

RECEIVED

Mar 21 2025

SC Court of Appeals

Case No. 2023-001733

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

v.

The Medical University of South Carolina, Respondent

VOLUME V.

VOLUME V.

<u>Content</u>	<u>Page Number</u>
26. Plaintiff's Motion to Amend Discovery Restrictions and Schedule.....	877.
27. Plaintiff's Second Motion to Compel for Production.....	881.
28. Plaintiff's Motion to Expand Discovery Schedule Due to COVID-19 Pandemics.....	887.
29. Plaintiff's Second Request for Production to Defendant	892.
30. Plaintiff's Motion to Expand Discovery (from the restrictions).....	904.
31. Plaintiff's Response to Defendant's Motion to Alter or Amend Order Granting Plaintiff's Motion to Compel	909.
32. Defendant's Motion to Alter or Remand Order Granting Plaintiff's Motion to Compel.....	916.
33. Plaintiff's Motion to Compel Production.....	924.
34. Plaintiff's Objection to Defendant's Response to Plaintiff's First Request for Production.....	927.
35. Defendant's Response to Plaintiff's First Request for Production.....	932.
36. Plaintiff's First Request for Production.....	947.
37. Plaintiff's Answer to First Interrogatory of Defendant.....	956.
38. Defendant's First Interrogatories to Plaintiff	971.
39. Defendant's Motion to Compel.....	986.
40. Defendant's Answer	992.
41. Plaintiff's Summons and Complaint	1001.

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
)

) PLAINTIFF'S MOTION TO AMEND
) DISCOVERY RESTRICTIONS AND
) SCHEDULE

2021 SEP 22 AM 10:29
JULIE J. ARMS, ROSS
CLERK OF COURT

FILED

COMES NOW, Plaintiff, John Dong, M. D., Ph. D. (Dr. Dong), appearing pro
respectfully moves the Court to grant this Motion for Granting the Unopposed
Motions.

As grounds for this Court to grant this motion Plaintiff pleads as follows:

PROCEDURAL HISTORY

1. On January 29, 2020, Plaintiff, John Dong, M. D., Ph. D. (Dr. Dong), filed *The Motion to Expand Discovery* in the forgoing case. The Motion, inter alia, request the expansion of the time frame and the scope of the discovery by removing the conditional restrictions imposed on the discovery as requested by the Defendant, MUSC, because the alleged “reasons of concerns” by the Defendant has ceased to exist.

2. On January 11, 2021, Plaintiff filed *The Second Motion to Expand Discovery Schedule due to Covid-19 Pandemics*. The Motion requests the extensions of the time by ten (10) months or until the ongoing Covid pandemics subside. The Motion is based on the fact that all Parties including the attorneys are among the high-risk populations.

3. January 20, 2021, Dr. Dong filed the *Second Motion to Compel for Production* due to Plaintiff’s failure to produce the requested information. Among the

sort-reliefs, Dr. Dong also requested that Plaintiff to pay and to reimburse Dr. Dong the filing costs because MUSC is large financial entity and Dr. Dong proceeds in *forma pauperis* in part due to the breach of the contract by MUSC.

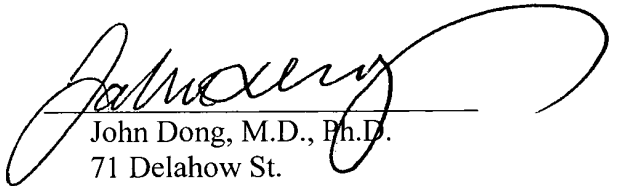
4. Defendant, MUSC, had chosen not to oppose any of these motions.

RELIVES REQUESTED

Plaintiff respectfully requests the Court to grant the unopposed Motions in their entirety as a matter of law.

Dated: September 17th 2021

Respectfully submitted,



John Dong, M.D., Ph.D.
71 Delahow St.

