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Feb 19 2025

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

FINAL RECORD ON APPEAL

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

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Julie J. Armstrong
Charleston County Clerk of Court

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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	
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Dong, Jian Yun M D	Order/Motion for Equal Time is Granted	Order		06/20/2023-16:33	07/17/2023-16:33	
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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	
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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	
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Dong, Jian Yun M D	Remittitur From Supreme Court-Assigning to Judge Toal	Filing		09/20/2022-10:23	09/28/2022-10:23	
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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	
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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	
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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	
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	
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	
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	
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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Cleveland, Caroline Wrenn	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	
Cleveland, Caroline Wrenn	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	
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/Objection & 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

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 Judgment issued on July 17, 2023, and the Order Denying Motion for Reconsideration/Amendment issued on September 22, 2023, by the Honorable Jean Taol.

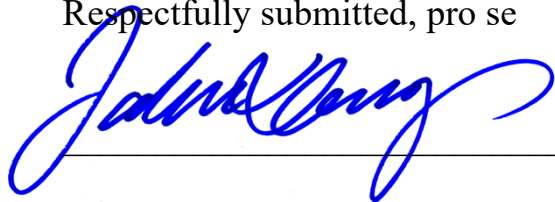
This Notice is **timely** because Appellant was not granted the access to the ECF system of the Court of Common Plea, did not receive the notice of either entry from the court electronically or by the mail. The Appellant only received the notice of the

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

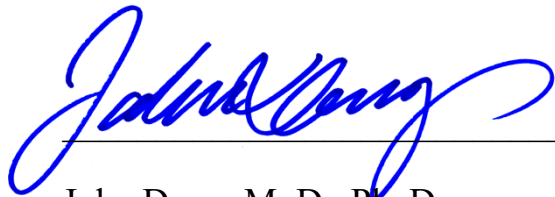


John Dong, M. D., Ph. D.
71 Delahow St
Charleston, SC 29492
Email: johny.dong@gmail.com
Phone: 843-991-2332

CERTIFICATE OF SERVICE

This is to certify that I have this 3 day of September 2023, caused to be served a copy of the Plaintiff's Notice of Appeal via Email at bconley@clevelandlaborlaw.com and United States Mail Services with postage and addressed as the follows:

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: johny.dong@gmail.com
Phone: 843-991-2332

Orders

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Jian-Yun (John) Dong, M.D., Ph.D.,)
)
Plaintiff,)
)
vs.)
)
Medical University of South Carolina,)
)
Defendant.)
_____)

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

**ORDER DENYING PLAINTIFF’S
MOTION FOR RECUSAL BASED
ON APPEARANCE OF BIAS**

This matter is before the Court on Plaintiff’s Motion for Recusal based on Appearance of Bias filed on September 28, 2023. Plaintiff’s Motion for Recusal is hereby DENIED as it is filed too late for this Court to consider and this Court has already made final rulings. Plaintiff Jian-Yun (John) Dong’s M.D., Ph.D. (“Dr. Dong”) latest Motion is based on the same contentions he has made several times during these proceedings regarding rulings with which Dr. Dong simply disagrees. As detailed in the above referenced Order Denying the Motion for Amendment of the Order Granting Summary Judgment, this Court has treated Dr. Dong with fairness and impartiality at all times. Therefore, no recusal is warranted.

This Court signed and filed a final Order Granting Summary Judgment in favor of Defendants on July 17, 2023. Dr. Dong filed a Motion for Amendment of this Order on July 28, 2023. On September 22, 2023, this Court filed an Order denying the Motion for Amendment of its Order granting summary judgment. Dr. Dong is reminded of his running deadline to file an appeal in this case, if any. This latest Motion by Dr. Dong is not the type of motion which stays the running of the time for the appeal in this matter.

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 2023-10-04 10:47:50 page 2 of 2

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, SCRPC. 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, SCRCF. 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

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STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Jian-Yun (John) Dong, M.D., Ph.D.,)
)
Plaintiff,)
)
vs.)
)
Medical University of South Carolina,)
)
Defendant.)
_____)

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

**ORDER GRANTING SUMMARY
JUDGMENT**

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, SCRPC, 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, SCRPC. 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. Sitrine & 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

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016CP1006683

Jian Yun Dong, M D et al
PLAINTIFF(S)

Medical University of South Carolina The
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Plaintiff's June 27, 2023 Motion for Rehearing of Defendant's Motion for Summary Judgment is DENIED.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 07/17/2023 .

