17 when.

18 A. That was before we sign agreement.

19 That's why, actually, I reached the agreement, try

20 to reinitiate my research.

21 Q. Maybe this will help me. Before you

22 signed the agreement, had you already been -- I'll

23 use the word "locked out" --

24 A. Yes.

25 Q. Dr. Dong, you've got -- for the court

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1 reporter's benefit, you have to let me finish my

2 questions. You're going to know when I finish my

3 questions.

4 A. Go ahead.

5 Q. Let me finish. I'll let you give

6 whatever answer you want to give. But you have to

7 let me -- it's becoming very difficult for the

8 court reporter. I'm not going to interrupt you.

9 Just don't interrupt me.

10 Was it before you signed the agreement

11 that they -- I'll use the word "locked" you out of

12 your lab?

13 A. Yes.

14 Q. Before May 3rd, 2010, you had already

15 been locked out of your laboratory?

16 A. Correct.

17 Q. After you signed the agreement, they

18 never gave you renewed access to your laboratory?

19 A. Correct.

20 Q. It continued? In other words, the

21 lack of access continued?

22 A. Right. Part of the agreement is to

23 give me back my research ability, give me access

24 to my equipment, personnel, funding, but they

25 actually continued the lockout. Once the signed

Page 114 1 agreement, that they -- they thought they were 2 done, actually they asked me to chasing -- 3 whatever, chasing tails, and I go around, talk to 4 everybody supposedly being charged, and they will 5 say I will report. I will do -- I'll find out 6 what I need to do next. 7 So they were basically stonewalling 8 me. They did not give me any access to my 9 research laboratory, and I was -- happen before, 10 actually. 11 Q. After you signed the agreement, were 12 you ever given access to your office again? 13 A. No. 14 Q. Was your access to your office cut off 15 before you signed the agreement? 16 A. Yes. The agreement, it was to 17 re-allow me to enter my office and my research 18 material. They never did. 19 Q. I wasn't there when all of this 20 happened, so I'm trying to educate myself here a 21 little bit by way of this. 22 What I hear you telling me is after 23 you signed this agreement on May 3rd, 2010, MUSC 24 never allowed you access again ever to your office 25 or your lab space?	Page 116 1 also protocols and everything was stored. 2 Q. What I hear you saying is you're 3 unsure whether your email was cut off before you 4 entered the agreement or sometime after; is that 5 right? 6 A. That's correct. 7 Q. You're unsure? 8 A. The actual only the email part of it, 9 but the most of the information, my laboratory, 10 technical information, everything else stored in 11 Homeroom, but I was stopped. 12 Q. When was your Homeroom access cut off, 13 before or after you entered into the agreement? 14 A. I could not remember, but everything 15 was cut off without a notice. I suddenly realize 16 I don't have anything. Although, I could make a 17 copy, but I don't know technically how to do that 18 at the time. It was all -- I got a so-called IT 19 support from MUSC, but at least they cut off my -- 20 all my access to MUSC's system. 21 Q. When your access to your lab and 22 office were cut off to you, did that also cut you 23 off from your logbooks and things of that nature? 24 A. Yes, everything. 25 Q. Meaning all of your materials,
Page 115 1 A. That's correct. 2 Q. Did they ever allow you -- that's a 3 bad way to ask. 4 By way of not allowing you access to 5 your lab space and your office again, did that 6 same prohibition on access cut you off from access 7 to your -- to other material that might have been 8 yours, equipment, that sort of thing? 9 A. That's everything I have. That was in 10 my laboratory and in my office and also my core 11 facilities, my collaborations, my teaching 12 ability, my research ability, and also my 13 communications. 14 I lost contact with all my colleagues 15 throughout the university. I don't remember the 16 email address, and I can't contact anybody once 17 they turn off my email system. 18 Q. Let's talk about your email for a 19 minute. Was your email access cut off before or 20 after you signed the agreement? 21 A. I could not remember clearly, but I 22 think there was a period of time during this I'm 23 supposedly working at MUSC, but actually at the 24 time they already cut off my Homeroom. Because 25 that's where a lot of my research documents and	Page 117 1 documents, paperwork, that would have all been in 2 your lab and office; is that right? 3 A. As well, in the Homeroom. 4 Q. I understand. 5 A. Correct. It was all stored. 6 Q. After you signed the agreement, just 7 for clarification, no one ever allowed you to go 8 back into your office or lab space after that? 9 A. Correct. 10 Q. This is just by way of a question from 11 me. Do you even know whether MUSC still has your 12 lab books and that kind of documentation that was 13 in your office when you were locked out? Do you 14 even know if they still have it? 15 A. That would be a requirement for 16 documents to produce. 17 Q. I'm not asking you about requirements. 18 I'm asking whether you know if they do or don't 19 still have them. It may be you just don't know. 20 A. I don't know. I have no access to it. 21 How do I know what they did to it? I know they 22 continued to publish using the material I have. 23 That's all my technology. They continue using it 24 in periodicals and publications, continue using 25 them to apply for grants. Those are my material.

Page 118 1 My research projects. 2 Q. Dr. Dong, if you look at your -- just, 3 if you turn back to the first page of that 4 document, and I'll direct you where to go. First 5 page of the whole document, I'm sorry. Dr. Dong, 6 just flip the whole thing over back to the first 7 page. 8 Now go to the second page of your 9 complaint, Dr. Dong. No, that's not the 10 complaint. That's just the cover. Keep going. 11 That's the first page of it. Now go to the second 12 page. Go down to that Subparagraph F, and read 13 that for me. And then I have a couple of 14 questions for you. 15 (The witness reviews the document, as 16 requested.) 17 THE WITNESS: Yes. 18 BY MR. CONLEY: 19 Q. So that paragraph appears to have a 20 claim that's unrelated to the written agreement 21 we've been talking about. If that's the case, can 22 you explain the allegation in Paragraph F to me? 23 I'm not sure I really understand it. 24 A. I think this was suggested by the 25 attorney.	Page 120 1 company, he has -- need a majority of shares. 2 Whatever the agreement he made between 3 him and MUSC, MUSC transferred all MUSC shares to 4 the German investor, and that will be including 5 1/3 of my share awarding to FRD and MUSC, because 6 based on the faculty agreement, when there is a 7 contract -- commercial contract signed with a 8 commercial company, there is a formula to divide 9 the income. 10 So not actually only they give the 11 entire MUSC portion to the German national, but 12 also including my 1/3 of the share obtained from 13 MUSC in order for the German to majority control, 14 and then complete disrupt the -- so he can better 15 fight the other investors and seeking control of 16 the company. 17 And it turn out even with the MUSC 18 shares he didn't have the majority. So that's -- 19 and then actually once he had control, not only I 20 was kicked out from MUSC, I was also kicked out 21 from GenPhar. So I have no place to go. I had no 22 place to go. 23 Q. This transfer of shares you're 24 discussing, did that occur before or after you 25 signed this agreement with MUSC?
Page 119 1 Q. Wait just a minute. Don't tell me 2 anything that your lawyers have ever said to you. 3 Anything your lawyers have talked to you about or 4 said to you, that's privileged information. I 5 don't want to know about it. I don't want you to 6 tell me. 7 A. I appreciate it. There was a time 8 actually MUSC actually actively interfered. Not 9 only block my position, but actually interfered my 10 position at GenPhar to allow me continuing my 11 research actually at the time, because there was 12 agreement. I was a consultant. Although, I 13 didn't have my research equipment and everything 14 else. 15 So actually, the MUSC FRD obtained 16 some shares -- actually, it's options from 17 GenPhar. By agreement, I will have 1/3 of those 18 shares, and the 2/3 I think goes to FRD and goes 19 to the department, the value. 20 And then actually, for whatever the 21 agreement, a German national, he was later 22 investor, he actually purchase some shares, and he 23 got participate a few other investors saying he 24 was going to invest more, but -- and then he 25 was -- in order for him to get control of the	Page 121 1 A. After I signed the agreement. 2 Q. After you signed the agreement? 3 A. Yes. But MUSC still hold their shares 4 through my so-called helping FRD to start the 5 company, provide technologies and consulting to 6 the company, and for that FRD actually got 7 significant amount of shares. 8 Q. So, in other words, generally, what I 9 hear you saying is after you entered into this 10 agreement you and I have been talking about today, 11 MUSC transferred whatever shares the FRD held in 12 GenPhar to this German national; is that right? 13 A. Correct. 14 Q. And what you're telling me is that 1/3 15 of whatever -- however many shares MUSC 16 transferred to the German national, 1/3 of their 17 shares, according to you, didn't really belong to 18 MUSC at that point; they belonged to you? 19 A. No. No. It's the -- there was a rule 20 at MUSC -- rules how to encourage faculties to 21 sponsor biotech companies. I wasn't the only one, 22 but I was one of a few that was successful, 23 including James Norris himself. He has his own 24 company. Also Yusuf Hannun and other members in 25 other departments. There are multiple faculty

Page 122 1 members started companies. 2 There was a university policy and 3 formulation, how the benefit derived from 4 commercial companies divided within university, 5 including the person who actually contribute the 6 technology computation. There was a formulation 7 how much share, how much percentage the person 8 get. 9 Q. What I hear you saying is there is a 10 percentage of whatever shares MUSC gave to this 11 German national that actually under MUSC's rules 12 should have belonged to you, not MUSC? 13 A. Not only damages done to me, 14 because -- 15 Q. I'm just asking you if my 16 understanding is correct. I'm not asking if you 17 were damaged by it. Is that correct? Are you 18 claiming that a piece of these shares moved -- 19 given back to this German national actually belong 20 to you and not MUSC? Is that what I hear you 21 saying? 22 A. If you will let me make my statement, 23 and I think we'll be better off in many ways. 24 Q. Go ahead. 25 A. Based on -- that's what I said, based Page 123 1 on MUSC formulation, the benefit to faculties, 2 there is a percentage share owned by MUSC will be 3 awarded to the person who will be responsible for 4 the income by MUSC. 5 So based on that formulation and that 6 policy of MUSC, I wasn't the only faculty members 7 to benefit the shares of the financial income from 8 a company that I consulting with, helped to start. 9 So that share should be mine, awarded 10 from MUSC. Just like salary I awarded from MUSC 11 or bonus I awarded from MUSC, that will be mine. 12 Q. How many shares were supposed to be 13 yours? Do you know? 14 A. I don't know. So I never got it. But 15 the damage to me was not only the value of the 16 shares, but actually they use my share, the 17 percentage of share I brought to MUSC, to 18 participate a conspiracy for one of the investors 19 to fire the other investors and then in order to 20 seek control of the company. 21 Of course, I was on the side of the 22 company as well, so they can kick me out of the 23 company as well. So basically, I left not only 24 not be able to continue my research at MUSC, but 25 also actually block me from continuing my job, my	Page 124 1 research at GenPhar. 2 Q. Did GenPhar eventually kick you out? 3 A. During that period of time, GenPhar 4 was kick -- did kick me out. 5 Q. What period of time are we talking 6 about? 7 A. I don't remember. That's why, 8 actually, I need to get the documents from MUSC to 9 document what kind of agreement it made or 10 actually the timeframe they made. 11 Q. Did you continue to do work for 12 GenPhar after you signed this agreement 2010? 13 A. I was on a consulting role. They 14 allowed me to do the research, but I have nothing 15 else to do but to continue my consulting with 16 GenPhar so I can have a position. 17 Q. Was there ever a time when you were 18 the CEO of GenPhar? 19 A. No. Actually, at the end when 20 everybody left, so they have to be a person 21 carrying the name, but during this entire process 22 the company was run by chairman of the board, 23 which is Steve Hutchinson, also who was the CEO, 24 and once after the -- they started fighting, 25 actually installed the guy. It was Kevin Die Page 125 1 (sic), who was the CEO. 2 Once, after the fight, everybody is 3 gone, there is no CEO -- no official CEO. I was 4 only functioning as the principle investor, but 5 one -- actually, there was somebody even sign, for 6 example, lease agreement, anything else. Because 7 I was the sole principal investigator, I signed 8 it, but I was never officially named by the board 9 CEO or otherwise. 10 I was the chief scientific officer as 11 a consultant, and also at the time GenPhar insists 12 on me being the president, which is only title, 13 and that was rejected by FRD. So they didn't want 14 me to have any non-scientific function because I 15 could not function as non-scientist. I do not do 16 any -- even at MUSC, I am treated role is through 17 business management. I never manage money. I 18 never manage role in regulatory affairs. Only 19 science. 20 Q. You never managed money at GenPhar? 21 A. No. I don't sign checks. I don't 22 review grants. I don't review accounts. It's all 23 so-called insulated from me. 24 Q. Did you ever send letters to investors 25 about the finance status of GenPhar?

Page 126 1 A. Yes. I was the only person left as 2 the -- to -- actually, as the secretary or 3 business manager, draft the financial report with 4 approval of Steve Hutchinson, and I will be the 5 one sign it because Steve Hutchinson officially 6 resigned as the agreement between the investor 7 disputes. 8 So neither party actually owned the 9 company, could not install anybody in the company 10 except the management the grants that's report by 11 the Department of Defense and NIH. 12 Q. Did you oversee the building of 13 GenPhar's new construction building over in Mount 14 Pleasant? 15 A. I wasn't, because I was the scientist, 16 but there was -- no one else was there as the 17 general contractor oversees it. So actually, I 18 was -- I would have input only for the scientific 19 requirement, and I was the -- solely responsible 20 designing the clean rooms, the research 21 laboratories for DoD, but other than that I have 22 no knowledge of any construction or no expertise 23 how they do construction. 24 Q. Do you know Deborah Owens? 25 A. Deborah Owens was the finance manager	Page 128 1 made several comments that's not true. 2 So actually, the indictment 3 was unsealed I think early 2015. Before it 4 unsealed is a felony of anybody who disclose it. 5 I don't think United States Attorney will -- 6 would, but they could. This goes to MUSC before 7 even I knew it. 8 So actually, there is a year limit, a 9 nine-months limit -- time limit for speedy trial. 10 So it's about a year in 2015. That's years after. 11 I will never sign agreement if there's a problem 12 at GenPhar. So those all -- first of all, is 13 irrelevant. Second of all, they're excuses to 14 they breach the contract years after the contract 15 has been breached. Those have no relevance 16 whatsoever. 17 It has relevance because they push me 18 to GenPhar, and they have to find somebody 19 responsible, because I was the principal 20 investigator on those contracts. They prosecute 21 the company for using money inconsistent with the 22 terms and conditions of the contract by building a 23 facility. 24 What benefit do I get out of it? What 25 is the violation of contract terms, conditions
Page 127 1 of the company. 2 Q. Do you know Elaine van Borst? 3 A. Elaine van Borst was the part-time 4 secretary who was the whistleblower, and also the 5 internal accounting. So all of the accounting was 6 done by accounting firm, audited by another firm, 7 all hired by the board. That's their money. They 8 got to watch for it. 9 All of the financials, still actually 10 Steve Hutchinson was the person out of Wall 11 Street. He is the financial person. So even he 12 superficial resign. He was still not after he 13 hired the auditing firm and select the CPA 14 accounting firms on behalf the investors. 15 Q. Did the Fourth Circuit Court of 16 Appeals recently affirm your conviction? 17 A. Yes. But actually, they only looking 18 for one issue at a time. So they vacate the 19 financial penalty against me. 20 Q. Did they affirm Judge Norton's 21 conviction of you? 22 A. Yes. They didn't -- basically did not 23 review it. And those actually have no relevance 24 whatsoever. They're years after, and those -- 25 Judge Toal have more information than I do and	Page 129 1 become criminal? So we can't litigate those, and 2 we should not be actually include that 3 information. Completely irrelevant to this case. 4 Q. What about the illegal campaign 5 contributions you were found guilty of? Did you 6 have any involvement in those campaign 7 contributions to Lindsey Graham? 8 A. Yes. That's also years after. 9 Q. Tell me about that. What involvement 10 did you have in those? 11 A. No. Actually, it's from the same 12 German person. I was on the -- he wanted to -- in 13 addition to the auditing done by the company, he 14 wanted additional auditing by himself, and he want 15 the company -- he initially want the company to 16 pay for the auditing. The existing investor did 17 not agree. So in order for me to compromise 18 between the investors, because they are the key 19 control interest of a company, so I agree for him 20 to do his auditing, but he also agreed to pay for 21 it. 22 Once the actual -- also, there is a 23 time while I was on the around-world travel, paid 24 by a family member, and I was costing \$90,000 for 25 my wife and on the charter flight. It's travel