FILED

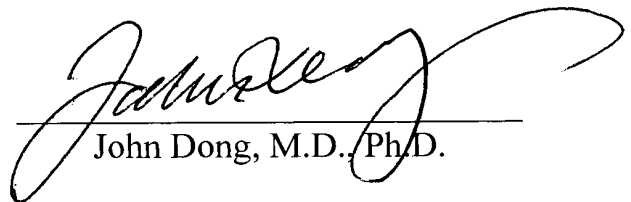
2021 SEP 22 AM 10:29

JULIE J. ANASTONIS
CLERK OF COURT

CERTIFICATE OF SERVICE

This is to certify that I have this 17th day of September 2021, caused to be served a copy of the Motion for Granting Unopposed Motions via United States Mail Services with postage and addressed as follows:

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

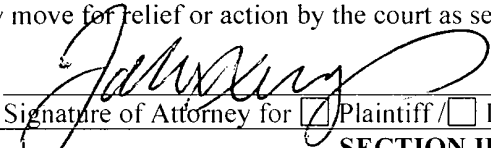


John Dong, M.D., Ph.D.

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
~~9th~~ JUDICIAL CIRCUIT
CASE NO.: 2016-CP-10-06683

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: <u>John Dong, M.D., Ph. D., Bar No. Pro Se</u> Address: <u>71 Delahow St. Charleston, SC 29492</u> Phone: <u>(843)-991-2332</u> Fax _____ E-mail: <u>johnny.dong@gmail.com</u> Other: _____	Defendant's Attorney: <u>Bob Coney</u> , Bar No. _____ Address: <u>171 Church Ste. Suite 310 Charleston, SC29401</u> Phone: <u>843-577-9626</u> Fax <u>843-577-6672</u> 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: <u>Motion to Compel</u> Estimated Time Needed: _____ Court Reporter Needed: ☐ YES / ☒ NO	
SECTION II: Motion/Order Type	
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.	
 Signature of Attorney for ☒ Plaintiff / ☐ Defendant	
<u>Jan. 18</u> , 20 <u>21</u> Date submitted	
SECTION III: Motion Fee	
☐ PAID – AMOUNT: \$ <u>25.00</u> ☐ EXEMPT: (check reason)	
☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____	
JUDGE'S SECTION	
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____, 20____
CLERK'S VERIFICATION	
Collected by: _____ Date Filed: _____, 20____	
☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED – AMOUNT DUE: \$ _____	

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

John Dong, M.D., Ph.D.
-Plaintiff

V.

The Medical University of
South Carolina
-Defendant)

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

CASE NO: 2016-CP-10-06683

) PLAINTIFF'S SECOND MOTION TO
) COMPELL FOR PRODUCTION
)

COMES NOW, Plaintiff, John Dong, M. D., Ph. D. (Dr. Dong),
appearing pro se, respectfully moves the Court to grant this Second Motion
to Compel the Defendant, The Medical University of South Carolina
(MUSC), to produce each and all the documents and information as required
in Plaintiff's Second Request for Production pursuant to South Carolina
Rules of Civil Procedure 26 and 37 and Rules for Discovery.

For grounds for this Court to grant his motion, Plaintiff pleads as
follows:

PROCEDURAL HISTORY

1. On January 16, 2018, Dr. Dong filed the *Plaintiff's First Request for Production* and gave Defendant 120 days to provide the requested documents.

2021 JAN 20 9M1042
JULIE J. M. SIMS
CLERK OF COURT

FILED

2. On March 5, 2019, Dr. Dong filed his first *Motion to Compel* because MUSC refused to give any answer or produce any document as requested by Dr. Dong.

3. On June 20, 2019, the Court granted Dr. Dong's Motion and ordered MUSC to produce the requested material.

4. On July 3, 2019, MUSC filed a *Motion to Alter the Court's Order*, inter alia, requesting the Court to limit discovery to people who have no direct knowledge of the events that resulted in the breach of contract. Further, MUSC requested the Court limit the discovery to information sent to or from Dr. Dong by claiming various "security concerns" or "communication difficulties."