Dong, John M D Ph D for Dong, John M D Ph D
John Dong, M D
Dong, Jian Yun M D Ph D
Dong, John M D Ph D for Dong, John M D Ph D
Jian Yun Dong, M D

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.



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/Electronic Form 4

So Ordered

Jean H. Toal

Electronically signed on 2023-07-17 12:04:31 page 3 of 3

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016CP1006683

Jian Yun Dong, M D et al
PLAINTIFF(S)

Medical University of South Carolina The
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Plaintiff's 6/15/23 emailed (but not filed) Motion for Equal Time to Prepare for Plaintiff's Objection to Defendant's Proposed Order for Summary Judgment is GRANTED.

Plaintiff will have until 7/3/23 to file any objections to Defendant's proposed order.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 06/20/2023 .

Dong, John M D Ph D for Dong, John M D Ph D
John Dong, M D
Dong, Jian Yun M D Ph D
Dong, John M D Ph D for Dong, John M D Ph D
Jian Yun Dong, M D

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.



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/Electronic Form 4

So Ordered

Jean H. Toal

Electronically signed on 2023-06-20 16:18:30 page 3 of 3

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

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

NOTICE OF HEARING

A hearing has been set in the above-captioned action for 10:00 am on May 26, 2023, at the Charleston County Judicial Center Complex.

[JUDGE’S 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: Notice/Notice of Hearing

So Ordered

Jean H. Toal

Electronically signed on 2023-05-08 09:32:54 page 2 of 2

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

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

NOTICE OF TRIAL

A trial has been set in the above-captioned action beginning at 9:30 am on July 24, 2023,
at the Charleston County Judicial Center.

[JUDGE’S 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: Notice/Other

So Ordered

Jean H. Toal

Electronically signed on 2023-05-08 09:38:37 page 2 of 2

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

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

NOTICE OF HEARING

A hearing has been set in the above-captioned action for 10:00 am on May 11, 2023, at the Charleston County Courthouse (courtroom 4B).

[JUDGE’S 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: Notice/Notice of Hearing

So Ordered

Jean H. Toal

Electronically signed on 2023-04-20 14:54:04 page 2 of 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Jian-Yun (John) Dong, M.D., Ph.D.,)
)
)
Pro Se Plaintiff,)
vs.)
)
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 FOR PROTECTION

IT APPEARING that attorney Caroline Wrenn Cleveland with the law firm of Cleveland & Conley, L.L.C. is requesting and should be granted for good reason being shown, an order protecting her from court appearances and proceedings in the Charleston County Court of Common Pleas from Tuesday, March 28, 2023 through Tuesday, April 4, 2023 for a family vacation.

ORDERED that Caroline Wrenn Cleveland is hereby granted protection from March 28, 2023, through April 4, 2023.

AND IT IS SO ORDERED.

Jean H. Toal
Ninth Judicial Circuit

Charleston, South Carolina
_____, 2023



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/Protection from Court Appearance

So Ordered

s/Julie J. Armstrong, Charleston County Clerk of Court

Electronically signed on 2023-03-22 10:30:12 page 2 of 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Jian-Yun (John) Dong, M.D., Ph.D.,)
)
)
Pro Se Plaintiff,)
vs.)
)
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 FOR PROTECTION

IT APPEARING that attorney Bob J. Conley with the law firm of Cleveland & Conley, L.L.C. is requesting and should be granted for good reason being shown, an order protecting him from court appearances and proceedings in the Charleston County Court of Common Pleas from Monday, March 27, 2023 through Wednesday, April 12, 2023 for travel to visit a child residing outside the United States.

ORDERED that Bob J. Conley is hereby granted protection from March 27, 2023, through April 12, 2023.

AND IT IS SO ORDERED.