Page 130 1 around the world. So he wanted me to answer the 2 question. I said could you -- to make a long 3 story short, could you wait until I come back, 4 because this lifetime event and cost \$90,000. He 5 said, Don't worry about it; I'll pay for it. 6 He's a billionaire himself, all right. 7 So once the dispute come about, he said he would 8 not pay for it. He only pay 40 percent, 9 50 percent of cost, which equivalent to \$35,000, 10 and he did not want to reimburse the company. He 11 said, That's reimbursement for you to take the 12 time around-the-world travel since he said so. 13 But I did not think that the auditing 14 was for the company regardless who wanted to do 15 it, so I did not think it was appropriate for me 16 to take \$35,000. At the same time, the consultant 17 for government relationship set up by Jerry 18 Zucker, which also multibillionaire locally, as a 19 requirement, we have to hire this law firm, the 20 consulting firm to so-called establish government 21 relationship. I was signed it. I never wanted 22 to. 23 The consultant form asked me to 24 contribute to Lyndsey Graham's contribution. I 25 said, Why don't you do it? He said, We can't do Page 131 1 it anymore because we're going to -- because April 2 month of the event. So there is overzealous 3 looking for the law firms who make a contribution 4 on behalf of the others. So he can't do it. 5 So I would say, Okay, I will write a 6 check, because that's was given to me personally 7 by this German investors. So I had to say, Well, 8 okay, I'll just donate this for Lyndsey Graham, 9 because I was asked to donate Lyndsey Graham. I 10 did not think was a profit for me personally take 11 the money, because the auditing is behalf of 12 company. 13 And that money was returned from my, 14 saying demand -- exceed the limits, your limit. 15 So I thought there was -- each person out of 16 communist China, I thought because you buy me 17 flowers there is quantant (sic), and everybody live 18 by quantant. I thought I reached my quantant. And 19 I said, We have a company. I said, Everybody else 20 has contributes to Lyndsey Graham. They said, No. 21 I say, Okay, if you support Lyndsey Graham because 22 he support our contract about defense program, he 23 support Department of Defense, support our defense 24 grant, if he agree, you can take the money, talk 25 to Katie and make contribution.	Page 132 1 I didn't know that was over the limit, 2 was so-called legal limit, and then the -- by 3 giving the money to the other people, that's 4 called straw-whatever donation. So I was 5 convicted for contribution using strawman. I have 6 no -- I think the criminal has to be mens rea. 7 You have to have intention to break the -- no -- 8 the violation of the low. I did not. I wasn't a 9 political person. 10 So I just -- money was given to me by 11 the German investor that actually tried to -- I 12 was the conduit for foreign invest contribution, 13 and there is clear agreement he is giving the 14 money to me personally to compensate me 15 personally, but that's just how the conviction 16 occurred. 17 It had nothing to do with -- that also 18 happened years, years after the breach of 19 contract. Have nothing to do with anything. If I 20 didn't sign agreement, go to GenPhar, nothing like 21 this would happen to me because I wasn't manager 22 at any time. I have no experience in managing a 23 company, political contribution, I have none. 24 Q. It looks like the political 25 contributions were all made years before the Page 133 1 agreement was signed. 2 A. No, it could not be. 3 Q. I'm seeing lobbying fees going all the 4 way back to 2007 as part of your charges. 5 A. That's not my -- lobbying fee is 6 not -- actually, it's the political agreement was 7 as set up by Jerry Zucker. I have nothing to do 8 with the company. They call it lobbying fee, but 9 that's the government relation consultant company. 10 That's what presented. The company called 11 American Defense. So I am no knowledge whatsoever 12 about what's at the time. And I only learn new 13 word, lobbyist, why they called lobbyist. 14 When I receiving the company that, 15 actually, is the word in place. It was set up by 16 Jerry Zucker through one of his friends, I think, 17 Ben Sasse. He was deputy secretary for Reagan. 18 I'm talking about beyond my knowledge. 19 That's just -- to me, that's rumor. All I know is 20 the company called American Defense. It 21 supposedly have the business as to how to breach 22 the gap between defense companies and the 23 Department of Defense. 24 Q. Is Vaxima, Inc. still in operation, 25 Dr. Dong?

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1 A. No. It was just a paper company.
2 When I was kicked out from GenPhar, I was -- I
3 thought I failed MUSC because the -- there was
4 no -- I was charged to start a biotech company and
5 bring high-paid jobs to South Carolina. And Ray
6 Greenberg specifically had a conversation with me,
7 who was the president of the university. So I
8 thought I failed, and I tried to start another
9 one, but basically I could not raise a single
10 dollar in terms of funding.
11 But then the -- after the two parts
12 are fighting, we -- actually, they brought me back
13 to in charge of the assignment. They know they
14 could not -- neither party could do it. So they
15 brought me back.
16 So that was -- Vaxima was basically
17 incorporated, become a subsidiary of GenPhar, only
18 they call it service division, which only using
19 GenPhar's technology to serve other companies, and
20 the companies never exist as individual company or
21 actually have a single dollar investment, but just
22 become a name under GenPhar to provide a service
23 to other companies.
24 Because GenPhar is a product
25 development company, and when you have product

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1 development, you can't do service for the other
2 clients because they afraid you may use their
3 technology to help your products. So you have to
4 have a separate entity and agreement that
5 technologies never transfer.
6 There is also no relevance whatsoever
7 to the current case. The only relevance is if I
8 wasn't pushed to GenPhar with the -- they take my
9 research and material and push to GenPhar, I would
10 never be in trouble.
11 Q. What do you mean push you to GenPhar?
12 A. Of course, this agreement, because
13 they took away all my research. The only
14 opportunity for me to -- and being enticed to a
15 cool-down period. At the time my only concern is
16 my academic career.
17 I agreed on everything in order for me
18 to continue my research. That's my livelihood.
19 That's my career. Everything depend on it. So I
20 agree to everything in rush in order for me to
21 continue my research. Not only threw away my
22 research, actually they try to block me from doing
23 my research at GenPhar and also actually as a
24 result and I'm being the only person in charge,
25 because everybody officially resign.

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1 Q. Your relationship to GenPhar goes all
2 the way back to 2002, right?
3 A. That's under the contract of FRD and
4 GenPhar. It was on behalf of MUSC. So I always
5 been full-time professor. That's -- actually, all
6 the other faculty members doing the same.
7 University encourage faculty members
8 to sponsor biotechnology. It's not only MUSC.
9 It's all over the country, exemplified by MIT,
10 Hopkins, UCSF. Of course, Massachusetts is the
11 hotspot biotech companies. And of course,
12 California is hotspot biotech companies. So
13 that's all national trend, and they actually tried
14 to mimic UCSF.
15 UCSF got more than \$300 million a year
16 from industry support, a lot more than
17 \$300 million. At the time it was \$300 million
18 from NIH. And the common saying is there's almost
19 same or twice the amount from industry. So many
20 universities try to mimic, and also it was the
21 initiative of high-tech university under the
22 government. That's actually the single purpose I
23 was recruited to MUSC, and I think Ken Roozen can
24 testify to it.
25 (Exhibit 2, 3/14/11 Letter to Dr. Dong

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1 from MUSC, marked for identification.)
2 BY MR. CONLEY:
3 Q. Dr. Dong, I'll hand you what I've
4 marked as Exhibit 2 and ask you to take a look at
5 it, please.
6 A. This letter is fake in a way because
7 this person actually was regarded one of the
8 worst, whatever, the vice president of affairs at
9 MUSC. She didn't last long. She had no
10 involvement from the beginning to the end, but she
11 took responsibility. Inventory was done by her.
12 No, it was done by Steven Lanier, long before this
13 agreement was signed. This is a false statement.
14 Q. Did you receive this letter, which is
15 Defendant's Exhibit 2?
16 A. I believe I might. I might. I can't
17 remember.
18 Q. Did you attend this inventory that
19 occurred March 24th and 25th?
20 A. Which year is this?
21 Q. It says "March 14, 2011," Dr. Dong.
22 A. No, I was never asked.
23 Q. My question is simply this: Did you
24 attend in any shape, form, or fashion an inventory
25 on either March 24th or March 25th, 2011?

Page 138 1 A. No. I don't remember. 2 Q. Well, that's different. My question 3 is -- you need to tell me you either didn't attend 4 or you don't remember whether you attended. 5 A. I don't remember there was ever a 6 requirement, and also I do not remember. The -- 7 actually, the inventory was done long before she 8 was the, whatever, with medical. I never met her. 9 I never -- and she sent this letter, was 10 completely false, based on false information. 11 Q. Dr. Dong, my question is about 12 March 24th and 25, 2011: Did you attend on either 13 of those days any kind of inventory related to 14 your materials or equipment? You either did, you 15 didn't, or you don't remember. 16 A. I don't remember. 17 Q. Thank you. 18 A. Likely, I didn't, but if I did, I 19 would remember it. Where was this letter sent to, 20 this confirmation -- confidential information 21 supposedly? The only person I could recognize 22 this name is Steve Lanier. He's the one under the 23 false statement of inventory. 24 What is the reason for inventory? 25 It's not after I leave -- I left, but this is	Page 140 1 there, they already break the locks, and they are 2 actually in process of transfer everything out, 3 but they are not doing any inventory. They just 4 took the material out of those freezers and 5 transferred somewhere else so they would not be in 6 that location anymore. 7 Those keys already -- those actually 8 locks already being broken. I don't know when, 9 but clearly they did not need me, didn't need the 10 key. So I was standing there. Actually, no one 11 talked to me, and so... 12 Q. So you didn't stay for the entire 13 event; is that right? You left? 14 A. Correct, but that's the -- outside the 15 agreement. Why do I -- because they -- first of 16 all, they only -- I was informed, I do remember, 17 informed to bring the key. 18 Q. Your position is as of 19 March 24th/25th, when this inventory occurred, I 20 think what I heard, your position is MUSC had 21 already breached the agreement at that point? 22 A. Of course. Have nothing to do with 23 it. They are not transferring material to me, and 24 they said they are going to do inventory because 25 they -- first of all, they removed all of my
Page 139 1 already long past the -- over due of the transfer 2 of the document -- the material documents. They 3 just follow up to cover up for their actions. 4 (Exhibit 3, Email Correspondence, re: 5 Inventory of Laboratory Material, marked for 6 identification.) 7 BY MR. CONLEY: 8 Q. Let me ask you to take a look at 9 Defendant's Exhibit Number 3 for me, Dr. Dong. 10 A. Oh, I remember the event, but that's 11 long after they breached the contract. 12 Q. Tell me what you remember about the 13 event. That's what I want to ask you about. 14 A. They actually wanted me to bring the 15 keys. They ask me to bring the keys to the 16 freezers, but when I got there they already break 17 up the freezer and everything else. 18 Q. Why did they want you to bring the 19 keys to the freezer, Dr. Dong? 20 A. Because the freezer belongs to me. It 21 was locked, but the -- first of all, they removed 22 the freezer. So I have no access to my freezers. 23 So immaterial. 24 They locked into a separate room. 25 They asked me to bring the keys, but when I got	Page 141 1 equipment freezers to a secret location, locked by 2 James Norris. So I -- with a key, I will not be 3 able to get access to it. Then they said they 4 were going to do inventory, asked me to bring the 5 keys, so in a way I will give them consent, but 6 when I got there, all of the locks had been long 7 broke. 8 (Exhibit 4, 9/20/11 Letter to Dr. Dong 9 from MUSC, marked for identification.) 10 MR. CONLEY: I hand you Defendant's 11 Exhibit 4, Dr. Dong. 12 THE WITNESS: So why -- first of all, 13 why is it you only have the documents your benefit 14 and you deny any of my documents? 15 MR. CONLEY: Because this is my 16 deposition, so I get to choose what documents I 17 want to ask you about. 18 THE WITNESS: But I don't have -- I 19 didn't have this document. 20 MR. CONLEY: Yes, you did. This was 21 produced to you, along with all of the others. 22 The Bates numbers on there indicate so. 23 THE WITNESS: It's 2011, right, a year 24 later -- September, a year and a half later. So 25 whatever happened to it is no relevance, but...

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1 This is absolutely false. Actually, I
2 would not be -- I would not know I was indicted by
3 2011. The indictment was -- actually, there is
4 sequential indictment within the months by the
5 same grand jury. Actually, each -- I was told
6 each indictment was only narrowed down. Instead
7 of superseding or adding more, they narrowed down
8 from broadly indictment from paying illegal aliens
9 to whatever. So no one actually saw the first and
10 second, except the third.
11 The only legally effective third
12 indictment should be 2013, all right. And there
13 was not unsealed until 20-- late 2014 or early
14 2015. So there's nine-months period, based on
15 law, for speedy trial. Otherwise, they violate --
16 that's a constitutional violation. So there's no
17 way they knew it.
18 It is a felony violation by anybody if
19 disclose information, and there's no way they
20 would know 2011 there was indictment. I don't
21 believe this email -- this information is real or
22 just a coverup act.
23 BY MR. CONLEY:
24 Q. Did you receive Defendant's Exhibit 4?
25 A. I don't remember how they sent to me.

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1 Q. They mailed it to your address on
2 [REDACTED]. In September 2011, were you
3 living at [REDACTED] in [REDACTED]
4 [REDACTED]?
5 A. I think I was separated long before
6 that. I live in [REDACTED].
7 Q. Is that your testimony, you weren't
8 living at that address then?
9 A. I believe so, because I was separated
10 three years before my divorce.
11 (Exhibit 5, 9/29/11 Letter to Dr. Dong
12 from MUSC, marked for identification.)
13 BY MR. CONLEY:
14 Q. This is Defendant's Exhibit 5,
15 Dr. Dong. Take a look this Exhibit 5, Dr. Dong.
16 A. Whatever they are, revision is not
17 without my signature and is not -- is violating,
18 but if they say revised, but I wouldn't even read
19 -- I have not seen it, but I don't even need to
20 read it.
21 Q. You have never seen Defendant's
22 Exhibit 5?
23 A. No.
24 Q. Well, it's attached to your lawsuit,
25 Dr. Dong.

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1 A. Sorry?
2 Q. That same document is Exhibit 2 to
3 your lawsuit. You have, obviously, seen it
4 before. You must have seen it back in at least
5 2014, when you filed your lawsuit.
6 A. It was attached to my lawsuit?
7 Q. Yes, sir, it is. If you look at the
8 complaint, it's attached to it as Exhibit 2.
9 A. That's already after the agreement
10 been breached. What's the benefit? What's the
11 fact they put it on --
12 Q. I'm only asking if you recall
13 receiving the document, Dr. Dong. You either do
14 or you don't.
15 A. I do not, actually.
16 Q. Would you at least look at your
17 complaint and agree with me that that's Exhibit 2
18 to your complaint? It looks like the same
19 document to me.
20 (The witness reviews the document, as
21 requested.)
22 THE WITNESS: Yes, I see it.
23 BY MR. CONLEY:
24 Q. You filed your lawsuit September 2014,
25 right?