5. On October 4, 2019, the Court granted MUSC's Motion to Alter and limited the scope "[i]n responding to Plaintiff's First Requests for Production to Defendant," and instructed that "[e]ither party may at any time prior to the discovery deadlines and for good cause, petition the circuit court to expand this limitation as discovery progresses." (Order, P2-3, a, b, c.)

6. On January 29, 2020, Dr. Dong filed a Motion to Expand Discovery.

7. On January 30, 2020, Dr. Dong filed *Second Requests for Production* to Defendant.

8. Once again, MUSC failed to produce any document as required or to respond to the discovery requests in good faith.

9. During the same period, our Nation suffered the deadly CoVid-19 pandemics and implemented nation-wide restrictions, including the court system. The discovery process has been suspended by both parties.

10. On August 30, 2020, Dr. Dong filed a *Notice for Address Change*.

11. On January 7, 2021, Dr. Dong filed a *Motion to Expand Discovery Schedule due to CoVid-19 Pandemics*.

RELIEVF REQUESTED

Due to the ongoing deadly CoVid-19 Pandemics, both parties have voluntarily suspended the discovery. However, the Court has not officially ordered expansion or extension of the discovery. Plaintiff is entitled to discovering and obtaining material and information related to the case under the discovery rules. Thereby, Dr. Dong request the following reliefs:

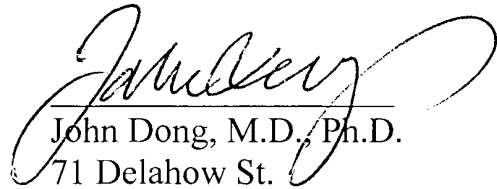
1. Because the requested information and documents do not require direct human contact and the reasons for which Defendant requested restrictions no longer exist, Dr. Dong respectfully requests the Court to compel MUSC to produce each and all the documents as requested in

Plaintiff's Second Request for Production within 30 days, or sanction MUSC for non-responsive to discovery requests.

2. Furthermore, Dr. Dong requests the Court to order MUSC to reimburse and to pay Dr. Dong's filing costs because of (1) MUSC's non-responsiveness and obstruction of the discovery process; (2) Dr. Dong lost his income, in part, due to MUSC's breach of contract, and (3) MUSC is a large enterprise with huge resources.

Dated: January 18, 2021,

Respectfully submitted,

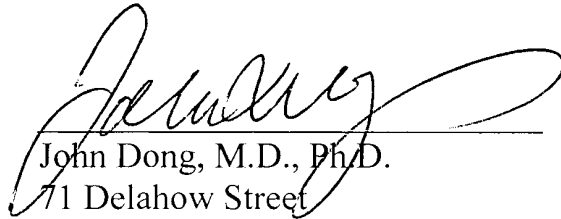

John Dong, M.D., Ph.D.
71 Delahow St.
Daniel Island, SC29492

CERTIFICATE OF SERVICE

This is to certify that I have this 18th day of January 2021, caused to be served a copy of this Motion via Email and United States Mail Services with postage and addressed as follows:

Attention to:
Robert Conley, Esq.
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401

FILED
2021 JAN 20 AM 10:42
JULIE J. AMMONS
CLERK OF COURT



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

71 Delahow Street

Daniel Island, SC 29492

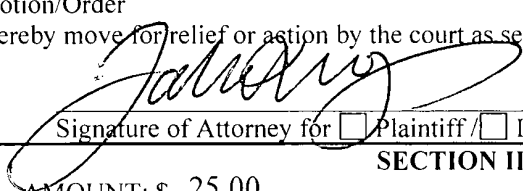
Phone: 843-991-2332

Email: johnny.dong@gmail.com

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
9th JUDICIAL CIRCUIT
CASE NO.: 2016-CP- 10 - 06683