Jean H. Toal
Ninth Judicial Circuit

Charleston, South Carolina
_____, 2023



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/Protection from Court Appearance

So Ordered

s/Julie J. Armstrong, Charleston County Clerk of Court

Electronically signed on 2023-03-22 10:28:41 page 2 of 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Jian-Yun (John) Dong, M.D., Ph.D.,)
)
)
Pro Se Plaintiff,)
vs.)
)
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 FOR PROTECTION

IT APPEARING that attorney Bob J. Conley with the law firm of Cleveland & Conley, L.L.C. is requesting and should be granted for good reason being shown, an order protecting him from court appearances and proceedings in the Charleston County Court of Common Pleas from Monday, March 27, 2023 through Wednesday, April 12, 2023 for travel to visit a child residing outside the United States.

ORDERED that Bob J. Conley is hereby granted protection from March 27, 2023, through April 12, 2023.

AND 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/Protection from Court Appearance

So Ordered

Jean H. Toal

Electronically signed on 2023-03-21 12:58:16 page 2 of 2

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Jian-Yun (John) Dong, M.D., Ph.D.,)
)
)
Pro Se Plaintiff,)
vs.)
)
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 FOR PROTECTION

IT APPEARING that attorney Caroline Wrenn Cleveland with the law firm of Cleveland & Conley, L.L.C. is requesting and should be granted for good reason being shown, an order protecting her from court appearances and proceedings in the Charleston County Court of Common Pleas from Tuesday, March 28, 2023 through Tuesday, April 4, 2023 for a family vacation.

ORDERED that Caroline Wrenn Cleveland is hereby granted protection from March 28, 2023, through April 4, 2023.

AND 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/Protection from Court Appearance

So Ordered

Jean H. Toal

Electronically signed on 2023-03-21 12:56:53 page 2 of 2

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

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

ORDER

On February 22, 2023, the Clerk of Court for Charleston County accepted for filing the Plaintiff, John Dong’s Motion for Extension of Time for Discovery dated February 20, 2023. This is yet another attempt by Plaintiff Dong to modify the deadlines specified in the Scheduling Order in this matter, issued on October 17, 2022 by the undersigned. Plaintiff cites as his grounds for this latest motion: (1) The due date for his brief to the U.S. Court of Appeals for the Fourth Circuit in another matter and (2) the allegation that he has pulmonary problems and has been referred by his primary physician to a pulmonary specialist.

I deny this motion. First, the Plaintiff has received several extensions from the Fourth Circuit. Another consent request for extension is pending. The current extension expires today. The Fourth Circuit Brief has not been an impediment to complying with the Scheduling Order in this case. Second, the medical referral form attached to Plaintiff’s Motion lists a doctor in San Francisco, California. It does not list any doctor to whom referral is made. Plaintiff’s residence is and has for many years been in Charleston, South Carolina.

This is at least the third motion by Plaintiff seeking to delay pretrial discovery. Meanwhile, Plaintiff has not been timely or cooperative with the discovery process or Scheduling Order in this matter. This Motion has clearly been made for purposes of delay. The period for pretrial discovery

depositions expires today. Dispositive motions must be filed by Friday, March 31, 2023. Responses are due by April 21, 2023. I will proceed to set a date for hearing on dispositive motions. Replies should be filed at least three days before this hearing. I will proceed to obtain a date for trial for a date after May 19, 2023.

The Motion is DENIED.

IT IS SO ORDERED.

[JUDGE'S 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 2023-02-28 16:03:15 page 3 of 3

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

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

ORDER

Plaintiff Jian Yun Dong, M.D., Ph.D. (“Dr. John Dong”) has moved the Court to reconsider its January 4, 2023 Order denying Plaintiff’s Motion for Protective Order. As outlined in this Court’s previous Order, any improper attempts to delay proceedings or deviate from the established Scheduling Order will be rejected.

This Court DENIES the Motion for Reconsideration or Renewed Request for Protective Order.

IT IS SO ORDERED.

[Electronic Signature on Following Page]



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 2023-01-30 16:50:01 page 2 of 2

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

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

ORDER

On December 21, 2022, Plaintiff Dr. John Dong filed a Motion for Protective Order in which he states:

Plaintiff requests the Court’s protection for a period of forty-five (45) days to be free of proceedings and court process be continued to the end of the protective period.

Plaintiff cites, as grounds for this Motion, his representation that he has a Brief due in 45 days in an appeal of his to the U.S. Court of Appeals for the Fourth Circuit unrelated to this case.