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1 A. That late?
2 Q. Yes, sir. Look at the filing date on
3 it.
4 A. I think I don't -- I can't remember
5 how exactly. I don't remember seeing it. But
6 actually, I do -- I know Allan Holmes got some
7 documents from MUSC as well.
8 MR. CONLEY: Let's take a short break.
9 (A recess was taken.)
10 MR. CONLEY: I don't have anything
11 further.
12 (The deposition was concluded at 2:23
13 p.m.)
14 (The witness, after having been advised
15 of the right to read and sign this transcript,
16 does not waive that right.)
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1 CERTIFICATE OF REPORTER 2 3 I, Roxanne M. Easterwood, Registered 4 Professional Reporter and Notary Public for the 5 State of South Carolina at Large, do hereby 6 certify that the foregoing transcript is a true, 7 accurate, and complete record. 8 I further certify that I am neither 9 related to nor counsel for any party to the cause 10 pending or interested in the events thereof. 11 Witness my hand, I have hereunto 12 affixed my official seal this 18th day of October 13 2022 at Charleston, Charleston County, South 14 Carolina. 15 16 17 18 19 20 21 22 23 24 25  Roxanne M. Easterwood, RPR My Commission expires February 1, 2025	1 JIAN-YUN (JOHN) DONG, M.D., Ph.D. - Witness 2 johny.dong@me.com 3 October 27, 2022 4 RE: Dong, MD, Jian- Yun (John) v. The Medical University Of 5 South Carolina 6 10/18/2022, Jian-Yun John Dong (#5516370) 7 The above-referenced transcript is available for 8 review. 9 Within the applicable timeframe, the witness should 10 read the testimony to verify its accuracy. If there are 11 any changes, the witness should note those with the 12 reason, on the attached Errata Sheet. 13 The witness should sign the Acknowledgment of 14 Deponent and Errata and return to the deposing attorney. 15 Copies should be sent to all counsel, and to Veritext at 16 cs-southeast@veritext.com. 17 Return completed errata within 30 days from 18 receipt of testimony. 19 If the witness fails to do so within the time 20 allotted, the transcript may be used as if signed. 21 22 Yours, 23 Veritext Legal Solutions 24 25
1 INDEX 2 Page Line 3 JIAN-YUN (JOHN) DONG, M.D., 3 3 4 Ph.D. 5 EXAMINATION 3 5 6 BY MR. CONLEY 7 CERTIFICATE OF REPORTER 146 1 8 9 REQUESTED INFORMATION INDEX 10 (No Information Requested) 11 12 EXHIBITS 13 Page Line 14 Exhibit 1, Civil Action, Dong 50 12 15 v. MUSC 16 Exhibit 2, 3/14/11 Letter to 136 25 17 Dr. Dong from MUSC 18 Exhibit 3, Email 139 4 19 Correspondence, re: Inventory 20 of Laboratory Material 21 Exhibit 4, 9/20/11 Letter to 141 8 22 Dr. Dong from MUSC 23 Exhibit 5, 9/29/11 Letter to 143 11 24 Dr. Dong from MUSC 25	1 Dong, MD, Jian- Yun (John) v. The Medical University Of South 2 Carolina 3 Jian-Yun John Dong (#5516370) 4 ERRATA SHEET 5 PAGE LINE CHANGE 6 REASON 7 PAGE LINE CHANGE 8 9 REASON 10 PAGE LINE CHANGE 11 12 REASON 13 PAGE LINE CHANGE 14 15 REASON 16 PAGE LINE CHANGE 17 18 REASON 19 PAGE LINE CHANGE 20 21 REASON 22 23 24 Jian-Yun John Dong Date 25

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STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF CHARLESTON) Case No.:2016CP1006683
)
Jian-Yun Dong,)
)
 Plaintiff,)
)
 v.)
)
Medical University of South)
Carolina,)
)
 Defendant.)
_____) May 26, 2023

TRANSCRIPT OF MOTION

BEFORE THE HONORABLE JEAN HOEFER TOAL
Special Acting Circuit Court Judge, presiding

APPEARANCES:

For Plaintiff: Jian-Yun Dong, M.D., Ph.D.
 Pro Se

For Defendant: Robert Conley, Esquire
 Attorney at Law

Transcribed by:
Teresa B. Johnson, CVR-M-CM, RVR, RVR-M
P.O. Box 2812
Greenville, S.C. 29602

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(No exhibits offered.)

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P R O C E E D I N G S

THE COURT: All right. Please be seated.

Dr. Dong?

MR. DONG: Thank you, Your Honor.

THE COURT: Yes, sir.

MR. DONG: Before I start to address MUSC's motion for summary judgment, I have a couple of issues of my own I would like to present to the Court.

THE COURT: Okay. Speak up so we could all hear you.

MR. DONG: Yes.

Before I start addressing the summary judgment filed by MUSC, I have a few issues I would like to present to the Court and to at least put on record.

First of all, I understand Your Judge -- Your Honor already denied my motion for continuance, but I'd like to say, under due process, I -- I'm entitled to be heard. And also, the reasons for continuance also have implications for the following response. With -- with -- with regard to MUSC's claim, there was no evidence provided, no depositions taken, no, actually, affidavit provided. And all of this

1 because the strict -- the strict timelines,
2 short timelines set at the request by MUSC
3 without any conference -- status conference to
4 get report from both side with regard to the due
5 process progress.

6 And secondly, I would like to request the
7 Court to give me leeways and latitude in
8 presenting my case and following less stringent
9 standard and -- in term of scheduled deadlines
10 as well as the content, for -- for better way to
11 say it. I can quote numerous cases from Supreme
12 Court to Appellate Court of United States as
13 well as the appellate court -- Court of Appeals
14 of South Carolina.

15 Give me a minute. I can try to locate the
16 -- the cases and also as well as provide by the
17 Court -- South Carolina's Rule of Civil
18 Procedures. Particularly, actually, even the
19 one at issue, Rule 56. There is actually
20 clearly statutes when the party cannot provide
21 affidavit of sufficient evidence, the Court may
22 order continuance for this affidavit -- for this
23 affidavits to be obtained or depositions to be
24 taken or discovery to be had. One may take --
25 one may make such order as a judge.

1 So actually there's -- rules of discovery
2 as assured by due process, arbitrary timelines
3 is at the Court's convenience after due process
4 has been satisfied. So there is plenty rulings
5 from Supreme Court down to Court of Appeals of
6 South Carolina. The due process interests
7 overweigh the deadline -- (inaudible) deadline
8 interest of the Court, even when the deadline is
9 authorized by statute. But the scheduling order
10 is not authorized by statute, is at the
11 discretion of the Court when the due process has
12 been fully satisfied.

13 Actually, I can read some of the -- with
14 your permission, I can read some of the cases --
15 cite some of the cases from Supreme Court as
16 well as to -- they are circuit courts as well as
17 due process -- the Court of Appeals of South
18 Carolina.

19 All right. In Haines versus Kermer --
20 Kerner, H- --

21 **THE COURT:** Spell that for me, please.

22 **MR. DONG:** H-a-i-n-e-s versus Kerner, K-e-
23 r-n-e-r.

24 **THE COURT:** All right.

25 **MR. DONG:** It's 404 U.S. 1- -- 119.

1 **THE COURT:** All right.

2 **MR. DONG:** In this case, the United States
3 Supreme Court held proceeds -- pleadings should
4 be held with less stringent standards than those
5 drafted by attorneys, it says contact. And also
6 this extent to the entire presentation and
7 process in prosecuting her case. The Court
8 explains pro se complaint, however inartfully
9 pleaded, must be held less stringent standards
10 than formal pleadings drafted by lawyers.

11 In *Estelle versus Gamble*, E-s-t-e-l-l-e
12 versus Gamble, G-a-b-l-e [sic], 429 U.S. 97, in
13 this case, Supreme Court held that pro se
14 pleadings in civil rights cases should be given
15 certain degree of latitude in presenting their
16 cases. And there's -- there's at least four,
17 five, six cases I don't have too.

18 In *Erickson versus Pardus*, E-r-i-c-k-s-o-n
19 versus P-a-r-d-u-s, 5- -- 551 U.S. 89, in this
20 case, Supreme Court reaffirmed the principal
21 that pro se pleadings should be held less
22 stringent standards than those drafted by
23 attorneys. And the Court stated pro se
24 complaint must be -- complaint must be literally
25 construed and held to less stringent standards

1 than formal pleadings drafted by lawyers. And
2 there is also rulings literally construed means
3 even in the pleaders do not artfully represent
4 the case, the Court has to consider as if the
5 pleader for why they write argument, because
6 based on the issue the pleader raised. And
7 actually there is also specifically regarding to
8 the procedural latitude.

9 In *Rand versus Rowland*, R-a-n-d versus R-o-
10 w-l-a-n-d, 154 Fed. 3d Edition, 592, this is
11 Ninth Circuit. In this case, Ninth Circuit
12 Court of Appeals held pro se litigant should be
13 held to the -- should not be held to the same
14 stringent standards as attorneys with respect to
15 procedural requirements such as filing
16 guidelines. Actually, this echoed in many
17 cases.

18 The Fourth Circuit, which is more relevant
19 to -- to this circuit, also held that pro se
20 litigants should be given leeway in complying
21 with procedural rules and guidelines,
22 particularly where the litigant is incarcerated,
23 but this does not apply here, as well has
24 limited access to legal resources. But as the
25 layman is well-established rules by Supreme

1 Court. And no matter how much education the
2 person may have, would not be able to comprehend
3 the --

4 **THE COURT:** What's the name of the Fourth
5 Circuit case?

6 **MR. DONG:** All right. Sorry.

7 *Anderson versus Angelone*, A-n-d-r-s-o-n
8 [sic], A- -- versus A-n-g-e-l-o-n-e, 86 Fed 3d.
9 Edition, 932. It's Fourth Circuit, 1996.
10 Tracing this, particularly, there's plenty
11 rulings. The pro se pleadings should not --
12 layman should not be asked for following -- or
13 should give leeways to in term the deadlines
14 with -- even with the statute authorization, for
15 example, the appeal -- appellate deadlines,
16 because the due process overweigh the procedural
17 deadlines.

18 So in -- in this case, actually, the
19 overall scheme of the entire case is the
20 defendant set up the limitations for discovery,
21 limiting the scope and the timeline, for
22 example, as ridiculous as limiting discovery
23 only to e-mail from or to the plaintiff during a
24 certain period of time. That's unheard of.
25 Absolutely no legal basis for -- for the

1 defendant to ask the Court to limit the scope of
2 discovery. And then they follow it by limiting
3 the time for discovery. So everything --
4 there's a scheduling order. That order has not
5 -- not been able to change. But at the expense,
6 the plaintiff cannot conduct discovery. For
7 example, in this case, the notice deposition --
8 we did not abandon the notice deposition.
9 That's after a series of delay, give me -- give
10 me very little time. Then, I have
11 uncontrollable situations.

12 I had to file the motion to extend the
13 discovery. The motion was clear denied without
14 state a rule or a reason. And basically,
15 because the -- it's complex, where the very
16 issue we're talking is the scheduling order.

17 So -- and also with regard to protection
18 order, when I filed the protection order with my
19 eye surgeries, I will -- I will not be able to
20 schedule my eye surgery with both my eyes just
21 to cause delay for the -- for filing report of
22 summary judgment. And I was trying to -- with
23 my eyes and the operation, actually, I still
24 feel sand in my eyes, but my vision is a day-
25 and-night different after surgery. But I could

1 not -- right now, it's getting a lot better. I
2 could not open my eye for a long period of time
3 because I feel the sand in my eyes, and any
4 blinking will cause hurt, irritation, and
5 tearing. So I had to close my eye for a period
6 of time. So I have not followed -- did much
7 reading. And especially I'm a pro se pleader, I
8 have not been able to read and write effectively
9 without my -- my vision fully restored.

10 And then, I can address the issue -- to
11 save time, address the issue of breach of
12 contract. All right. And that's -- yes,
13 summary judgment. Okay. Summary judgment,
14 based on Rule 56, has to be supported by
15 pleadings, evidence, and interrogatories, and
16 most importantly, affidavit. The defendant
17 claimed the plaintiff does not have affidavit
18 and did not file any memorandum. It's not
19 without trying. Because I was given a short
20 time. And during the time, I was not able to do
21 so and have a half-way finished memorandum
22 prepared. But I was preparing it until I got
23 into surgery, and then I could not do it.

24 And also the timeline was at least 10 days
25 -- not 10 days. MUSC asked for 10 days. The

1 Court first deadline granted for 10 days. And
2 after the -- although the Court changed the date
3 of hearing after -- in essence, granted the
4 motion for protection, but only give me one day
5 after protection to come to this hearing. So
6 actually I was -- if I'm protected during the
7 period of time, I'm not able to attend any legal
8 proceedings.

9 But after that period, I only get one day
10 to prepare for this hearing. I think -- that's,
11 for lack of a better word, is a violation of due
12 process, especially considering the Court
13 rulings. I should be given latitude and leeways
14 and more time to support -- to prepare for the
15 response and argument.

16 So I will not -- I do not have the -- as
17 MUSA -- MUSC said, I could not conduct the --
18 could not conduct the deposition, not because I
19 abandon it. Because I filed the motion for
20 protection and also filed the -- the motion to
21 extend the discovery. And during the motion
22 filing period, the deadline should be
23 automatically extended until ruling, even the
24 Court -- the -- the motion being denied. And in
25 those cases, it was not.

1 And also for same reason, I know MUSC is
2 not the moving party of the complaint. But once
3 MUSC filed the motion for summary judgment, this
4 summary judgment, MUSC as the moving party, has
5 the burden to support the supporting documents
6 as required as -- by Rule 56. MUSC provided
7 none. The reason is they could not provide it
8 because MUSC did not want to produce any of the
9 victim -- I'm sorry -- vic- -- witness. Because
10 they denied the witness to me, and they said
11 they could not produce the witness to provide
12 affidavits to -- to verify the documents or the
13 claims MUSC has made by -- by counsel.

14 Even if he saying my client said that, the
15 client did not testify. The client did not say
16 under oath on the record what testified by the
17 counsel. So those test -- testimony was made by
18 counsel, mostly false. Not only without
19 support, but was false. Did not actually cite
20 any evidence, even citing the deposition --
21 sorry -- the deposition taken of me. So the --
22 the -- first of all, the summary judgment has to
23 be supported by the documents as required as in
24 Rule 56. And MUSC provided none.

25 All right. Secondly, the -- the basics for

1 summary judgment is there's no genuine issue
2 that's controversy to -- for trial. And MUSC
3 failed to say there was no -- to prove with the
4 support of the documents there was no genuine
5 issue. That burden is not MUSC's.

6 Secondly, the MUSC raised two issues. One
7 is statute of limitations. Made extensive
8 statements, a significant portion of those are
9 false to claim the statute of limitation barred
10 the claim.

11 First of all, it's foregone conclusion.
12 The Court has accepted complaint. And actually,
13 the complaint was filed on the basis of the
14 agreement as a whole, not each particular item
15 was treated separately.

16 And also, the agreement is under the
17 obligation by the employer of the clause in
18 honesty and fair dealing. There's clearly, as
19 demonstrated by MUSC counsel, try to -- try to
20 provide alternative interpretations of wording,
21 which was done by a professional attorney of
22 MUSC. In -- if faced with a faculty member at
23 the time, only goal was to get back to research.
24 I'll get into the -- the agreement a little
25 time.

1 And also, the agreement should be treated
2 as a whole, as not with specific date when, for
3 example, the breach is not on the date of
4 signing. The date is when the MUSC failed to
5 honor each and every one of the agreement,
6 right? It's not barred because one of the
7 breach agreement, one of the 20 conditions may
8 or may not be breached at certain time and the
9 rest of the other -- entire agreement breach
10 will be following that schedule and also has to
11 be knowingly -- the breach has to be known to
12 the party or should have known when the MUSC
13 engaging a continued discussion working of the
14 process.

15 So the -- the -- whether or not its good
16 faith or not, maybe party believe MUSC is
17 working on it, is in the process. So that
18 breach has not been -- that agreement has not
19 been breached. Especially in the entire
20 document as a whole, the -- the -- the contract
21 has not been breached. Until the date the
22 contract expire, MUSC did not honor most of, if
23 not any, of the conditions that are in favor of
24 Dr. Dong.

25 The -- secondly, I'll -- I'll get into

1 specifics. Secondly, MUSC keep relying on --
2 the plaintiff cannot fail to not be able to
3 present sufficient evidence. I think that by
4 nature, that's a question to be determined by
5 trial. Sufficient evidence should be determined
6 by trial, not by summary judgment.

7 And with the regard to if there is
8 sufficient evidence, there -- there are. But
9 some of the lack of documents because the -the
10 plaintiff was never given any chance for
11 discovery, all because the MUSC's wishlist to
12 limit the discovery in terms of scope only to --
13 for e-mails to and from the plaintiffs that
14 complete defeat the purpose of discovery. And
15 again, discovery is assured by law under the
16 constitution as a due process right -- due
17 process rights of parties.

18 And -- and secondly is the short and rigid
19 timelines for discoveries. The timelines should
20 be changed at the request for motion -- based on
21 motion. And especially for pro se pleadings and
22 for conditions out of the control of the
23 parties. But in this case, the -- all the
24 delays was caused by MUSC.

25 The record will show they would not provide

1 response or not provide the date for discovery
2 months at a time. Sometimes the discovery
3 request was given a year later. MUSC did not
4 provide a response or provide the response by
5 law. Clearly inadequate. It's a general
6 overall denial.