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: <u>John Dong, M.D., Ph. D., Bar No. Pro Se</u> Address: <u>71 Delahow St. Charleston, SC 29492</u> Phone: <u>(843)-991-2332</u> Fax _____ E-mail: <u>johnny.dong@gmail.com</u> Other: _____		Defendant's Attorney: <u>Bob Coney</u> , Bar No. _____ Address: <u>171 Church Ste. Suite 310 Charleston, SC29401</u> Phone: <u>843-577-9626</u> Fax <u>843-577-6672</u> 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: <u>Expansion of Time</u> Estimated Time Needed: _____ Court Reporter Needed: ☐ YES/ ☒ NO			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.			
 Signature of Attorney for ☐ Plaintiff / ☐ Defendant		Jan. 7, 20 <u>21</u> Date submitted	
SECTION III: Motion Fee			
☐ PAID - AMOUNT: \$ <u>25.00</u> ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRPC) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____, 20____	
CLERK'S VERIFICATION			
Collected by: _____ Date Filed: _____, 20____			
☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____			

STATE OF SOUTH CAROLINA	) IN THE COURT OF COMMON PLEAS
COUNTY OF CHARLESTON	) FOR THE NINTH JUDICIAL CIRCUIT
	)
Jian-Yun (John) Dong, M.D., Ph.D.	) CASE NO: 2016-CP-10-06683
-plaintiff	)
V.	)
	)
The Medical University of	) PLAINTIFF'S MOTION TO EXPAND
South Carolina	) DISCOVERY CHEDULE DUE TO
<u>-Defendant</u>	) COVID-19 PANDEMICS

COMES NOW, Plaintiff, John Dong, M. D., Ph. D. (Dr. Dong), appearing pro se, respectfully moves the Court to grant this Motion to Expand Discovery Schedule Due to CoVid-19 Pandemics, pursuant to South Carolina Rules of Civil Procedure 26 and 37 and Rules for discovery.

For grounds for this Court to grant his Motion, Plaintiff pleads as follows:

PROCEDURAL HISTORY

On March 5, 2019, plaintiff, John Dong, filed a Motion to Compel defendant's response to plaintiff's First Requests for Production. On June 20, 2019, the Court issued an order granting Dr. Dong's Motion to Compel, a Stay of the trial, but allowing the parties to continue to engage in discovery.

On July 3, 2019, the Defendant, MUSC, filed a Motion to Alter or Amend the June 20, 2019 Order. In its Motion, the Defendant, inter alia,

claimed “communication difficulties” and “security concerns” and required the Court to pose certain restrictions on the time and scope of the discovery.

On September 25, 2019, the Court rescinded its June 20, 2019 Order and granted Defendant’s requests:

1. Discovery to be completed no later than February 28, 2020;
2. Mediation must be completed by June 1, 2020;
3. Trial will be scheduled on or after September 7, 2020;
4. Certain limits on the produced information.

Following the Order, Dr. Dong filed a *Second Request for Information* pursuant to the discovery rules. Once again, Defendant filed a non-responsive and obstructive response. It became obvious that it would need another round of the Court’s intervention to assure the Plaintiff’s right for discovery.

ARGUMENT

The on-going CoVid-19 pandemics, especially the worsened “second-wave infections” in the US population, pose serious threats to the wellbeing of all the Parties in the case, including the Court. The Plaintiff, Dr. Dong, is among the most vulnerable populations for being age over fifty-five (Dr. Dong is 63 years old), suffering from diabetes and hypertension. According to CDC statistics and guidelines, people with one of the risk factors have 70-

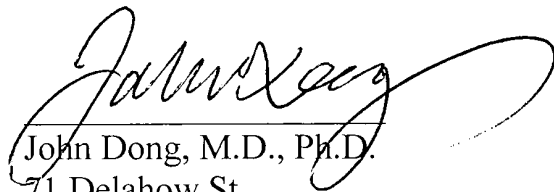
80% mortality upon CoVid-19 infection; more than one risk factor suffers a mortality rate of over 90% and should avoid all personal contact and exposure to the general population.