This matter is a 2016 case, which has been delayed many times. As soon as I was assigned to this case, I conducted an on-the-record Status Conference in this matter on October 4, 2022. Thereafter, I filed a detailed Scheduling Order. Shortly thereafter, Dr. Dong filed an appeal of my rulings. The South Carolina Court of Appeals dismissed this interlocutory appeal on the grounds that my Scheduling Order and discovery rulings are not immediately appealable.

The Scheduling Order requires that discovery depositions in this matter must be completed by February 28, 2023. Mr. Bob Conley, counsel for Defendant MUSC in this matter, notified this Court in December 2022 that Dr. Dong had canceled certain depositions that Dr. Dong has

previously noticed. Mr. Conley has now notified this Court that Dr. Dong has noticed thirteen depositions for the month of January 2023. Dr. Dong noticed these depositions before he filed his Motion for Protection.

Because Plaintiff Dr. Dong has cited no valid reason for delaying this matter further, this Court DENIES Plaintiff Dr. John Dong's Motion for a Protective Order.

IT IS SO ORDERED.

[Electronic Signature on Following Page]



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/Protective Order

So Ordered

Jean H. Toal

Electronically signed on 2023-01-03 16:26:06 page 3 of 3

The South Carolina Court of Appeals

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

v.


The Medical University of South Carolina, Respondent,

Appellate Case No. 2022-001427

ORDER

FILED
2022 NOV 23 AM 10:24
JULIE J. ARMSTRONG
CLERK OF COURT
DGR

This appeal arises out of an order of the circuit court denying Appellant's motion to compel. Because the underlying order is not immediately appealable, this appeal is dismissed. *See Hamm v. S.C. Pub. Serv. Comm'n*, 312 S.C. 238, 241, 439 S.E.2d 852, 853 (1994) (holding discovery orders are interlocutory and not immediately appealable). The remittitur will be sent as provided by Rule 221(b) of the South Carolina Appellate Court Rules.


_____, J.
FOR THE COURT

Columbia, South Carolina

cc:
John Dong
Bob J. Conley, Esquire

FILED
Oct 19 2022



The South Carolina Court of Appeals

JENNY ABBOTT KITCHINGS
CLERK

V. CLAIRE ALLEN
CHIEF DEPUTY CLERK

POST OFFICE BOX 11629
COLUMBIA, SOUTH CAROLINA 29211
1220 SENATE STREET
COLUMBIA, SOUTH CAROLINA 29201
TELEPHONE: (803) 734-1890
FAX: (803) 734-1839
www.sccourts.org

November 21, 2022

The Honorable Julie J. Armstrong
100 Broad St Ste 106
Charleston SC 29401-2210

REMITTITUR

Re: John Dong v. The Medical University
Lower Court Case No. 2016CP1006683
Appellate Case No. 2022-001427

Dear Clerk of Court:

The above referenced matter is hereby remitted to the lower court or tribunal. A copy of the judgment of this Court is enclosed.

Very truly yours,

A handwritten signature in cursive script that reads "V. Claire Allen".

CLERK

Enclosure

cc: John Dong
Bob J. Conley, Esquire

2. **Schedule of Depositions:**

A. Deposition of Dr. Dong by MUSC

The Deposition of Dr. Dong will be taken by defense counsel Bob Conley, and recorded by a certified court reporter on October 18, 2023, beginning at 10:00 am, at the offices of Cleveland & Conley, LLC (171 Church Street Suite 310, Charleston, SC 29401).

B. De Bene Esse Depositions

Depositions will be taken de bene esse by defense counsel Bob Conley to preserve the testimony of out-of-state witnesses. These depositions will be recorded by a certified court reporter, and Dr. Dong will be granted access via a video conferencing platform (e.g. Zoom, WebEx). A list of deponents will be provided in a subsequent court order.

C. In-State Depositions

Deposition of in-state witnesses will be conducted by Bob Conley, before a certified court reporter, at the offices of Cleveland & Conley, LLC at times to be specified. A list of deponents will be provided in a subsequent court order.