7 So those are all violations of the law and
8 violations of due process. So therefore, up to
9 date, Plaintiff have not been able to conduct
10 any meaningful discovery all because the -- the
11 deadlines and the orders to limit the scope of
12 discovery without any statute authorization,
13 without any established case law, but in
14 contrary, completely against the statutes and
15 the case -- numerous case -- case laws.

16 So actually, there are plenty evidence to
17 support -- sufficient evidence to support there
18 is a violation breach of violations as well as
19 admitted by the MUSC defendant. The major one
20 is the MUSC failed to transfer any of the
21 research material essential for -- for Dr. Dong
22 to continue his research and education, his
23 career, and his income -- maintain his income at
24 MUSC.

25 I will not -- I will give two answers to

1 each of the specific terms MUSC just presented
2 -- argued about.

3 I don't have the -- sorry. I can't locate
4 the...

5 I can't -- I only can (inaudible) short --
6 I will -- I'll try to -- if you give me a
7 minute, I will -- if Your Honor give me a
8 minute, I'll locate the contract, the agreement.

9 **MR. CONLEY:** (Inaudible) the agreement is?

10 **MR. DONG:** The original agreement.

11 **MR. CONLEY:** It's attached to your complaint,
12 Dr. Dong. It's attached to our memorandum as well.
13 It's in two different locations.

14 **MR. DONG:** Right. But where is it located in
15 this stack here?

16 **MR. CONLEY:** I don't know what that stack is,
17 Dr. Dong.

18 **MR. DONG:** This is your Exhibit 2.

19 **MR. CONLEY:** If you let me see it, I'll look at
20 it. What are you wanting to -- (inaudible)
21 agreement, contract agreement?

22 **MR. DONG:** Thank you.

23 And I can argue MUSC breached nearly all the
24 terms listed in the -- in the contract. First of
25 all, actually is a matter of honesty and fair

1 dealing clause by the employer versus employee,
2 which is the individual. And there is laws, plenty
3 case laws, suggesting it's a fraud when the employer
4 abandon the principle of honesty and fair dealing
5 when dealing with the employees, especially with the
6 employment contract issues.

7 But first of all, this -- the title of
8 agreement is -- have a different meaning from what
9 MUSC tried to --

10 **THE COURT:** Let me get -- we've got two things
11 going here. We've got the agreement, and then we've
12 got the way Mr. Conley framed his argument.

13 **MR. DONG:** Right.

14 **THE COURT:** He went through 20 different
15 obligations that he contended were the essence of
16 the agreement.

17 **MR. DONG:** Yes.

18 **THE COURT:** Now, are you going -- are you
19 looking at the agreement itself or are you looking
20 at the list he gave of the 20 things?

21 **MR. DONG:** I will -- list -- basically, the two
22 are the same, but I will point out --

23 **THE COURT:** Hang on for a minute. I've got a
24 list of the 20 things. Let me see if I can get my
25 hands to the agreement. I've got it right here.

1 **MR. DONG:** Right.

2 **THE COURT:** It's attached to your complaint.

3 **MR. DONG:** Right.

4 **THE COURT:** What you are looking at is
5 something called a Final Separation Agreement
6 Between Medical University of South Carolina
7 including its College of Medicine and Dr. Jian Yun
8 Dong, Professor of Microbiology and Immunology. Is
9 that what you've been talking about? And the date
10 is May 3, 2010.

11 **MR. DONG:** Yes, Your Honor.

12 **THE COURT:** All right.

13 **MR. DONG:** I think the -- it's basically the
14 same order, but the reason I --

15 **THE COURT:** Sure. But you do -- however you
16 want to do it is fine with me. I've got what you're
17 talking about.

18 **MR. DONG:** Yes. Yes, Your Honor. The reason I
19 tried to bring the two together is because there is
20 a lot of misrepresentations in --

21 **THE COURT:** All right. Well, just go ahead and
22 go down the list of things.

23 **MR. DONG:** Right.

24 **THE COURT:** The first one is payment of faculty
25 compensation.

1 **MR. DONG:** Yeah. I want to address the title
2 first.

3 **THE COURT:** The title? Final Separation
4 Agreement?

5 **MR. DONG:** Right.

6 **THE COURT:** All right, sir. What about it?

7 **MR. DONG:** The title of Final Separation
8 Agreement was presented to me as what the discussion
9 led to the agreement. There was extensive
10 discussion. Plenty events happened what led to the
11 agreement. No tenured faculty after years
12 education, research, and career in the end give up
13 tenure. There's a --

14 **THE COURT:** What does that have to do -- this
15 -- this thing says a Final Separation Agreement
16 between MUSC and Dr. Dong. That doesn't say
17 anything about anything other than it's a final
18 separation agreement. You signed it, right?

19 **MR. DONG:** I understand.

20 **THE COURT:** Okay. So --

21 **MR. DONG:** If -- if -- if I may --

22 **THE COURT:** -- what's the problem with the
23 title?

24 **MR. DONG:** Right. There is two
25 explanations of the title. And we can read

1 through the -- what MUSC tried -- tried to
2 present is the final severance agreement, which
3 is not the wording. But that appeared to be --
4 this title was drafted by attorney did leave
5 room for misinterpretation of title. The title,
6 Final, referring to several versions of the
7 separation agreement until we reached the final
8 to be signed is not a final --

9 **THE COURT:** Okay. I -- I get what you're
10 saying. He hasn't said anything one way or
11 another about that.

12 **MR. DONG:** Let -- let me actually present
13 the way I said. The secondly is separation, a
14 separation of the two parties. Moving one party
15 out of MUSC to -- for a cool down period is not
16 separation from MUSC. Not severance. It's --
17 the way that counsel presented is interpreted as
18 a severance. It's not severance as what the
19 word say in the separation, physical separation,
20 and also illustrated in the entire agreement as
21 to transfer a faculty to off campus, you know,
22 to separate the two parties, because the other
23 party is the chairman of the department and also
24 the provost.

25 **THE COURT:** Dr. Dong, this agreement says

1 in a number of different places that it is an
2 agreement and you've got the final separation
3 agreement. Go down two -- two, three more
4 paragraphs. It says during the term of this
5 final agreement, the University will continue
6 Dr. Dong's employment, faculty appointment, and
7 make scheduled salary payments to him. In
8 consideration, Dr. Dong acknowledges that this
9 final agreement constitutes his irrevocable
10 resignation of his tenured faculty appointment
11 to be effective no later than March 31, 2012.
12 Dr. Dong will retain his faculty appointment,
13 tenure, and title until the effective date of
14 his resignation. You signed that, did you not?

15 **MR. DONG:** I understand.

16 **THE COURT:** All right.

17 **MR. DONG:** Before you -- Your Honor arguing
18 with -- with me, provide argument for MUSC, if
19 -- if you may allow me to actually -- some
20 leeway to --

21 **THE COURT:** I'm going to give you -- I'm
22 going to give you plenty of chance to do it.

23 **MR. DONG:** Right.

24 **THE COURT:** But you're saying this is not a
25 cooldown, not a severance and so forth. That's

1 not what that paragraph says, is it?

2 **MR. DONG:** That's -- well, there's the
3 under the conditions. If under the condition, I
4 have a chance to move to another university,
5 obtain the position, I will formally resign.
6 Actually, that's part of the agreement --
7 continuous -- continuous in -- in -- integral
8 part of the same agreement. So if I -- there's
9 clearly says support my continuous research and
10 I have the right to find another employment.

11 And also there was a statement they termed
12 as they have to right to rehire me, but that
13 wasn't presented to me as their right. Because
14 once it -- that goes back to another honesty and
15 fair dealings.

16 And also the reason to what lead to this
17 agreement is also critically important. We
18 can't just take it -- extract it in a vacuum and
19 say, Well, you signed this, the agreement, and
20 now you're gone. So there's all conditions
21 listed for me to honor the agreement at the same
22 time for MUSC to honor agreement.

23 So the -- the -- what's presented to me at
24 a time is a separation, physical separation.
25 Yes, there is terms for me to resign, but after

1 I was able to obtain another -- another faculty
2 employment at other universities or MUSC, based
3 on all they're saying, if you continue
4 performing as you have, we'll rehire you --
5 rehire you. So they -- that's -- the clause
6 would not -- so my resignation would not take
7 effect because MUSC (inaudible) has the right to
8 retain my employment. Even if -- if I interpret
9 it literally, MUSC have the right to reinstate
10 my employment. Even (inaudible) leave, that's
11 the right of MUSC. That's could not be -- that
12 could not be true.

13 So MUSC expressed the intent and the
14 promise to recruit me if I perform continuous as
15 what I have been at MUSC. And not in the term
16 -- in the contract say anything that I had bad
17 performance.

18 In the -- in the discovery, I request
19 specific request my record, faculty record, my
20 performance, my evaluations, all denied in a way
21 by the limiting scope, because that's not the
22 scope. (Inaudible) my performance, my -- my
23 evaluations was given to me and kept at MUSC,
24 and MUSC failed to produce it.

25 So the -- the -- the reason that -- that's

1 what I'm saying. The whole spirit of this
2 agreement presented to me as I understood at the
3 time was a temporary separation while continuing
4 my employment gave me opportunity to -- to -- to
5 perform the same or the better. And MUSC will
6 -- after the period of time, MUSC will, in a
7 way, reinstate my position or continue my
8 employment at MUSC, although it's worded as
9 MUSC's right by -- by lawyer. So I was a layman
10 at the time.

11 But regardless, that's the spirit of MUSC
12 saying with the agreement give me the
13 opportunity to continue doing my research. If I
14 improve my performance the same level or better,
15 then I will be continued employed at MUSC. I
16 will also resign as a faculty member based on
17 the clause. If I get a chance to be recruited
18 by another university, I will resign from MUSC.
19 That's also consistent with the spirit of the --
20 the temporary separation and allow me to
21 continue my research and education.

22 So actually the first clause is the, of
23 course, during the employment -- I don't even
24 see how this is -- actually, the third paragraph
25 is -- is Dr. Dong employment will continue

1 doctor's employment -- faculty employment,
2 making scheduled salary payments. In
3 consideration, Dr. Dong acknowledges that final
4 agreement constitute his -- the same paragraph
5 you just made, right? But the employment -- the
6 -- the only obligation MUSC has honored is -- in
7 a way, is the continued salary for the period of
8 time until I have a reason to resign or be
9 continued employed by MUSC.

10 In this case, I did not have a reason to
11 resign. I did not have -- MUSC did not continue
12 -- continue to employ me, and also in violation
13 many of the terms. So the first term is not
14 just a salary. It's a continued employment.
15 That comes all my activities of teaching,
16 especially research, because -- sorry --
17 teaching and education, because my research
18 would be conducted at the company established by
19 MUSC, FRD, and a group of investors from new
20 York.

21 All right. The -- so they -- they did not
22 honor as my employment because I have to have
23 all the faculty activities at MUSC. Access to
24 graduate students, teaching graduate students,
25 and teaching graduate students in published

1 articles and actually leading post-docs is one
2 person's achievement, academic achievement.
3 When you're a professor, you doctoral mentor,
4 taking way your students -- taking your teaching
5 ability, taking your access to postdoctoral
6 fellows, that's not employment -- that's a
7 violation of term.

8 Okay. I do not know the second -- MUSC
9 retained the rights -- actually, that's -- those
10 are lawyer's terms, what represent me MUSC will
11 continue my employment --

12 **THE COURT:** Where are you -- where are you
13 reading, Dr. Dong?

14 **MR. DONG:** One, two, three, four, fourth
15 paragraph on the first page.

16 **THE COURT:** Oh, okay. He hasn't numbered
17 it like that. His numbers were --

18 **MR. DONG:** Right.

19 **THE COURT:** -- his obligation --

20 **MR. DONG:** Right. So I cannot completely
21 follow his order --

22 **THE COURT:** Okay.

23 **MR. DONG:** -- because it's -- not only
24 misrepresentations and also is extracted to his
25 interests.

1 And yes, there's faculty compensations.

2 And I may have to add actually my salary was
3 reduced before by the chairman as well as by the
4 Vice President for Research, Dr. Stephen Lanier,
5 as a pressure for me to leave MUSC and while
6 taking all my research material, research
7 projects, research data, and also spending my
8 research money and taking over my records to
9 graduate students and employees.

10 But as I said, yes, the only thing they did
11 was pay me a reduced salary for the -- for the
12 duration of the -- the contract. So that part,
13 specific part item was not violated and
14 testified truthfully.

15 The retention faculty employment and
16 faculty duties, the appointment is not empty
17 title as what Mr. -- Mr. Conley stated. If we
18 named Mr. Conley a lawyer but prevented him from
19 practicing, that title is meaningless. And I --
20 when I give you a faculty appointment, I
21 actually give also faculty duties. That's the
22 part of the agreement. I have to my appointment
23 -- I have to continue my faculty activities at
24 the University in terms teaching, education,
25 leading postdoc -- training postdoc fellows and

1 access to all facilities. MUSC give me none,
2 except they did not openly say take -- take away
3 my title. And also MUSC removed my faculty
4 profile on their website, closed my homeroom,
5 and stopped me from using faculty member e-
6 mails. That stopped all my communications as a
7 faculty member with my peers, with colleagues,
8 with funding agencies. Those are violation,
9 clear violation of terms by MUSC.

10 Right. Specifically, doctor agrees to
11 carry his customary shares of teaching,
12 lecturing, intellectual responsibilities as well
13 as assigned -- communicated him in writing the
14 chairman of each department. Those are taken
15 away from me.

16 Basically, I was not allowed to come to
17 campus. My lab -- my lab was completely closed.
18 All my employees was taken away by the chairman.
19 That's a complete violation of term agreement.

20 And during this period, Dr. Dong may use
21 the title of Director of Biotherapeutics and
22 Vaccine Development, because I have a sender at
23 MUSC. It's not just using the title. I have to
24 (inaudible) the title. I have to do my duties
25 for fellow therapeutics and vaccine development.

1 That has -- that's -- it's not the title. It's
2 not -- Mr. Conley is the title of attorney but
3 not allowed to practice. Take away his -- take
4 away his office, take away his staff, not allow
5 him to practice. Surgeons need equipment;
6 researchers need all the equipment documented
7 with their materials in order to conduct
8 research.

9 The -- the type of medical research I was
10 conducting is not to study someone else data,
11 not study academic result. Has to be done to
12 test you, hands-on, all -- with all the
13 material, priority materials and also my
14 intellectual properties. You can't start --
15 advanced research start from scratch. You rely
16 on all the knowledge and materials and the
17 technologies and protocols and data you
18 accumulate through hard work over the years.
19 Not only it just hard work. Without funding,
20 it's also impossible. So those are the result
21 of tens of millions of dollars academic funding,
22 federal funding, grants, and contract I obtained
23 through competition. The funding rate in age
24 was less than 10 percent, not general
25 population, out of nationwide top scientists.

1 Did -- did -- did counsel get -- get two
2 and 30 -- two hour and 30 minutes?

3 **THE COURT:** What's that?

4 **MR. DONG:** MUSC got two hours -- two hours
5 and 30 minutes.

6 **THE COURT:** Dr. Dong, you need to
7 concentrate on what you're doing and not worry
8 where I'm looking.

9 **MR. DONG:** All right. Sorry.

10 **THE COURT:** All right, sir. But what
11 you're doing here is something that you could
12 have done by filing a document that said what
13 you're saying right now. You're going through
14 this contract and trying to say what you
15 disagree with about the contract.

16 **MR. DONG:** So is --

17 **THE COURT:** The contract is something you
18 signed.

19 **MR. DONG:** I understand. That's why --

20 **THE COURT:** Yes, sir.

21 **MR. DONG:** -- I'm going --

22 **THE COURT:** And now you're going through
23 trying to say how unfair you think all of it is
24 and how you shouldn't have been required to do
25 that. That's what -- you just got to faculty

1 duties.

2 **MR. DONG:** I --

3 **THE COURT:** So keep on going, but please
4 understand that there -- there is nothing that
5 you have filed so far that details what you're
6 now standing up doing. You could have well done
7 that before --

8 **MR. DONG:** I did not have time, because I
9 was --

10 **THE COURT:** I -- I don't -- you have said
11 that so many times, I think I understand what
12 your position is about that.

13 **MR. DONG:** All right.

14 **THE COURT:** All right, sir.