Since the scheduling order, this Court, as well as the courts nationwide, have implemented relaxed deadlines including those with jurisdictional significance, under the Command of the United States Supreme Court, and have been operating with a limited capacity and prioritizing cases with broader impacts on the society.

For these reasons, Dr. Dong respectfully requests the Court to extend the current schedule by ten (10) months or until the pandemic risks have subsided.

Dated: January 7, 2021.

Respectfully submitted,

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

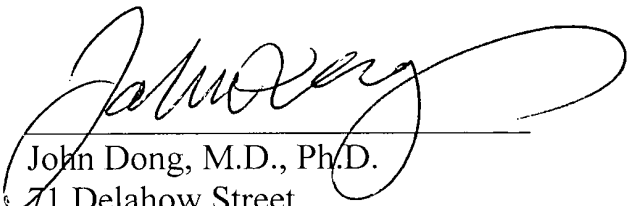
John Dong, M.D., Ph.D.
71 Delahow St.
Daniel Island, SC 29492
(843)-991-2332

CERTIFICATE OF SERVICE

This is to certify that I have this 7th day of January 2021, caused to be served a copy of this Motion via Email and United States Mail Services with postage and addressed as follows:

Attention to:
Robert Conley, Esq.
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401

FILED
2021 JAN 11 AM 11:35
JULIE J. ANDERSON
CLERK OF COURT



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



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

71 Delahow Street, Daniel Island, SC 29492

Phone: (843)-991-2332; Email: johny.dong@gmail.com

The Clerk of the Court
100 Broad Street, Suite 106
Charleston, SC 29401-2258

Jan. 7, 2021

Re: Case Number 2016-CP-10-06683,
Motion for Expansion Discovery

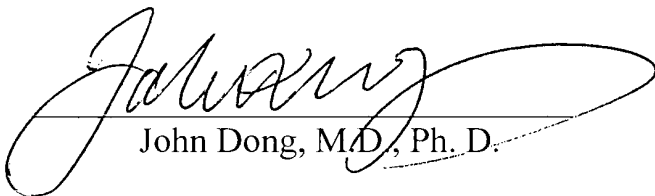
Dear Court Clerk,

Please find the attached Motion for Expansion of Discovery and the filing fee
in the amount of \$25.00.

Please let me know if you have any questions.

Thank you for your assistance.

Sincerely,



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

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

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

plaintiff

V.

The Medical University of South
Carolina

Defendants

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

CASE NO.: 2016-CP-10-06683

) PLAINTIFF'S SECOND REQUESTS
) FOR PRODUCTION TO DEFENDANT

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

Plaintiff, Dr. John Dong, hereby requests on a continuous basis, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, the Defendant respond within ninety (90) days or the timelines ordered by the Court, which ever is sooner, after the service hereof to the following Requests and that the Defendant produce copies of each of the following documents or things which may be in the possession, custody, or control of the Defendant or its counsel:

1. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's academic performance and evaluation at MUSC.

2. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's funded or unfunded grant proposals at MUSC.

FILED
CLERK OF COURT
JAN 30 PM 1:45
JAN 30 2017

FILED

3. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the financial records of Dr. Dong's grants, start-up funds and any other monetary income at MUSC.

4. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's academic and scientific records at MUSC.

5. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's Tenure Full Professor Promotion Package at MUSC.

6. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's communications with the Chairman of Department of Microbiology and Immunology, Dr. James S. Norris in regarding to Dr. Dong's research and academic activities and issues evolving financial, compliance, personnel, scientific publications.

7. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to communications, discussions and decisions surrounding the conducting a "inventory of Dr. Dong's research materials."

8. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to communications among Dr. Norris, Dr. Stephen Lanier and any members of the MUSC Biosafety Committee or officer with regards to Dr. Dong's research and biological materials"

9. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to communications, discussions and decisions surrounding the search, seizure and transfer of Dr. Dong's research materials.

10. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the "inventory lists" of Dr. Dong's research materials seized by the MUSC.

11. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to discussions and decisions in search and seizure of Dr. Dong's research records, methods, protocols, research plans.

12. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Norris' communications with and Dr. Dong's employees, postdoctoral fellows, students, technicians.

13. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Norris' communication, or discussions with the personnel, students, post doctoral fellows, technicians or any member of the Department with regard to using or taking Dr. Dong's research materials, constructs, vectors, DNA material for their research for "collaborations" with Dr. Dong.

14. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's patents, patent applications, technology disclosures at MUSC including Foundation for Research and Development (FRD).

15. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any communications, discussions between/among Dr. Norris and members of administration, various committees, including biosafety, and faculty committees related to Dr. Dong.

16. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to communications or discussions between/among Dr. Norris, Dr. Lanier and MUSC counsel, Mr. Joseph Good with regard to Dr. Dong.

17. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, process, instigation, initiation or in any way lead to any proposed or suggested any discipline action against Dr. Dong.

18. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, process, instigation, initiation or in any way that related to, lead to the pressure of, suggest of, or the request of Dr. Dong to resign from the MUSC.

19. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, event, or process of inventorying, cataloging, transferring, taking, or removing of any documents, biological material, reagents, ingredients, chemicals, DNA, research agents, records, notebooks, protocols, research methods, and any equipment, instruments, devices, tools, computers, from Dr. Dong's laboratories, offices, vector-core spaces, storage space, or shared, common spaces, computer storages, harddrives, computer files, Homeroom account, and his email accounts. Specifically, but not limited to the inventory lists of Dr. Dong's biological materials, equipment, reagents, scientific notebooks, records, protocols, copies of Dr. Dong's grant proposals submitted from MUSC.

20. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the negotiation, discussion, decision in reaching agreement that Dr. Dong to resign from MUSC.

21. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the discussions, decisions or suggestions of how the Agreement with Dr. Dong to be carried out, performed, including but not limited to decisions, suggestions not to transfer the biological material, equipments, reagents, scientific notebooks, records, and any conditions listed, promised, suggested in the Agreement.

22. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the discussion, decisions or suggestion to refuse accepting Dr. Dong's grant, and not to rehire Dr. Dong back to MUSC.

23. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the discussions, negotiations, agreement, contract, understanding, or decision to transfer, give, or sale GenPhar shares held by Dr. Dong, FRD, and MUSC to Hubner group, Timothy Scranton, or any other parity or entity, individual, company, or organization.

24. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the relationship, association, ownership, business dealings, between Foundation for Research and Development (FRD) of MUSC and any members of MUSC may in any related to Dr. Dong, and GenPhar, Inc.

25. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong, and GenPhar, Inc. including but not limited to technology disclosures, patent applications, benefit share formulas, plans held at FRD.

26. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to technology transferring, payments from GenPhar, Inc. license agreement with GenPhar, Inc.

27. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to technology transferring, patent applications, nondisclosure agreements, or license agreement with related to technologies developed in Dr. Dong's laboratory with any individuals, company, organization, or entity of every kind.

28. Any and all publications, scientific notebooks, grant applications, records, documents, reports, meeting presentations, or communications, from anyone to anyone including any organizations, government agencies, such as National Institutes of Health,

National Science Foundation, Department of Defense, private foundations, publication companies, that any biological material, vectors, DNA, reagents, technology, techniques, or information, that were directly or indirectly obtained, originated from Dr. Dong's laboratories, vector cores or obtained from Dr. James S. Norris.

29. Any and all publications, scientific notebooks, grant applications, records, documents, reports, meeting presentations, or communications, from anyone to anyone that related to mentioned of cancer gene therapy, apoptosis, or adenovirus vector that express TRIAL, FasL, or adenovirus express cancer suppressor gene, viral antigens, or any adenovirus vector contain any gene under the regulation probacin promoter, Tet-opron promoter, inducible promoter, feedback promoter or any adenovirus vector contain more than one DNA insert (known as CAd, complex Adenovirus) and AAV, especially, but not limited to, the persons, staff, faculty members, students, post-doctoral fellows who had a relationship of any kind with Dr. James S. Norris.