3. **Dispositive Motions:** Dispositive motions, including motions for summary judgment pursuant to Rule 56, SCRCP, shall be filed no later than **Friday, March 31, 2023**. Responses to dispositive motions shall be filed no later than **Friday, April 21, 2023**. Any party, thereafter, may file a reply, so long as any reply is filed three business days in advance the Court conducting a hearing regarding dispositive motions. The Court may schedule a hearing regarding any dispositive motions for any date on or after **Thursday, April 27, 2023**. Any such hearing will also, to the extent necessary, be utilized and conducted as a pre-trial hearing pursuant to Rule 16, SCRCP.
4. **Mediation:** The case is subject to mediation and the Court will evaluate whether to order the parties to mediation as the case progresses. In the event the Court orders mediation, the Court may set the terms and conditions of mediation including, but not limited to, the timing of mediation and appointing/designating the mediator.
5. **Trial:** This case is subject to being set by the Court for trial beginning any date after **Friday, May 19, 2023**.

IT IS SO ORDERED.

[Electronic Signature on Following Page]



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/Scheduling Order

So Ordered

Jean H. Toal

Electronically signed on 2022-10-07 17:25:56 page 3 of 3

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016CP1006683

Jian Yun Dong, M D et al
PLAINTIFF(S)

Medical University of South Carolina The
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Plaintiff's Motion for Reconsideration is DENIED.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/28/2022 .

Dong, John M D Ph D for Dong, John M D Ph D
 John Dong, M D
 Dong, Jian Yun M D Ph D
 Dong, John M D Ph D for Dong, John M D Ph D
 Jian Yun Dong, M D

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.



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/Electronic Form 4

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

Electronically signed on 2022-09-28 11:06:44 page 3 of 3

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
)	
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL CIRCUIT
)	
)	
<u>Jian Yun Dong, M.D., et al</u>	)	CASE NO. 2016-CP-10-06683
Plaintiff,)	
	)	NOTICE OF STATUS CONFERENCE
v.)	
)	
<u>The Medical University of South Carolina</u>)	
Defendant.)	

A status conference has been set in the above entitled action on October 4, 2022 at 9:30 a.m. You are hereby notified to be present in the Charleston County Court of Common Pleas at that time.

The scheduled status conference will serve as an opportunity to discuss the following: the posture of the case; any remaining discovery disputes; whether the parties have any pretrial motions that need to be heard; deadlines for filing motions; setting a hearing for pretrial motions; and setting a trial date.

IT IS SO ORDERED.

The Hon. Jean Hoefler Toal
September 20, 2022

[Signature on following page]



Charleston Common Pleas

Case Caption: Jian Yun Dong M D , plaintiff, et al VS Medical University of South Carolina The
Case Number: 2016CP1006683
Type: Notice/Notice of Hearing

So Ordered

Jean H. Toal

Electronically signed on 2022-09-20 16:44:47 page 2 of 2

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016CP1006683

Jian Yun Dong, M D et al
PLAINTIFF(S)

Medical University of South Carolina The
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Plaintiff filed a motion to amend scheduling order on 8/23/2022. A virtual hearing was held on 9/6/2022. Plaintiff's motion is hereby GRANTED. To allow the parties to complete discovery, the amended scheduling order shall include a Trial Not Before Date of 11/1/2022.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 09/08/2022 .

Dong, John M D Ph D for Dong, John M D Ph D
John Dong, M D
Dong, Jian Yun M D Ph D
Dong, John M D Ph D for Dong, John M D Ph D
Jian Yun Dong, M D

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.



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/Electronic Form 4

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

Electronically signed on 2022-09-08 09:39:54 page 3 of 3

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016CP1006683

Jian Yun Dong, M D et al
PLAINTIFF(S)

Medical University of South Carolina The
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Plaintiff filed a Motion to Reconsider on March 8, 2022, Judge Cothran issued a ruling on February 7, 2022. The time for filing is past due. In accordance with Rule 59, Plaintiff's Motion to Reconsider is DENIED.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 08/12/2022 .

Dong, John M D Ph D for Dong, John M D Ph D
John Dong, M D
Dong, Jian Yun M D Ph D
Dong, John M D Ph D for Dong, John M D Ph D
Jian Yun Dong, M D

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.



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/Electronic Form 4

So Ordered

s/ R. Ferrell Cothran, Jr., 2144

Electronically signed on 2022-08-12 09:17:42 page 3 of 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 FOR PROTECTION

IT APPEARING that attorney Bob J. Conley with the law firm of Cleveland and Conley, L.L.C. is requesting and should be granted for good reason being shown, an Order Protecting him from court appearances and proceedings in the Charleston County Court of Common Pleas from April 20, 2022 through May 4, 2022 for a planned vacation and for Monday, May 16, 2022.