15 **MR. DONG:** May I -- may I continue,
16 Your Honor?

17 **THE COURT:** Yes, you may.

18 **MR. DONG:** And also there is -- "Dr. Dong
19 is free to seek academic research collaborations
20 including secondary employment within MUSC
21 during the remainder of the agreement." And they
22 completely blocked all my ability to conduct my
23 research, what I'm going to use for -- for
24 continuing my collaboration. I cannot even do
25 my own research. The whole purpose of the

1 agreement is for me to have a separation period
2 so I can continue -- continue my research and
3 education. That's the major part of the
4 agreement for the entire duration for me to
5 continue my research, not each specific payment,
6 not each specific time within how many days
7 they're going to start, or the attempt. So how
8 we define attempt?

9 MUSC was -- did they attempt -- that's
10 actually obviously -- obviously dishonesty and
11 in bad faith. Right. That's actually the
12 clause. MUSC is obligated when dealing with
13 employees. They have to under the clause --
14 honesty and fair dealing clause, to -- for --
15 for any agreement for them to -- to claim they
16 have honored. So actually, they did not -- of
17 course, all of these are conditions we talked --
18 we discussed prior to my separate myself
19 physically from MUSC from the fighting with the
20 department chairman about his taking over my
21 research and material, research projects and
22 employees, fundings and completely blocked me
23 from conducting my research, not because I did
24 badly, because I was (inaudible).

25 I gained -- I obtained more federal funding

1 than the chairman and I published more paper
2 than the chairman. I led more graduate students
3 and post-doc fellows than the chairman at the
4 time. That's why he took over my research
5 projects. In the end, he has to rely on the
6 research material as well because that's
7 accumulate my years of work. So he has took
8 them from me with help of Stephen Lanier, which
9 is his close friend when they both working --
10 try to compete for chairmanship during the time.
11 And that's -- that's how -- how they reach
12 agreement.

13 Breaching the agreement enabled Jim Norris,
14 the chairman of department, and Stephen Lanier
15 to take over my research projects, my ability to
16 conduct research. And not only they took -- it
17 wasn't enough for them to take over my research
18 ability and research, they actually have to
19 block me from competing with him. Because I was
20 the expert; he's not. That's why they shut me
21 off from my --

22 **THE COURT:** Mr. Dong, we're going to spend
23 a lot more time arguing about the very specific
24 nature of your disagreements with MUSC. What
25 you need to do is to talk about how they

1 breached this agreement. What you're talking
2 about is all the things that happened that led
3 to this agreement.

4 **MR. DONG:** Actually, Your Honor, that's
5 where actually I failed to make my point
6 clear --

7 **THE COURT:** I -- I -- I'm not following it.

8 **MR. DONG:** Right.

9 **THE COURT:** I can tell you that.

10 **MR. DONG:** I appreciate you asked the same
11 question as counsel. I'm -- I'm going to
12 explain. Right? The breach of the contract is
13 in the terms -- what the terms mean to me or to
14 a faculty member to assign this based on this
15 agreement different maybe to a legal profession
16 or actually to a -- to a layman. But that's not
17 the spirit of the term. If we know the spirit
18 of the term what it -- what it says by
19 maintaining employment, not by paying a salary.

20 If I'm just an ordinary hourly worker with
21 payment salary, I'd go home. I'd be happy. But
22 I'm a scientist. I'm a doctor. I have a
23 career. My career is in the trending upwards
24 path. It's -- my career, my future all depends
25 on how I perform. So it's not a surgeon, you

1 take away his ability to perform surgery and you
2 name him surgeon that --

3 **THE COURT:** Your philosophy of that is not
4 lined up with my understanding with what I'm
5 here to look at, which are the terms of this
6 agreement --

7 **MR. DONG:** Right.

8 **THE COURT:** -- and whether they were
9 violated. So I look on the language of the
10 terms, and they say --

11 **MR. DONG:** Maintain my employment.

12 **THE COURT:** -- they say you commit to
13 submitting and irrevocable letter of
14 recommendation -- of resignation effective no
15 later than March 31, 2012. It doesn't say this
16 is some kind of temporary situation. It says --

17 **MR. DONG:** I understand, but there's other
18 conditions, Your Honor. There's other
19 conditions. You --

20 **THE COURT:** Well, then let's go through
21 that without going through every argument and
22 disagreement you've got or suspicion you have
23 about Dr. Lanier or Dr. Norris and all that kind
24 of thing. That -- that doesn't help me go
25 through this agreement and figure out whether

1 there are breaches of the agreement. And that's
2 what you're suing for. You're suing for
3 breaches of this agreement.

4 **MR. DONG:** Right. But actually MUSC
5 provide their version of the interpretation --

6 **THE COURT:** No, sir.

7 **MR. DONG:** -- and you allowed them to do
8 so, while I'm saying what is the employment --
9 maintain employment means.

10 **THE COURT:** And -- and -- and --

11 **MR. DONG:** It's --

12 **THE COURT:** -- what I want you to --

13 **MR. DONG:** -- not paying salary.

14 **THE COURT:** I want you to look at this
15 agreement, Dr. Dong, and tell me how they
16 breached.

17 **MR. DONG:** Right. They denied maintain --
18 giving me the ability to continue my research as
19 part of the employment. So employment by MUSC
20 for a scientist, for a doctor, is not give him a
21 title, give him payment. They have -- they
22 allowed him to conduct research and have access
23 to the facilities and function normally as any
24 faculty members will do at MUSC.

25 **THE COURT:** Well, I thought the -- the --

1 the foundation of this agreement would be that
2 you would be at GenPhar and you would have your
3 labs there and not at MUSC. Am I wrong about
4 that?

5 **MR. DONG:** I'm also talking about academic
6 teaching and training postdoctoral fellows.
7 Actually, I cannot do at MUS- -- at GenPhar
8 because that's a commercial company, have strict
9 standards what they can operate on. They only
10 lend me laboratory space for me to perform the
11 -- the duties of MUSC. That's what the contract
12 says. They didn't ask me to -- say, "Well, go
13 work for GenPhar. Tell us bye-bye. We'll call
14 the end of it," right?

15 It clearly says I'm given the continuous
16 appointment obligations, duties, as a faculty
17 member, tenured professor at MUSC. So I will be
18 have -- have to be able to do what any regular
19 faculty members, tenured professor could do at
20 MUSC. They took that away. So with taking that
21 away, I would not be able to honor the final
22 resignation. Take that away because I could
23 not, as I said, seeking -- actually seeking
24 employment at another university, not at another
25 packing facility, butchering facility, ginger

1 facility to seek second employment. It has to
2 be universities for medical doctors for research
3 scientists to obtain grants. Without -- taking
4 away my ability, I could not conduct any -- any
5 of those. That's the violation of the contract.

6 **THE COURT:** Let me ask you this: Post
7 May 3, 2010, when you signed this --

8 **MR. DONG:** Yes.

9 **THE COURT:** -- were -- were you teaching at
10 MUSC?

11 **MR. DONG:** No. That was -- that was --
12 they taking away my ability to teach MUSC.
13 Actually, my graduate students, even during the
14 graduation, chairman took over the mentorship he
15 graduate student as one of his graduates.

16 **THE COURT:** I understand that. So your
17 contention is that they -- this agreement would
18 have allowed you to continue to teach and
19 perform normal faculty duties, right?

20 **MR. DONG:** Correct. Like -- like any
21 other --

22 **THE COURT:** You said they immediately shut
23 those off.

24 **MR. DONG:** No. They actually -- it's
25 actually a negotiation process. So they was --

1 they gave -- for the period of time of the
2 agreement, they can't start what they want --
3 they choose -- it's a complicated operation. So
4 even if they say, Well, you can do it today, how
5 -- how can I get access to the graduate
6 students? There's no new graduate students
7 coming in. I will not be able to interview
8 graduate students.

9 It's complicated more than a layman can
10 understand. But it's -- that needs to be
11 determined as a fact. What is the extent of
12 agreement? What is the appointment of --
13 faculty appointment? It's just a title or a
14 salary? Or is it lot more than that?

15 **THE COURT:** Well, you're explaining that
16 it's a lot more than that. I'm just trying to
17 figure out when they breached the agreement.

18 **MR. DONG:** They breached the agreement at
19 end of this agreement. They terminate me -- my
20 employment. Actually, they -- but they did not
21 do anything during this period of time as they
22 specified.

23 **THE COURT:** Well, you -- so you're saying
24 that from the time they signed -- y'all signed
25 this agreement in 2010, they did not allow you

1 to teach at MUSC? Are you saying that?

2 **MR. DONG:** It's in the process. They did
3 not say, well, the process, I have to restart.
4 It's not -- it's not a day one, let's do
5 research. Until I -- I realized the new coming
6 graduate student, they didn't allow me to
7 interview them. So I would not be -- I wasn't
8 assigned to the course. Maybe not the first
9 quarter, not the second quarter, maybe not the
10 third quarter. But it's the process, until they
11 completely (inaudible) -- even during this time,
12 I wasn't -- the agreement is the -- the -- is
13 not practically implemented on one day. It's a
14 negotiation process.

15 **THE COURT:** Okay. I understand what you're
16 saying now. All right. All right. I
17 understand what you're talking about now about
18 faculty duties. And you say it was something
19 that happened over time, but the bottom line
20 was, you never got any graduate -- any students
21 assigned to you or that you could interact with
22 after this agreement was signed, right?

23 **MR. DONG:** That's limited. If you want an
24 example of what's the facility duties. Facility
25 appointment embodies a huge amount of

1 responsibility activities academically that's
2 closely associated with any faculty members --

3 **THE COURT:** Okay. I get all that. But
4 what you're saying is that after you signed this
5 agreement with them, they didn't allow you to
6 have those normal kinds of interactions of
7 faculty duties including --

8 **MR. DONG:** I understand what Your Honor
9 wants me to give a specific date, I could not
10 but it's a continuing process.

11 **THE COURT:** Right. But it -- obviously, if
12 you look back on it now, it started when you
13 signed this agreement, right?

14 **MR. DONG:** No, it started before --

15 **THE COURT:** Or even before it?

16 **MR. DONG:** Right. Because that's -- the
17 contract has not -- for example, they took my
18 material, the contract is within the period of
19 time give me a set period of time to
20 transitional in -- in the research, restart my
21 research until actually they continue my
22 employment or I find another employment and
23 permanently resign from MUSC. That's the spirit
24 of the --

25 **THE COURT:** So even before this agreement

1 was signed, they --

2 **MR. DONG:** I'm not saying --

3 **THE COURT:** -- they were blocking your
4 ability to --

5 **MR. DONG:** Part of it was the blocking.
6 That's why I settled with the agreement. And I
7 give them the process, a time period --

8 **THE COURT:** Okay.

9 **MR. DONG:** -- to resolve the issue, to allow
10 me to (inaudible). That's the purpose of the
11 contract.

12 **THE COURT:** I understand. I got it now. And
13 then by -- as it turned out, you were never able
14 to -- you were never allowed to go back and
15 start interacting with students or do things
16 that a normal faculty member would do, am I
17 right?

18 **MR. DONG:** That's correct.

19 **THE COURT:** Okay. All right. Keep on
20 going. This -- we're going to take forever on
21 this thing if we need at this snail's pace. I
22 understand the teaching thing now. Keep on
23 going.

24 **MR. DONG:** Right.

25 **THE COURT:** The next --

1 **MR. DONG:** Also -- also not only teaching.
2 It says research obligations -- collaborations.

3 **THE COURT:** I understand all that.

4 **MR. DONG:** And to take away my equipment, I
5 can't do research.

6 **THE COURT:** Okay. I understand that.

7 **MR. DONG:** But this is what was supposedly
8 a process. During this time, they allow me to
9 reestablish my research. And those are the --
10 there was bad faith negotiations. One, there is
11 none. I contact MUSC and I was negotiating when
12 they start. So it become a stonewalling. They
13 say, Well, we'll do this, talk to this, talk to
14 so-and-so until it back circle.

15 We didn't get the order. It didn't tell me
16 what to do. So actually it's a delay tactic, a
17 stonewalling, and a delay tactic by MUSC because
18 I was given the bad -- bad faith negotiation.
19 That's go back again they violate the honesty
20 and fair dealing clause when dealing with the
21 employees.

22 And actually, the faculty have a faculty
23 contract, there are faculty books. And tenure
24 has tenure. (Inaudible) tenure. Tenure has
25 rights. Everybody was competing for tenure.

1 Right? You can't terminate a person, even new
2 regulations, within seven years.

3 So actually, that's all part of the breach.
4 If you allow me to -- to explain what is the
5 breach, not what MUSC just saying that could be
6 interpreted, "You have the title. You have the
7 payment. That's all." That's not all.

8 And also, there is clearly -- there is --
9 it says there was -- the Vector Core equipment
10 will be moved. So -- will have -- before the
11 equipment moved as opposed to operating Vector
12 Core as part of the Center of Biotherapeutics.
13 So actually, the language for layman is hard to
14 understand. And I'll have to -- that's why I
15 need to explain what it is based on my
16 understanding and the parties signing.

17 So what is the -- MUSC can testify what is
18 the Vector Core and what's the Vector equipment
19 for? And why the Vector Core equipment has to
20 be transferred. And that has to be -- I
21 explained my understanding, unless they find
22 somebody else to explain otherwise, because I'm
23 a party --

24 **THE COURT:** Well, what's preventing you
25 from doing that or having filed something?

1 That's Exhibit B.

2 **MR. DONG:** Because the timing. Because the
3 timing.

4 **THE COURT:** No, no, no, no. This suit has
5 been going on since 2014. There could have been
6 plenty of time since 2014 for you to sit down
7 and explain what your position is about this
8 contract.

9 **MR. DONG:** Without discovery?

10 **THE COURT:** What's that?

11 **MR. DONG:** Without deposition? I was
12 trying -- trying to file the process to do
13 deposition. I was trying to file -- file the
14 process to get the documents from -- through
15 discovery, and it was all denied by the Court
16 limiting the scope of discovery to the only
17 information I had. And then they did not
18 provide all the information.

19 **THE COURT:** Well, Dr. Dong, by the time I
20 got in this case, the Craig Brown orders, the
21 Ferrell Cothran orders, and a whole bunch of
22 other orders had already been issued in this
23 case about discovery that were not something I
24 asked -- was asked to change, nor would I --

25 **MR. DONG:** I did file motions.

1 **THE COURT:** No, sir. Not on all the
2 discovery that had been done beforehand. All I
3 was asked to do was take this case as it was
4 then presented to me and deal with moving it
5 forward for trial, which is what I did.

6 Now, I don't know what went on in the
7 background about discovery. But I asked you a
8 very simple question about this contract when
9 you began to talk about Vector Core, and that
10 is, a lot of the contract related to, in terms
11 of your ability to keep up with that contract --

12 **MR. DONG:** Right.

13 **THE COURT:** -- the material in Exhibit B.
14 Why was Exhibit B never made a part of this
15 contract to facilitate the transfer of that
16 material to you at your new location?

17 **MR. DONG:** No, that's -- that's a clerical
18 error. (Inaudible). Exhibit B was transferring
19 the research materials. That's actually in the
20 Exhibit -- Exhibit A. There was specific
21 material things -- Exhibit B is the listing
22 material to be transferred. Research material
23 document and everything else.

24 So you allowed MUSC counsel testify to
25 explain their version of the agreement.

1 Actually, that's why --

2 **THE COURT:** Dr. Dong, please quit doing
3 that.

4 **MR. DONG:** Sorry.

5 **THE COURT:** All right. Your approach this
6 case has so many times been when you're asked a
7 question, to turn around and attack the
8 questioner, whether it be the lawyer, whether it
9 be the judge involved or something like that.
10 Please don't do that.

11 We're here to go through this contract and
12 I'm allowing you as much time as you need to go
13 through this contract and give your impression
14 of it. What I don't need is this constant
15 interjection of complaints about the other
16 lawyer and about the other judges and about me
17 as a judge. Just explain what your position is
18 about this contract, and we'll do fine.

19 **MR. DONG:** All right. Thank you,
20 Your Honor.

21 So actually, each one of -- has significant
22 implications in the -- in my performance, for
23 example, the Vector Core equipment, because --

24 **THE COURT:** All right. Just a second.

25 **THE COURT REPORTER:** He has paper covering

1 my microphone. If he could move that, please.

