

In

The State of South Carolina The Court of Appeals

Case No. 2023-001733

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

v.

The Medical University of South Carolina, Respondent

APPELLANT’S RESPONSE IN OPPOSITION TO RESPONDENT’S MOTION TO STRIKE RECORD ON APPEAL

Appellant, John Dong, hereby submits the Response in Opposition to Respondent’s Motion to Strike the Record on Appeal. The Respondent alleged the Record on Appeal did not “include all items contained in the Respondent’s Designation of Matter, therefore, fails to comply with the rule 210(c), SCACR.” This argument is erroneous because Respondent's Designation of Matter included a vast amount of material that is not relevant to the issues on appeal or the issue raised in the Brief of Respondent. This violates Rule 209(b), which states: “A party shall not include any matter in his Designation which is not relevant to the appeal.” (Emphasis added)

In its Response Brief, Respondent did not raise objections or make responsive arguments to the Appellant’s issues on appeal, mainly Respondent failed its burden to prove the lack of genuine issues of material fact, and the Summary Judgement

was issued before Appellant could conduct any deposition. Instead, Respondent raised two of its own issues: (1) The Complaint was timely barred by statute of limitation; (2) Appellant failed and could not provide sufficient evidence to show a breach occurred. In both of these arguments, Respondent only cited the Agreement and Appellant's deposition transcript, both of which are included in the Record on Appeal.

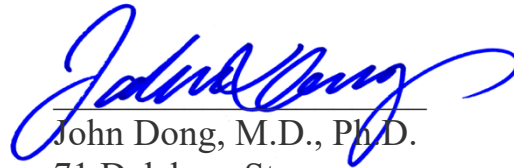
In its Motion to Strike, Respondent failed to show how the vast number of matters as it requested were relevant to the issues in the Appeal but violated Rule 209(b) and (c). For example, Respondent requested the inclusion of the Appellant's Interlocutory Appeal, which, by itself, would double the volume of the current documents, in addition to all the orders, motions, and responses from the beginning of the case. All of these requested "items" were not relevant to the issues on appeal.

The inclusion of the materials requested by the Respondent would unnecessarily triple the amount of burden to the Appellant in preparing the documents and the Court's time and efforts in reviewing the documents.

However, Appellant does agree that the entire transcript of the Summary Judgement Hearing should be included, and Respondent needs to provide the portion of the transcript that is not in the Record on Appeal to Appellant so that he can include it in the Record on Appeal.¹

For these reasons, Appellant respectfully requests the Court Grant Respondent's Motion in part, to include the entire transcript of the Summary Judgment Hearing, and Deny in part, to exclude the remainder of the materials that are not relevant to the Appeal.

Respectfully submitted, pro se,



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1. Appellant requested and paid for the transcript of the Summary Judgment hearing, but only got the transcript of his testimony along with a partial refund. Respondent obtained the rest of the transcript.

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Sep 23 2024

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

The Honorable Jean Toal,
District Court Judge

Case No. 2023-001733

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

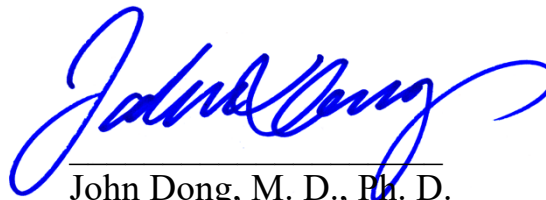
v.

The Medical University of South Carolina, Respondent,

PROOF OF SERVICE

I certify that I have served the Appellant's Response to Respondent's Motion to Strike Record on Appeal Email at bconley@clevelandlaborlaw.com and by depositing a copy of it in the United States Mail, postage prepaid, on September 23, 2024, addressed to the Respondent's attorney of record, Bob J. Conley, Esq., Cleveland & Conley LLC, 171 Church Street, Suite 310, Charleston, South Carolina 29401.

September 23, 2024



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