ORDERED that Bob J. Conley is hereby granted protection from April 20, 2022 through May 4, 2022 and for Monday, May 16, 2022.

AND IT IS SO ORDERED.

Chief Administrative Judge
Ninth Judicial Circuit

Charleston, South Carolina

_____, 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/Protection from Court Appearance

So Ordered

s/Julie J. Armstrong, Charleston County Clerk of Court

Electronically signed on 2022-04-07 11:15:21 page 2 of 2

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 DENYING
 PLAINTIFF’S SECOND
 MOTION TO COMPEL AND
 GRANTING EXPANDED TIME
 TO COMPLETE DISCOVERY**

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), SCRPC. Thereafter, on December 14, 2016, Dr. Dong’s lawsuit was restored to the general docket, under Rule 40(j), SCRPC. 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

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF Charleston
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE

CASE NO. 2016CP1006683

Jian Yun Dong, M D et al
PLAINTIFF(S)

Medical University of South Carolina The
DEFENDANT(S)

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled);
 Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy;
 Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award;
 Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded;
 Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court:

Stay is lifted in this matter. Pending motions shall be placed in the motions queue to be heard.

ORDER INFORMATION

This order ends does not end the case. See Page 2 for additional information.

For Clerk of Court Office Use Only

This judgment was electronically entered by the Clerk of Court as reflected on the Electronic Time Stamp, and a copy mailed first class to any party not proceeding in the Electronic Filing System on 10/06/2021 .

Dong, John M D Ph D for Dong, John M D Ph D 23179171, Dong, John M D Ph D
John Dong, M D
Dong, Jian Yun M D Ph D
Dong, John M D Ph D for Dong, John M D Ph D
Dong, John M D Ph D 23179171 for Dong, John M D Ph D
Jian Yun Dong, M D

NAMES OF TRADITIONAL FILERS SERVED BY MAIL

Court Reporter:

E-Filing Note: The date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgment to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRPC.



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/Electronic Form 4

It is so ordered.

/s Roger M. Young, Sr. S.C. Circuit Judge 2134

Electronically signed on 2021-10-06 15:16:29 page 3 of 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.

1

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.

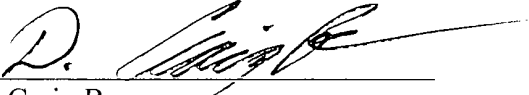
Further, the Court consulted with the current Ninth Circuit Chief Administrative Judge regarding the scheduling issues in this case. The Chief Administrative Judge consents to this Court establishing a scheduling order to ensure the orderly progress of this case. Therefore, Pursuant to Rule 16, SCRCP, 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

4 DCA
p. 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,)
)
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. AUSTIN
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.

DJA
P. 1/3

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, SCRCRCP, 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

DCH
p. 2 of 3

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

DCA
p. 3013

FILED

CASE NO. 2016-CP-10-6683

Jian Yun Dong, M.D., et al.
PLAINTIFF(S)

Medical University of South Carolina
DEFENDANT(S)

2017 DEC 14 PM 2:45

Submitted by:	JULIE J. ARMSTRONG CLERK OF COURT	Attorney for : <input type="checkbox"/> Plaintiff	<input type="checkbox"/> Defendant
		or	
		<input type="checkbox"/> Self-Represented Litigant	

DISPOSITION TYPE (CHECK ONE)

- JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. See Page 2 for additional information.
- ACTION DISMISSED (CHECK REASON):** Rule 12(b), SCRPC; Rule 41(a), SCRPC (Vol. Nonsuit); Rule 43(k), SCRPC (Settled); Other
- ACTION STRICKEN (CHECK REASON):** Rule 40(j), SCRPC; Bankruptcy; Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; Other
- STAYED DUE TO BANKRUPTCY**
- DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
 Affirmed; Reversed; Remanded; Other

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: See attached order (formal order to follow) Statement of Judgment by the Court: Defendant's Motion to Compel filed on March 29, 2017, is Granted. Plaintiff has thirty (30) days to answer interrogatories and request for production. In regards to the request for production, if Plaintiff is not in possession of the requested material or cannot access it due to his incarceration then he may respond to that effect. Plaintiff must also contact his criminal attorney to determine how he may obtain any material that was seized during his criminal prosecution in order to proceed with the present suit.