2 **THE COURT:** All right.

3 Dr. Dong, please take the paper off from
4 covering her microphone. Otherwise, it won't
5 pick up what she's trying to pick up.

6 **MR. DONG:** Thank you.

7 **THE COURT:** All right.

8 **MR. DONG:** Sorry.

9 **THE COURT:** All right.

10 **MR. DONG:** And the additional Vector Core
11 equipment, actually, that was the -- asked me to
12 submit to be attached in Exhibit B, which I did
13 not submit additional Vector Core equipment.
14 That means they did not violate whatever the
15 additional list I'm supposed to provide. But my
16 understanding, this -- this Vector Core list is
17 part of my equipment as well.

18 This actually equipment is not MUSC's
19 equipment while I'm an employment -- employee at
20 MUSC. Those -- yes, those are MUSC equipment.
21 When I'm not longer employee at MUSC, those are
22 my equipment. Because --

23 **THE COURT:** Well, I -- I got the impression
24 with the listing on Exhibit A that a lot of it
25 was equipment that you bought with you, was your

1 equipment, not them. They were agreeing to move
2 all of it to GenPhar.

3 **MR. DONG:** Yes, Your Honor.

4 **THE COURT:** And I assume that would mean
5 what you're talking about right now. Their --
6 their agreement wasn't limited to just what was
7 their equipment. They were going to move
8 everything in your lab to this new location;
9 isn't that right?

10 **MR. DONG:** That's correct.

11 **THE COURT:** Okay.

12 **MR. DONG:** Any -- any equipment, my
13 equipment.

14 **THE COURT:** That's right. Anything that
15 you used, anything that was either your
16 equipment or their equipment which you were
17 using, it was all going to your new location as
18 I understand it.

19 **MR. DONG:** There is no "their" equipment
20 for me to use and belongs to me. The equipment
21 has to be purchased under my grants.

22 **THE COURT:** Well, that's fine. But
23 everything that you were using equipment-wise
24 was supposed to be moved to your new location,
25 right?

1 **MR. DONG:** Correct. They did not do, as --
2 as they admit it. But that also is not a
3 one-day thing. It's continued --

4 **THE COURT:** And they -- they say they
5 didn't do it because the location was never able
6 to receive it for the lack of government
7 permits, occupation certificates, and this kind
8 of thing. Was that so or not so?

9 **MR. DONG:** Not so. Actually, the -- the
10 company has all the certificate and documents in
11 order to receive federal contract. The company
12 did receive tens of millions federal contract.
13 So those are already in place, and they knew it.
14 That was to say, as a formality matter, we have
15 to -- we could only transfer the material
16 research equipment, some of the biological
17 material, to a location that you have to show us
18 there is a permit to do so. Otherwise, they
19 violate the law -- law by transfer the material,
20 the biological material, to a site was not
21 approved. They know -- they knew it, and it
22 wasn't presented to them. GenPhar had all the
23 federal approvals and certificates.

24 **THE COURT:** Okay. The -- there are federal
25 approvals, and then in addition to that, there

1 are certificates of occupancy. That's
2 construction certificates that are issued by a
3 local government. There are --

4 **MR. DONG:** I understand that.

5 **THE COURT REPORTER:** -- insurance things.
6 GenPhar, did they have all of that?

7 **MR. DONG:** Of course, they had. How they
8 -- how they have that many employees in the room
9 operating without actually --

10 **THE COURT:** All right.

11 **MR. DONG:** -- completing the contract.

12 **THE COURT:** (Inaudible) the same. You
13 could have done that much sooner by filing some
14 sort of affidavit saying that that was --

15 **MR. DONG:** I was working on it until
16 actually --

17 **THE COURT:** Continue.

18 **MR. DONG:** MUSC still haven't filed any
19 affidavits, Your Honor.

20 **THE COURT:** I asked you please don't phrase
21 it that way again. They took your deposition
22 and filed that sworn document as part of their
23 factual filing. That's what they did.

24 **MR. DONG:** But I wasn't allowed to.

25 **THE COURT:** No, sir. I'm not going to get

1 into that argument right now. You stay on this
2 agreement and what your position is about it.

3 **MR. DONG:** And here -- here is this --
4 there's no argument. MUSC agreed to relocate
5 the equipment as listed in Exhibit B -- Exhibit
6 A. So actually --

7 **THE COURT:** Yeah. We know that. And they
8 say that they couldn't relocate it because the
9 -- no certificate of occupancy was ever given to
10 them. You say that you had the certificate of
11 occupancy. You haven't said yet whether they
12 were ever presented to MUSC. I don't know.

13 **MR. DONG:** Actually were. Actually, the
14 information come to Your Honor. Actually, I did
15 not know.

16 **THE COURT:** Sir --

17 **MR. DONG:** MUSC did not actually even say
18 that. I didn't say that.

19 **THE COURT:** This is exasperating, Dr. Dong.
20 Whenever you disagree with something, you just
21 try to turn it on somebody else.

22 **MR. DONG:** No, actually you --

23 **THE COURT:** This contract --

24 **MR. DONG:** -- made the statement --

25 **THE COURT:** This contract -- wait a minute.

1 Just one minute.

2 This contract specifies that certificates
3 of occupancy, insurance coverage, and the like,
4 will be given to MUSC. And in that event, they
5 will transfer your equipment to GenPhar. They
6 say they were never given those certificates of
7 occupancy and insurance and the like. And now
8 your -- I don't know what you're saying. But
9 it's mostly attacking them because you say may
10 be it's not in the contract. I don't know. But
11 the contract says that specifically, and all I'm
12 asking you is, Was MUSC given those
13 certificates?

14 **MR. DONG:** Yes. They actually -- the --
15 the fact -- they want to reassure they have
16 those certificates. Those certificates is
17 access of the company. So actually, the company
18 operates -- as I said --

19 **THE COURT:** They're just asking for a
20 photocopy of the certificate, Dr. Dong. And
21 they are asking for them from whoever has them,
22 certificates of occupancy, governmental permits,
23 and insurance coverage. And they are in the
24 place of that site. That's what this contract
25 says is to be provided to MUSC. And when it's

1 provided to them, they will then move the Vector
2 Core equipment in addition to all the stuff in
3 Exhibit A.

4 And all I'm asking is, you know, what's --
5 how are they (inaudible), were they supplying,
6 that is MUSC, supply those things I read out of
7 the contract?

8 **MR. DONG:** Yes. Actually, they did not
9 specifically what form. Actually, I destroyed
10 (inaudible) they knew it, how the company can
11 operate without those certificates, how the
12 company being awarded federal contract without
13 the certificate. Those are given. There's
14 actually not only -- there's documents to show
15 that. Actually, there is public information to
16 say -- how they have the Office of Science
17 Research conducting this vaccine development
18 against Ebola and Marburg for the military
19 personnel under a facility. There is no
20 certificate. How the government will issue a
21 contract to -- to a company without any
22 certificate? Those actually was given. You
23 prevent me from discovering, prevent me to --

24 **THE COURT:** I did not prevent you from any
25 discovery. No, sir. Please do not say that to

1 me again. Orders were in effect about this
2 thing long before I came in the case. I set up
3 a scheduling order. You noticed the taking of
4 depositions, and then you withdrew those
5 notices. Why? I don't know. But I did not
6 interpose one order whatsoever to prevented you
7 from engaging in discovery.

8 **MR. DONG:** The schedule limitation --

9 **THE COURT:** No, sir. No, sir.

10 **MR. DONG:** Yes, there is.

11 **THE COURT:** No, sir. The limitations on
12 other discovery by the way of interrogatories
13 and everything else has been put in place long
14 before I came into this case. I have an order
15 that said scheduling discovery, depositions
16 only. That's all I had to deal with.

17 **MR. DONG:** Right. But, and also I actually
18 thought because the circumstances were out of my
19 control --

20 **THE COURT:** I'm not going to get into that
21 argument again. Go on and finish what you've
22 got to say about the contract please, sir.

23 **MR. DONG:** I would respectfully --
24 respectfully ask to have the opportunity to be
25 heard when you addressing I did not file this --

1 file those documents, I can say why I did not
2 file the document. So that's actually -- I'm
3 entitled to -- now you are -- Your Honor is
4 saying I did not file this. You have -- you had
5 the time to file this. You didn't file this, so
6 it's all yours.

7 **THE COURT:** That's exactly what I'm saying.

8 **MR. DONG:** Right. But that's not fair.

9 **THE COURT:** It is fair. It's true.

10 **MR. DONG:** Because actually what I'm
11 saying, that's why I'm -- I'm -- I'm entitled to
12 be heard --

13 **THE COURT:** You're -- you're -- you're
14 being heard at great length here. And that's
15 what I'm asking you to do is to get back on this
16 contract that you said you wanted to do and go
17 through the provisions of it.

18 **MR. DONG:** Right. Actually, you asked me
19 why I did not file it. Because I -- the reason
20 stated. I could not file because my motion been
21 denied. So they -- they -- during this time,
22 actually is the spirit of the agreement. It's
23 not a one-day thing. So they -- (inaudible) my
24 material. The significance is not transferring
25 my material. It is taking away my ability to

1 conduct my research, taking away my -- taking
2 away my ability to advance my career, which also
3 (inaudible) my income. But they did terminate
4 my income without -- without giving me the
5 opportunity to find new employment, without
6 actually giving me opportunity to -- I did
7 obtain \$4 million contract for MUSC, Stephen
8 Lanier specifically rejected, because that will
9 actually bring me back to MUSC.

10 Without any -- that's a complete violation
11 of faculty rights as specified at MUSC and also
12 against MUSC interests. Those are federal
13 grants awarded to -- to me under the application
14 at MUSC by the National Institute of Health.
15 That's the vast majority of university grants
16 coming from. Actually, I don't know if I have
17 anything to do with its departure, but that's
18 against MUSC interests as well.

19 So -- and there's specific e-mail
20 communications he stop me using after date,
21 because the awarding date is after the contract.
22 Although the comfort was submitted during the --
23 is taken over a year, year and a half to obtain
24 federal contract. So I obtained the federal
25 contract for four and half million dollars for

1 MUSC and awarding time is after the agreement
2 terminate. And he sent me an e-mail telling me
3 stop using the faculty, appointment title, can't
4 use MUSC, as MUSC declined receiving any grants
5 awarded to you. To that effect. I'm not
6 quoting exactly.

7 And I'm supposed to have campus facility --
8 access to campus facilities. When I'm a faculty
9 member, I should have faculty access to
10 facilities. But at the same time, it's not as
11 simple as say, Well, you can walk in. Because I
12 have to have a research project to use the
13 facilities, actually give another notice.
14 Actually, Stephen Lanier specifically denied a
15 federal grant of mine and had a concept contract
16 with a director for animal facility to use
17 animal facilities. So that has come out from
18 discovery. That's actually -- that's also a
19 violation of the access to the facility. That's
20 one example.

21 And also --

22 **THE COURT REPORTER:** Excuse me, Doctor --

23 **MR. DONG:** Also, as specified -- specified
24 on page 2, second paragraph, doctor "will
25 transfer any... material including genetic

1 material, DNA constructs, viral and plasmid
2 vectors, antibodies, enzymes... doctors new
3 research location from his continued research,
4 including the materials which were provided by
5 Dr. Dong to Vector Core for services while
6 Dr. Dong was the director. Any vectors provided
7 to the faculty members during the period --
8 operation of Vector Core will remain with the
9 respective faculty members who acquire the
10 products."

11 So those are all very specific terms, but
12 without laboring through, I can say all the
13 terms were violated. If Your Honor want me to
14 name the date, I cannot.

15 And even the third paragraph from the top.
16 "In recognition of his offer to perform Vector
17 Core services for his off-campus location for
18 the proximity -- approximately 23 month inter-
19 -- interval above, so it's 23 months, University
20 will pay Dr. Dong sum of \$30 -- \$30,000 directly
21 to -- from chairman's budget in the Department
22 of Microbiology to pay no later than 50
23 following the signing -- day 50 following the
24 signing of the agreement."

25 The only thing they honored is to pay me

1 \$30,000, which I used on graduate students. And
2 -- but didn't honor the rest of the terms, the
3 \$30 -- the \$30,000 was for me to operate the
4 Vector Core facility off-campus. So that's also
5 breach. But they -- they did not breach the 30
6 -- 50 days to pay it. They did pay it. But
7 they breached the agreement for me to operate
8 the Vector Core facility off-campus.

9 This actually at the direction of Dr. Yusuf
10 Hannun, who is the Chairman of the Department of
11 Biochemistry, which also would be the chairman
12 of my second appointment. And those material
13 would be transferred -- again, they insert
14 attempt. So "attempt," that nullify all the
15 other -- all the other terms, because they just
16 attempt. They have no obligation. They just
17 make attempt. Who define attempt? That's
18 create bad faith and dishonest dealings. And
19 any additional will be provided by Dr. Dong was
20 never provided.

21 They also provide active grant service.
22 They did not. They actually declined. So
23 actually, honestly, I had to use the company
24 resources for submission to grant on behalf of
25 MUSC to NIH grant. The company has different --

1 research projects has to be clearly separated
2 from the -- by MUSC activities. So they did not
3 provide any financial services in the grant and
4 management offices. Those grant have to be
5 submitted through using resources, which
6 honestly, it was not appropriate from the
7 company. And eventually, when I obtained the
8 grants, that take up to a year and a half
9 (inaudible) worded because the contract was
10 terminated. Stephen Lanier declined receiving
11 the four-and-a-half-million-dollar NIH grant.

12 **THE COURT:** This -- this grant was -- was
13 this affected by the events that took place on
14 September 29, 2011, when the revision letter was
15 sent to you from MUSC.

16 **MR. DONG:** Actually, there is a question
17 about the revision letter.

18 **THE COURT:** Well, I'm asking a pretty
19 direct question. You're talking about a grant.
20 And in this revision letter, it says in part we
21 understand that you have received positive
22 feedback regarding a pending grant application
23 that you submitted to NIH. Is that what you're
24 talking about, this four-million-dollar grant?

25 **MR. DONG:** Could be. Because I had

1 received --

2 **THE COURT:** Because apparently interrupted
3 that, at least from what this letter says is the
4 notification of your indictment by the United
5 States Government.

6 **MR. DONG:** First of all, there is no test
7 -- witness to testify that that letter is true.
8 Secondly, actually I will say --

9 **THE COURT:** You put this letter in your --

10 **MR. DONG:** I was provided --

11 **THE COURT:** You -- you put this letter in
12 your complaint.

13 **MR. DONG:** Wait -- wait a minute. Let me
14 actually present my case first if you --

15 **THE COURT:** Well, did you not put this very
16 letter with that --

17 **MR. DONG:** That was included by the counsel
18 at the time who was competing for the General
19 Counsel at MUSC.

20 **THE COURT:** All right. Dr. Dong --
21 Dr. Dong --

22 **MR. DONG:** What I'm saying --

23 **THE COURT:** Your complaint was filed with
24 this letter attached to it and your answer is
25 not addressing that. Your answer is attacking

1 the bona fides of your counsel.

2 **MR. DONG:** No, no, no.

3 **THE COURT:** This case is not about that.

4 **MR. DONG:** Let me finish -- let me finish,
5 Your Honor, please.

6 **THE COURT:** Well, just answer my question.

7 **MR. DONG:** Right. The letter was included
8 to show the bad faith from MUSC because that
9 letter was generated at the time we actually
10 filed the complaint. That's three years before
11 the indicted the company misuse of the contract.
12 If I wasn't pushed -- pushed to the company, I
13 would not be indicted with the co-conspirator.

14 But the -- the thing is the indictment is
15 within -- first of all, happened in 2013 by a
16 grand jury within a month, although -- the third
17 indictment was within a month. After the
18 indictment, there is a sealed order by a federal
19 judge for a year and a half because they -- once
20 they release the indictment, there is speedy
21 trial.

22 So this is all beyond this case. But that
23 was -- the timeline doesn't match. The timeline
24 clearly indicate that letter was generated by
25 Stephen Lanier to cover up his mis -- misdoing

1 -- wrongdoing and put excuse whether you let --
2 Your Honor believe or not. And Your Honor is
3 shaking your head. But that has to be based on
4 fact.

5 The indictment is released in 2014. The
6 trial was 2015. So there is a speedy trial
7 clause under the constitution. So it is a
8 federal crime, felony crime, for anybody who
9 disclose the indictment before it actually was
10 publicly released. And anybody accusing a
11 federal prosecutor, actually violate the law --
12 actually violates the direct federal judge's
13 order, maybe they do -- did it. But the -- the
14 -- the people who signed the letter testify.
15 They said on oath that letter was not generated
16 -- generated after the fact. Who informed them
17 of the indictment?

18 I disclose indictment. All it says is
19 contract -- the company misused the contract
20 funding for an improper purpose, including build
21 new facility. That's all. I wasn't taking any
22 money, doing any conspiracy to get -- get rich
23 myself. I would not have any interest for the
24 -- for the company to build facility for the
25 DOD. I would be indicted for -- for -- for

1 crime. If we want to introduce this evidence,
2 actually that has to be in trial.

3 **THE COURT:** In 20-- September 2, 2014,
4 you placed that letter as an exhibit to your
5 complaint filed September 2, 2014.

6 **MR. DONG:** Right. Because --

7 **THE COURT:** I don't know this other
8 background you're talking about. But I do know
9 --

10 **MR. DONG:** Right. But -- but --

11 **THE COURT:** -- you filed that in a
12 complaint. You authorize the filing.

13 **MR. DONG:** There other things in the
14 contract to allege --

15 **THE COURT:** I'm not alleging anything. I'm
16 just reading --

17 **MR. DONG:** No. I'm saying the complaint
18 allege. There is actually a bad faith and also
19 wrongdoing in the contract -- bad faith and
20 unfair dealings. Actually, there's -- there's
21 other things.

22 **THE COURT:** You know this old -- good faith
23 and fair dealing is one of the oldest maxims
24 there is from Meinhard versus Salmon. I'm very
25 aware of that. It doesn't explain each and

1 everything that's involved in this case. But
2 let's go on forward and get to the end of this
3 contract please, sir.

4 **MR. DONG:** Right.

5 **THE COURT:** I think you're just about
6 there. You just finished with access to campus
7 research laboratory --

8 **MR. DONG:** Right. Actually, that's what
9 actually --

10 **THE COURT:** And now, you're at active
11 grants at the time of resignation.

12 **MR. DONG:** Right. Actually, they -- they
13 did not actually transfer any money to me. They
14 did not do any -- transfer any -- (inaudible)
15 that I need to have is to continue the grants.
16 So they did not relinquish the -- the grants.
17 Basically, the chairman, Jim Norris, kept them
18 all. So actually (inaudible) didn't mean
19 anything to was the genetic material, was the
20 DNA, was the plasmid, was the vector not
21 transferred. It means a lot for me to offer it.
22 We don't have to understand what's the scaffold,
23 what's the hemostat. But actually to -- to
24 understand, if you take away the surgeon's
25 ability to perform surgery, he can't advance his

1 career.

2 And this the 20,000-dollar legal fee, all
3 the money I obtained from MUSC was used on the
4 graduate students. Because at the time, I was
5 obligated to pay them, even my money was taken
6 away by the chairman. I have no access to the
7 money I got from the grants, so they did not
8 relinquish the grant or financials. So
9 actually, that -- I'm not alleging they did not
10 pay me \$20,000. That was not a violation.

11 The violation is the spirit of the contract
12 to allow me to reestablish my research ability
13 at a different location. That's the spirit of
14 separation so I will continue to have full
15 employment at MUSC to function as any normal
16 faculty member would do and advance my career
17 and also I have the opportunity to obtain
18 employment from other universities and then I
19 will find -- find -- (inaudible) resign, because
20 that's a condition. It does not say out the
21 blue, "We didn't -- we don't want to do anything
22 for you. You go ahead and resign, and I will
23 pay your, whatever, 18 months." That's not what
24 the contract said.

25 The contract spirit was said a separation

1 period allow me to conduct research at different
2 location and continued to advance my career and
3 obtain federal contract. And if I especially
4 obtained federal grants, if I obtained the
5 grants, MUSC will continue my -- my employment.
6 And in the event I find another location --
7 sorry -- employment, I will resign and terminate
8 my employ -- employ -- employ -- employment at
9 MUSC, so MUSC won't no longer have any
10 obligation to finish the remainder of the -- the
11 agreement.

12 But MUSC has to -- obligated to do what
13 MUSC did, which is satisfy my requirement to
14 allow me to continue my research and -- and
15 education to advance my career. In that sense,
16 the MUSC completely breached the contract at the
17 end of the contract. And also there was also
18 through the continued negotiation leading the
19 pathway after certain time -- timelines. But
20 that's not material. None of this -- they have
21 to transfer it within 50 days. They can't
22 transfer it on the same day of the materials.
23 They have to locate it, do everything.

24 To be honest, the vice president himself
25 would not be able to transfer. Certain

1 equipment requires installation, requires
2 improvement function at the location in order to
3 generate reliable data for vaccines, for
4 therapeutics that potentially used in clinical
5 trial for patients is more complicated than what
6 -- just provide title and provide payment.

7 So there is -- there has to be the same
8 function, same access to education, to
9 performance by a regular faculty member and
10 tenured professor with multiple federal grants
11 and with a large number of graduate students
12 still under my obligation and the postdoctoral
13 fellows.

14 And my -- my conclusion is, I cannot find
15 -- I'm sorry. My conclusion is MUSC violated
16 the majority part of the contract, caused
17 extensive damage, and there is a -- truly
18 genuine issues to be determined by a jury. I
19 bring the list in just a second. (Pause.)

20 I cannot find my list. But I will say
21 there's -- basically, there is no dispute --
22 there's no dispute MUSC has violated the
23 contract, breached the contract. As they
24 admitted, they did not transfer all the genetic
25 research materials and equipment in -- in -- in

1 the agreement.

2 Also, they try to nail it down a single
3 day, especially tried to nail on certain days
4 that they signed the contract. That's not --
5 that's not the case. The equipment has to be
6 moved through a process. And also during this
7 process, MUSC engaged in negotiation -- bad
8 faith negotiation and dragged out the entire
9 contract. Because the equipment not only just
10 transferred, it has to be installed and
11 certified and become operational and accurate
12 enough to generate research data that's reliable
13 to publish. Otherwise, those would be wasted
14 data, wasted time, wasted money.

15 So it's a continuous process. Also during
16 this time, I was led into continuous negotiation
17 until the time period they said, Well, you're
18 gone. The -- the time -- the contract take
19 time.

20 So there's no dispute. As MUSC already
21 admitted, they did not transfer material. They
22 tried to say they -- they provided -- actually,
23 there's a clause -- clause to transfer -- to
24 give me the money. They did give me the money.
25 But they give me the money to duplicate the --

1 some of the vectors -- the research materials
2 and copy notebooks. But they have to give me
3 the notebooks to copy. They have to give me
4 materials to duplicate. I can't create the note
5 from the beginning. That put me back 30 years.
6 I don't have 30 years to -- to continue my
7 research.

8 So there is no question the breach --
9 there's other issues, mostly, the continued
10 employment that lasts until -- until they say,
11 well, we don't want to employ you anymore. And
12 that's our right. That's (inaudible) our right
13 to employ you. And you -- you already signed
14 the irrevocable resignation. But that's a
15 condition to find new employment at another
16 university, not a sanitation facility somewhere,
17 also not McDonald. So that I require my -- my
18 ability to conduct my research, publish
19 scientific articles and contribute to science
20 and carry on my existing funding projects. They
21 stopped all of that.

22 And also, I would like to say, my -- they
23 reached their agreement is not because of my
24 poor performance. That's -- I wanted to show my
25 performance. How was -- how I was a rising

1 star. I was leading scientist in the research
2 -- research field of gene therapy for cancer and
3 genetic disease and developing biological
4 factors to transfer therapeutic genes to
5 patients for the purpose of therapy. And the
6 extension of that and also has the ability to
7 have a number of patents, patent disclosures for
8 commercial -- commercially-viable therapeutic
9 approaches. And that has been testified by FRD,
10 which I was not able to. So they took -- so
11 genetic material including those technologies,
12 (inaudible) technologies I developed at MUSC.
13 They took them all.

14 So they breached the contract. It was not
15 for the facilities which was \$5 million at that
16 time. But what they take is all my research
17 inventions, the patents, everything generated
18 during -- during my time of faculty at the
19 University. I had the most graduate students,
20 most postdoctoral fellows, more grants, and more
21 publications than the chairman and most of the
22 faculty members at MUSC. That is why he
23 gradually took over my research facilities. And
24 in the end, complete with help of Stephen
25 Lanier, shut me off, prevent me from competing

1 with him.

2 And he was in a decline curve as the
3 research. He was conducting chemical oncology
4 at the time. So all of this will mean something
5 to expert, but to legal profession, to a laymen
6 say what -- what is that the contract violated.
7 The contract basically violated to the degree --
8 complete -- continued black in my career
9 development, my ability to do research at MUSC,
10 not because I did something wrong, because my
11 performance was excellent as rated -- evaluated
12 by the chairman himself. He had no other ways
13 to really evaluate my research.

14 And that was accommodated by Dean -- Dean
15 Reves for my contribution to the University
16 under the state mandate to developing
17 high-paying jobs, create biotech company --
18 biotech companies for the state to create jobs
19 for trained doctors, scientists, so they don't
20 have to graduate and move on to another state.
21 And I believe I did as to every bit in the best
22 interest of the University. I did my best to
23 contribute to the science, to the -- to the --
24 to the community, to the faculty member and also
25 brought my expertise and know-hows, the

1 biotechnology companies development in
2 subsequent area because I was recruited from the
3 medical university -- I'm sorry -- from the
4 University of California in San Francisco to the
5 medical university of South Carolina. I wasn't
6 somebody they picked me up off the street and
7 kicked me out the door.

8 So my career was completely destroyed by
9 his -- by his illegal activity against me as a
10 faculty member. And I will not be able to
11 provide -- again, I will -- give me some time.
12 I would like to provide response and also based
13 on the rule when I could not provide affidavit,
14 provide -- the remedies continues, allow me to
15 have discovery under Rule 56(f).

16 **THE COURT:** Yes, sir. All right.

17 **MR. DONG:** So I will plead to the Court to
18 allow me time to submit supplements.

19 (Inaudible) already submitted the motion in
20 time. And also I would plead to the Court to
21 give me some leeways in actually in dealing with
22 this timeline and deadlines for me to actually
23 do something. I have not had an opportunity --

24 **THE COURT:** I understand your position
25 about that, Dr. Dong.

1 **MR. DONG:** And I would also like to submit
2 when Your Honor is in charge of whole case,
3 Your Honor is responsible for all the events
4 that happened in this case.

5 **THE COURT:** I'm responsible for what now?

6 **MR. DONG:** All the events happened, present
7 -- the rulings, previous rulings of the other
8 judges. Actually, that's --

9 **THE COURT:** I'm responsible for all of
10 those other rulings?

11 **MR. DONG:** You have the discretion to
12 correct --

13 **THE COURT:** I was not asked to correct
14 anything in that regard, Dr. Dong. When we sat
15 right here in this courtroom in October of last
16 year and -- or in September of last year, all I
17 was asked to do was to schedule from that time
18 forward. I was not -- I had to read a whole lot
19 of stuff about this case on the backside. I --
20 I -- I got that hearing done within a very short
21 time. I was appointed on this case just to get
22 it moving with discovery.

23 There had been a whole lot of water under
24 the bridge before. And neither you nor
25 Mr. Conley asked me to get back into

1 interrogatories or anything else. My order
2 because you-all -- that's what you asked me to
3 do was to schedule depositions, and that's what
4 I did. So please don't go there with me.

5 **MR. DONG:** Your Honor, actually, I --

6 **THE COURT:** Don't go there with me,
7 Dr. Dong.

8 **MR. DONG:** I think --

9 **THE COURT:** This business of -- your whole
10 approach to this case is to attack other people
11 --

12 **MR. DONG:** No. Your Honor --

13 **THE COURT:** -- rather than to talk about
14 what you've done.

15 **MR. DONG:** I'm just --

16 **THE COURT:** I'm not going -- I'm not going
17 to (inaudible) that anymore.

18 **MR. DONG:** I'm not attacking anybody.

19 **THE COURT:** Yes, you are.

20 **MR. DONG:** I'm stating a fact. I did raise
21 the issue of the order to limit the time --
22 limit the scope of discovery and due process. I
23 -- I think I did order the transcript.
24 Your Honor said, That's done by other judge.
25 I'm not going to --

1 **THE COURT:** That's correct. That's exactly
2 what I said.

3 **MR. DONG:** Right. That's all I'm saying.

4 **THE COURT:** We have an agreement about
5 that.

6 **MR. DONG:** Yes.

7 **THE COURT:** I said I would not go where
8 other judges have gone with the length of time
9 this case has been pending. I absolutely did
10 say that.

11 **MR. DONG:** Yes. My -- my proposition is
12 when -- once Your Honor take over the case, I
13 think Your Honor is in charge of the whole case.

14 **THE COURT:** All right.

15 **MR. DONG:** Thank you.

16 **THE COURT:** All right, sir.

17 **MR. DONG:** Thank you.

18 **THE COURT:** Mr. Conley, any reply?

19 **MR. CONLEY:** Your Honor, I'm going to be --
20 I'm going to be very brief, Judge.

21 **THE COURT:** Yes, sir.

22 **MR. CONLEY:** I want to harken back to what
23 I said and I think what some of your questions
24 were directed at. Despite Dr. Dong's two hours
25 -- just short of two hours of standing up here,

1 most of what he represented to the Court does
2 not appear in the record at this point.

3 His argument today cannot stand in the
4 place of him submitting evidence and by way of
5 affidavits or otherwise under Rule 56. Him
6 standing here and making factual
7 representations, etc., today to the Court is
8 just not sufficient under Rule 56.

9 The cases Dr. Dong cited -- and again, I'm
10 sorry if I jump around. I just made my notes.
11 I'm just going to quickly go through them,
12 Judge. Dr. Dong cited several federal cases to
13 you, a Ninth Circuit case --

14 **THE COURT:** Those cases are about
15 pleadings. The first line of cases he cited say
16 that we have to be flexible about the pleadings
17 of a pro se litigant. Nobody has been anything
18 -- no request has been made of me to deal with
19 any defects in the pleadings. The pleadings
20 were drawn by an attorney, and it's -- that's
21 not the problem here.

22 **MR. CONLEY:** Correct.

23 **THE COURT:** The problem here is whether or
24 not the statute of limitations has run because
25 of when the breaches occurred. But the -- the

1 cases he cited, that original line of federal
2 cases, Erickson and the like, are about
3 pleadings.

4 **MR. CONLEY:** Correct. In the Ninth Circuit
5 case, Judge, I actually pulled it up while I was
6 sitting there, that deals with pleadings of
7 prisoner litigants.

8 **THE COURT:** That's correct.

9 **MR. CONLEY:** Dr. Dong talk -- talked about
10 a lack of honesty and fair dealing. I only want
11 to point out something that I mentioned during
12 my rendition of those obligations that MUSC had.
13 And within that agreement itself was a 45-day
14 period for Dr. Dong to revoke the agreement. In
15 other words, he had 45 days -- 45 days after
16 May 10 to revoke the agreement.

17 Just bear with me, Judge. I've got a lot
18 of notes. But I'm going to -- I'm not going to
19 touch on all of them.

20 Judge, Dr. Dong, by way of his argument
21 today, appears to me to -- this is just my
22 perception obviously. He's trying to create an
23 ambiguity of certain provisions of the contract
24 by way of his argument. It's simply our
25 position that he just cannot do that. This goes

1 back to the lack of affidavits, the lack of
2 evidence that would create the ambiguity.

3 In regard to the statute of limitations
4 issue, it appears to me, Judge, that Dr. Dong's
5 position is that his ability to do many of the
6 things he did as a professor, as a tenured
7 professor, as a researcher, were taken away
8 immediately in May 3, 2010, or immediately after
9 May 3, 2010. I even heard him in -- I even
10 heard him in response to some of your questions
11 or at least one of them, indicate that perhaps
12 some had occurred even prior to entering into
13 the agreement May 3, 2010.