ORDER INFORMATION

This order ends does not end the case.

Additional Information for the Clerk : _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

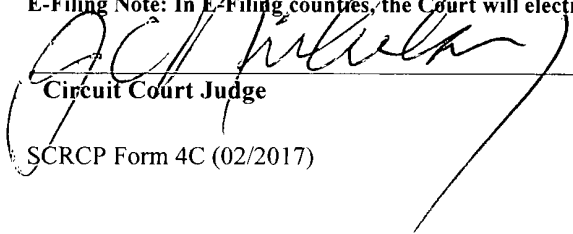
Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)
N/A		

If applicable, describe the property, including tax map information and address, referenced in the order:
N/A

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.


Circuit Court Judge

2117
Judge Code

12/13/2017
Date

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))

Submitted By: Allan R. Holmes
Address: Gibbs & Holmes, Suite 110, 171 Church Street, Charleston, SC 29401

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

2016 -CP- 10 - 6683

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)
General (130)
Breach of Contract (140)
Fraud/Bad Faith (150)
Failure to Deliver/Warranty (160)
Employment Discrim (170)
Employment (180)
Other (199)

- Torts - Professional Malpractice
Dental Malpractice (200)
Legal Malpractice (210)
Medical Malpractice (220)
Previous Notice of Intent Case #
Notice/ File Med Mal (230)
Other (299)

- Torts - Personal Injury
Conversion (310)
Motor Vehicle Accident (320)
Premises Liability (330)
Products Liability (340)
Personal Injury (350)
Wrongful Death (360)
Assault/Battery (370)
Slander/Label (380)
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)
Confession of Judgment (770)
Petition for Workers Compensation Settlement Approval (780)
Other (799)

- 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)
Employment Security Comm (991)
Other (999)

- Special/Complex /Other
Environmental (600)
Automobile Arb. (610)
Medical (620)
Other (699)
Sexual Predator (510)
Permanent Restraining Order (680)
Pharmaceuticals (630)
Unfair Trade Practices (640)
Out-of State Depositions (650)
Motion to Quash Subpoena in an Out-of-County Action (660)
Pre-Suit Discovery (670)

Submitting Party Signature:

Date: December 8, 2016

FILED
2016 DEC 14 AM 10:05
CLERK OF COURT
JAMES A. ARISTON

Effective January 1, 2016, Alternative Dispute Resolution (ADR) is mandatory in all counties, pursuant to Supreme Court Order dated November 12, 2015.

SUPREME COURT RULES REQUIRE THE SUBMISSION OF ALL CIVIL CASES TO AN ALTERNATIVE DISPUTE RESOLUTION PROCESS, UNLESS OTHERWISE EXEMPT.

Pursuant to the ADR Rules, 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.
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)
)
 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.: 14-CP-10-5332 **2016-CP-10-6683**

**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

Plaintiff's Attorney: Allan R. Holmes, Bar No. 2576 Address: 171 Church Street, Suite 110 Charleston, SC 29401 Phone: 843-722-0033 Fax 843-722-0114 E-mail: aholmes@gibbs-holmes.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: _____ 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: Consent Order Rule 40(j)
 Estimated Time Needed: 0 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.

December 8, 2016
Date submitted

Signature of Attorney for Plaintiff / Defendant

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, 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: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

-0094-

SCCA 233 (11/2003)

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.)

Civil Action No. 14-10-CP-5334

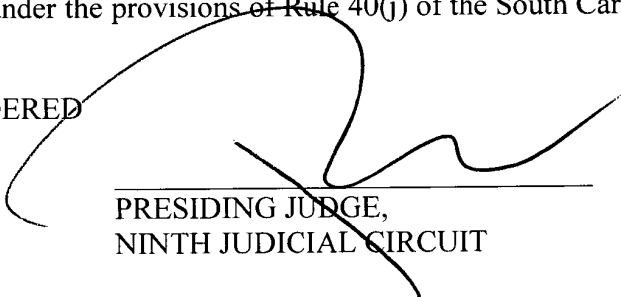
2016-CP-10-6683

**CONSENT ORDER
RESTORING CASE UNDER
RULE 40(j)**

FILED
2016 DEC 14 AM 10:05
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

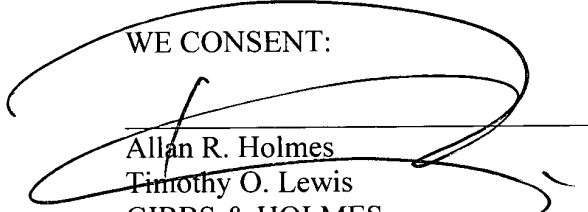
Upon motion and consent of the parties and counsel, this case is hereby RESTORED to the docket under the provisions of Rule 40(j) of the South Carolina Rules of Civil Procedure.

AND IT IS SO ORDERED



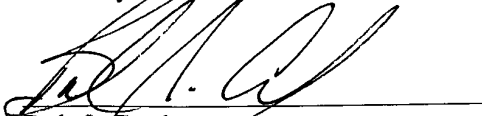
PRESIDING JUDGE,
NINTH JUDICIAL CIRCUIT

WE CONSENT:



Allan R. Holmes
Timothy O. Lewis
GIBBS & HOLMES
171 Church Street, Suite 101
Post Office Box 938 (29402)
Charleston, SC 29401
Telephone: (843) 722-0033
Facsimile: (843) 722-0114

Attorneys for Plaintiff



Bob J. Conley
CLEVELAND & CONLEY
171 Church Street, Suite 310
Charleston, SC 29401

Telephone: (843) 577-9626
Facsimile: (843) 577-6672

Attorneys for Defendant

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.: 14-CP-10-533A

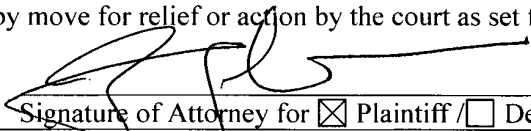
**MOTION AND ORDER INFORMATION
 FORM AND COVERSHEET**

Plaintiff's Attorney: Allan R. Holmes, Bar No. 2576 Address: 171 Church Street, Suite 110 Charleston, SC 29401 Phone: 843-722-0033 Fax 843-722-0114 E-mail: aholmes@gibbs-holmes.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: _____ 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: Consent Order Rule 40(j)
 Estimated Time Needed: 0 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

October 13, 2015
 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, 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 2060
 Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____
 MOTION FEE COLLECTED: \$ _____
 CONTESTED - AMOUNT DUE: \$ _____

-0098-

SCCA 233 (11/2003)

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON
	)	PLEAS
COUNTY OF CHARLESTON	)	FOR THE NINTH JUDICIAL
CIRCUIT)	
JIAN-YUN (JOHN) DONG, M.D., Ph.D.,)	
Plaintiff,	)	Civil Action No. 14-10-CP-5332
vs.)	
THE MEDICAL UNIVERSITY OF	)	CONSENT ORDER RULE 40(j)
SOUTH CAROLINA,)	
Defendant.)	

Upon motion and consent of the parties and counsel, this case is hereby stricken from the docket under the provisions of Rule 40(j) of the South Carolina Rules of Civil Procedure.

AND IT IS SO ORDERED

[Handwritten Signature]

 PRESIDING JUDGE
 NINTH JUDICIAL CIRCUIT

WE CONSENT:

[Handwritten Signature]

 Allan R. Holmes
 Timothy O. Lewis
 GIBBS & HOLMES
 171 Church Street, Suite 101
 Post Office Box 938 (29402)
 Charleston, SC 29401
 Telephone: (843) 722-0033
 Facsimile: (843) 722-0114

Attorneys for Plaintiff

10/20/2015
 Charleston, SC

2015 OCT 22 PM 3:17
 JULIE J. ARMSTRONG
 CLERK OF COURT

FILED

[Handwritten initials]



Caroline Wrenn Cleveland

Bob J. Conley

Joshua D. Cagle

CLEVELAND & CONLEY, LLC

171 Church Street, Suite 310

Charleston, SC 29401

Telephone: (843) 577-9626

Facsimile: (843) 577-6672

Attorneys for Defendant

RWDJ/2