14 Dr. Dong mentioned several times during his
15 argument the fact that he is not a lawyer, that
16 he is a layman, that he is representing himself.
17 I only want to mention to the Court something I
18 didn't mention during my initial presentation
19 because I don't think it was germane to the
20 contract issues in terms of whether they were
21 breached or not, but Dr. Dong made very clear at
22 his deposition, and I note this in a footnote
23 actually in my memorandum, but Dr. Dong admitted
24 before signing the agreement he did not read it.
25 According to Dr. Dong, he only scanned it

1 briefly.

2 I want to touch on the GenPhar
3 certification for a moment, Judge. You had --
4 you asked Dr. Dong about those. I talked about
5 them. The bottom line as we stand here today
6 is, there is no evidence Dr. Dong has given to
7 this Court other than his representation during
8 argument today that somehow he ever provide MUSC
9 with any certificates of occupancy, any
10 insurance policies or -- I'm trying to think of
11 the other. There's a -- there's a third
12 component of that. I don't have --

13 **THE COURT:** Governmental permit.

14 **MR. CONLEY:** Governmental permits. There's
15 no evidence in the record before the Court that
16 Dr. Dong ever provided those things to MUSC. He
17 certainly made that representation during
18 argument today, but that's not sufficient under
19 Rule 56.

20 **THE COURT:** I understood his argument to
21 really be that these were a matter of public
22 record and could be researched as public
23 knowledge and things of that nature. Your
24 argument is the contract provides that those
25 certificates should be provided to MUSC.

1 **MR. CONLEY:** Correct.

2 **THE COURT:** And that's what you say did not
3 happen.

4 **MR. CONLEY:** Exactly. And -- and the other
5 component of that, Judge, is -- is on some
6 level, it doesn't matter. And the reason it
7 doesn't matter is that part of the contract,
8 that part of the agreement, MUSC was required to
9 do that explicitly within 45 days of the signing
10 of the agreement. Taking that into account, the
11 statute of limitations as to that component of
12 the agreement, and Dr. Dong's knowing they
13 didn't do it within 45 days, would have expired
14 in June 2013, Judge, 15 months -- 16 months
15 before Dr. Dong filed his complaint.

16 Those are the main topics I wanted to
17 mention just in -- in reply, Judge. Otherwise,
18 I would just stand upon our initial presentation
19 to the Court -- unless the Court has particular
20 inquiry.

21 **THE COURT:** I do not.

22 **MR. CONLEY:** Thank you, Judge.

23 **MR. DONG:** Brief rebuttal?

24 **THE COURT:** There is no such thing as that
25 understand.

1 **MR. DONG:** I understand. But you give him
2 the opportunity --

3 **THE COURT:** Dr. Dong, there is no such
4 thing as a rebuttal to his argument. We are now
5 -- I am trying very hard to get this thing done
6 without having to take any kind of break.

7 Elizabeth, how are you feeling?

8 **THE COURT REPORTER:** I'm okay.

9 **THE COURT:** You're okay?

10 All right. It is 1:30. I will give you
11 five minutes in rebuttal. That's it.

12 **MR. DONG:** Thank you, Your Honor.

13 Actually, the counsel was saying 45 days to
14 revoke. I was -- I wasn't revoke. That does
15 not mean the contract was not -- I wasn't revoke
16 the contract -- the agreement, because I gave
17 the impression that MUSC was (inaudible) to
18 honor it. That's No. 1.

19 So No. 2, I was not able to provide the
20 document I provide to MUSC because those
21 documents was under the exclusion order.
22 Because other than direct e-mails I sent
23 (inaudible) to MUSC and everything is outside
24 the scope of the discovery.

25 Secondly, that document has to be provided

1 by MUSC. So MUSC asked for the document. I
2 failed to provide it. Those actually -- that's
3 -- that's the -- the document was provided. And
4 during the negotiation, I was leading to
5 continuous negotiate -- negotiate --
6 negotiation. As I said, it's unrealistic say --
7 someone say, well, transfer started no later
8 than 45 days. You can't transfer all the
9 equipment, can't certify, can't do everything.
10 You just can't dump in somebody's parking lot
11 and be done with it.

12 So it is a process. You start 45 days.
13 You still have to -- to -- to do the process.
14 It may take longer; it may take shorter. But
15 the process, transfer biological equipment and
16 material -- research equipment has -- has to
17 so-called -- has to be calculated to the point
18 not accurate enough. And that has to be
19 document and verified. So it's a process that
20 only scientists can understand. So it's a
21 continuous process until the -- they're clear
22 they're not going to do it, but they're going to
23 do otherwise all the things they're going to do
24 against you. That is where the contract was
25 breached.

1 And also, during the process, I could not
2 know they had no intention to honor the contract
3 because they were continually engaging in
4 discussion, continuous effort, they're going to
5 do this, do that, to -- to establish the
6 contract.

7 And also -- actually, I lost track of what
8 the counsel said.

9 You remember what the -- the other two
10 points?

11 **MR. CONLEY:** I don't remember.

12 **MR. DONG:** All right. So what they -- I
13 cannot provide the affidavit because I could not
14 do the -- the contract. I'm not attack anybody.
15 I'm just saying I -- I was incapable to answer
16 the timeline to file -- to conduct discovery
17 when they refused to give me dates talking about
18 they have to discuss with their clients. Right?
19 They have to get dates, coordinate with their
20 clients because it involved too many people. I
21 have e-mails to show that. That's not beyond my
22 control when the -- the owner says when they are
23 available. The owners to me to give deposition
24 is the date. I have to give the date, the
25 deposition on that date. But the order for MUSC

1 to give deposition is when they able and
2 available.

3 So -- and that contract, MUSC was not
4 giving me sufficient time to conduct the
5 deposition until events happened that I would
6 not be able to conduct deposition, because I
7 have more important things to do. I did file
8 show cause -- good cause motion. I was
9 expecting when the motion been filed the process
10 would be continued until the motion had been
11 ruled. So I will have time until the motion
12 denied and actually in the -- the standard is to
13 show good cause.

14 I do believe my cause is better than MUSC's
15 cause, career -- counselors take vacations. My
16 cause is essential surgeries and also, more
17 important, appeal under the order of the US
18 Court of Appeals. So I provide those documents
19 and also my causes of illness with lung
20 infection. I have provided the letter for -- to
21 -- to the Court, the referral letters to refer
22 me to a nonspecialist. So I was not -- not able
23 to conduct the deposition, not I canceled it,
24 not I recalled it, but because I was not able
25 under the circumstances. That's all I have.

1 Thank you.

2 **THE COURT:** All right.

3 Ruling of the Court is as follows: I will
4 grant a motion for summary judgment on the basis
5 that the lawsuit pursuing this matter was bought
6 on September 2, 2014, after the statute of
7 limitations had expired on the continued
8 breaches of the agreement between the parties
9 dated May 3, 2010.

10 I will direct Mr. Conley to prepare a
11 proposed order granting summary judgment of this
12 matter on the basis of the basic outline as
13 contained in MUSC's memorandum accompanying its
14 March 31 motion for summary judgment. That --
15 that proposed order should be filed with the
16 Court by June 6 -- the proposed order shall be
17 sent to me, copied to Dr. Dong, filed by June 9.
18 Dr. Dong will have until June 23, which is two
19 weeks from -- which is a week from the ninth --
20 excuse me, two weeks from the ninth to serve and
21 file his objections.

22 **MR. CONLEY:** The 23rd? Your Honor, the
23 23rd?

24 **THE COURT:** This is June 23. This matter
25 is scheduled for trial on July 24. I will keep

1 this date, in effect, because my final decision
2 and my final order would not be effective until
3 filed. And I reserve the right to change this
4 ruling if a filing from Dr. Dong persuades me
5 otherwise.

6 Dr. Dong is also, from the very beginning
7 of this matter, in the setting of the initial
8 deadlines in the scheduling order in this
9 matter, filed a notice of civil appeal of a
10 nonappealable order which was remitted to the
11 Court of Appeals about a month and a half, to
12 his -- motions, so-called motions for protective
13 order, which were really motions for scheduling,
14 changes, delays or continuances. There has not
15 been one deadline I have set that has not
16 resulted in a motion or other form of filing by
17 Dr. Dong attempting to delay the requirements
18 that I have set forth.

19 I was appointed in this very old case to
20 try to move it along in an expeditious way.
21 I've tried to do that. I'm going to continue to
22 try to do that, because that's what I've been
23 assigned to do. I think that has been done with
24 due regard for everyone's rights to be fully
25 heard, and I will continue to do that.

1 But cases must have a beginning and end.

2 This is a very old case. Things that Dr. Dong
3 had recited on the record today could very
4 easily have been developed long ago and reduced
5 to some sort of affidavit or filing, but they
6 had not been.

7 This motion for summary judgment was filed
8 in March of this year. There's been plenty of
9 time since then to do what was done today in
10 filing some sort of response. The contention
11 that somehow or another Dr. Dong is
12 disadvantaged because of his status pro se is
13 not so. He is very much (inaudible) by the
14 record in this matter.

15 I did grant Dr. Dong a stay with regard to
16 his cataract surgery, even though that surgery
17 was not scheduled until after this matter was
18 scheduled. I myself had my first cataract
19 removed two days ago and I am sitting here in
20 this hearing with the ability to participate.
21 I'm 79. Dr. Dong is about 66.

22 The constant assertion of medical issues
23 and the like, in my view, is an attempt to delay
24 these proceedings, and I'm not quite sure I
25 understand that. I don't know whether Dr. Dong

1 thinks that there is some other activity that's
2 going to take place in his other litigation that
3 will affect this litigation. But as I look at
4 the filings from the Fourth Circuit about his
5 litigation there that is related to the
6 conviction and sentencing and service of the
7 seven-year sentence in connection with his
8 federal criminal matters, I don't know exactly
9 what that Fourth Circuit filing now is about,
10 but I observe with interest that despite
11 discussion of that since early this year, he is
12 still requesting and receiving delays from
13 having to respond and deal with his obligations
14 to his other filings. I -- I -- if you've got
15 litigation you're trying to proceed with in good
16 faith, then you've got some obligation to attend
17 to your business in good faith.

18 I think I've dealt with everything that's
19 outstanding. I will say to you that I
20 considered carefully what I regard as
21 unreasonable delay by Dr. Dong in these
22 proceedings. And that's what I meant in my
23 communication of Friday, May 5, in the e-mail
24 where I discussed this hearing and reset it and
25 said I would consider whether I should take any

1 further action regarding the violation of my
2 order setting this hearing at an earlier time.
3 I will not take any further action in that
4 regard. But the deadlines that I set on a going
5 forward basis need to be observed and move this
6 case along. I think that completes what I need
7 to place upon the record.

8 Anything further, Mr. Conley?

9 **MR. CONLEY:** I have one quick question,
10 Judge, in regards to the proposed order you
11 desire that I provide you. Do I understand the
12 Court that you want that proposed order to be
13 based upon, in general, the things outlining
14 MUSC's memorandum?

15 **THE COURT:** Yes.

16 **MR. CONLEY:** And the corollary to that,
17 because I probably misheard, that -- that
18 proposed order shouldn't solely be listed --
19 solely be limited -- excuse me, to the statute
20 of limitations, it should encompass the other
21 issues?

22 **THE COURT:** That is correct.

23 **MR. CONLEY:** Thank you, Judge.

24 **THE COURT:** That is correct. That is
25 correct.

1 **MR. CONLEY:** Thank you.

2 **THE COURT:** With regard to I -- what I
3 tried to make clear is that with regard to the
4 matter of the statute of limitations issue, that
5 is in part a review of the contract provision by
6 provision. And that's what I say should be a
7 part of the order. Of course, there are
8 encompassing issues as well. Those should be
9 covered as well.

10 **MR. CONLEY:** Thank you, Judge. That's what
11 I wanted to know.

12 **THE COURT:** Okay. All right.
13 Anything further, Dr. Dong?

14 **MR. DONG:** I would just like to make a
15 comment and ask a question of MUSC counsel.

16 **THE COURT:** Come -- stand up and come to
17 the podium. Yes, sir.

18 **MR. DONG:** I would like to make a comment
19 that MUSC counsel just made. I think the
20 question was a suggestion of indication and that
21 was not in the -- Your Honor's order declaring
22 the Court --

23 **THE COURT:** Dr. Dong, don't go there. I
24 asked him to prepare a proposed order for me.
25 And all he's trying to do is get straight

1 whether it should be a broad encompassing order
2 with all the issues we've talked about, and I
3 said yes to that. I want to be sure that as
4 part of that, he tick down the provisions of the
5 contract as he did.

6 That's not my order. I will make my own
7 order. I will look at that, and I will look
8 very carefully at what you file as well. This
9 is a means of getting in front of me. I am one
10 judge with one law clerk whom I share with other
11 judges. This facilitates my ability to get this
12 order out within about a month, which is what
13 I'm trying to do now.

14 **MR. DONG:** I understand.

15 **THE COURT:** Any suggestion that Mr. Conley
16 is somehow trying to do something that's
17 improper by his question is something I will
18 reject.

19 **MR. DONG:** Yes, Your Honor. I also would
20 like to explain myself. I wasn't have any
21 intention to so-called delay due process.
22 Doesn't --

23 **THE COURT:** What that is -- that is
24 certainly not in keeping with what's happened so
25 far, Dr. Dong. I hope you live up to that --

1 **MR. DONG:** Would you, Your Honor, let me
2 finish? Because the delay -- any delay does not
3 actually to my benefit. So I -- I -- I have the
4 right to file motions. I did not have the
5 intention -- I did not have any intention to
6 violate your judge order. I was only asking
7 Your Honor to consider the timeline, the short
8 timeline to pro se litigant not as hard to
9 follow.

10 Under the circumstances, I've controlled
11 myself and I have stated the reasons of myself
12 in my motions. So I will say I was not
13 intending to violate Your Honor's rules, because
14 I followed every -- every order -- schedule
15 order, I filed a motion. But the same -- it's
16 true, every motion, every request filed by MUSC
17 was 100 percent granted by the Court.

18 **THE COURT:** Dr. Dong, let me tell you
19 something: Half the time you sent things
20 saying, "I didn't get this" or "I didn't see
21 that" or something wasn't filed or something. I
22 don't know whether somebody else was helping you
23 that develops those arguments for you or whether
24 you develop those yourself. But I'm going to
25 tell you, I send those things every time in

1 accordance with the way they're supposed to be
2 done. My law clerk, when there are orders,
3 files them also in the filing system.

4 You get -- you reply to the e-mails you
5 want to reply to. But when you don't want to
6 reply, you take the position you haven't
7 received them. That's not borne out by my
8 records about the thing, and that's what I want
9 to stop now. That's trifling with the court.

10 You may have your good faith reasons why
11 you think you want a delay. I don't really
12 understand myself why you continue to delay
13 every single deadline. And I particularly don't
14 understand why you would notice 13 depositions
15 and then not take so much as one of them. But
16 that's a --

17 **MR. DONG:** For the reason I --

18 **THE COURT:** But that's --

19 **MR. DONG:** -- the reason I filed --

20 **THE COURT:** Wait a minute. That's your
21 decision. No one's forcing down on you. That's
22 your decision as to how you want to handle this.

23 **MR. DONG:** I do not have time -- with the
24 delays by the counsel, I will not have the time
25 to take the deposition. And also I was ordered

1 to take deposition only in his office. And --

2 **THE COURT:** Yes, sir. I did not allow you
3 to take depositions in your home. I think that
4 is --

5 **MR. DONG:** It can be anywhere else. It
6 could be --

7 **THE COURT:** No, sir. That's not what you
8 proposed. You proposed --

9 **MR. DONG:** I did not propose.

10 **THE COURT:** -- to take depositions in your
11 home.

12 **MR. DONG:** That was the presentation,
13 again, by MUSC counsel, not by me. Thank you,
14 Your Honor.

15 **THE COURT:** Well, all right, sir. All
16 right.

17 Okay. Court -- court will be adjourned.

18 - END OF TRANSCRIPT -
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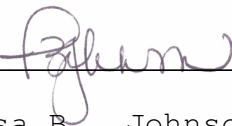
CERTIFICATE

99

I, the undersigned, Teresa B. Johnson, Official Court Reporter, do hereby certify that I transcribed the electronic recording of the remote hearing in this matter; and that the foregoing is a true transcript of said electronic recording.

I do further certify that I am not a relative, employee, attorney, or counsel of any of the parties connected with the action, nor am I financially interested in the action.

Dated: June 20, 2023



Teresa B. Johnson, CVR-M-CM, RVR, RVR-M
Official Court Reporter