30. Any and all financial records, accounting, and expenditure reports of Dr. Dong's funds, including his start up funds, all grants, payments from GenPhar and any other sources prior 2010.

31. Any and all financial records, accounting, and expenditure reports of Dr. James Norris funds from any source, prior 2010.

32. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's faculty evaluations, annual reports, career development plan, tenure application, tenure approval or Dr. Dong's academic performance.

33. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any complaint, memorandums made by Dr. Dong and communicated to any members of MUSC administration or committees.

34. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any complaint, recommendations, suggestions, and causes of actions made against Dr. Dong from anyone at MUSC.

35. Any and all documents the Defendant read, reviewed, and/or obtained relating in any way to the allegations made by Dr. Dong.

36. Copies of any and all statements made by anyone related to Dr. Dong's tenure at MUSC.

37. Any and all reports, statements prepared by anyone concerning this complaint against MUSC.

38. Any and all contents in Dr. Dong's email account (dongj@musc.edu) and in his HomeRoom account on MUSC server both in print and in electronic file on computer storage device, such as portable hard drive, or USB drive.

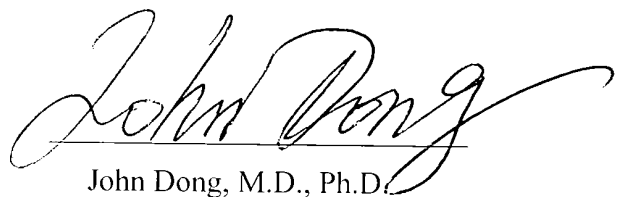
39. Any and all files and documents related to Dr. Dong filed at MUSC, including but not limited to Department of Microbiology and Immunology, office of grant management, and office of human resources.

40. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any complaint, lawsuit, causes of

actions, recommendations or resolutions related to any members of MUSC administrations, including Department chairs, directors, managers, deans, provost, and president, especially related to, but not limited to, Dr. James S. Norris, and Dr. Stephen Lanier.

Dated: January 29, 2020

Respectfully,

A handwritten signature in cursive script, reading "John Dong", written over a horizontal line.

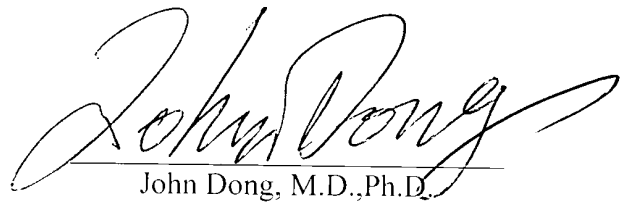
John Dong, M.D., Ph.D.
71 Delahow St
Charleston SC 29492

2016 CP-10-6683

CERTIFICATE OF SERVICE

This is to certify that I have this *29th day of January 2020*, caused to be served a copy of ***PLAINTIFF'S SECOND REQUESTS FOR PRODUCTION TO DEFENDANT*** via United States Mail Services with postage and addressed as follows:

Attention to:
Emmanuel J. Ferguson
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401

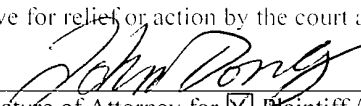

John Dong, M.D., Ph.D.

FILED
2020 JAN 30 PM 1:45
JULIE J. ARNSTRONG
CLERK OF COURT
BY _____

-0902-

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

IN THE COURT OF COMMON PLEAS
Ninth JUDICIAL CIRCUIT
CASE NO.: 2016 -CP- 10 - 06683
**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: Pro Se Plaintiff, <u>John Dong, M.D., Ph. D.</u> , Bar No. _____ Address: <u>71 Delahow Street, Charleston, SC 29492</u> Phone: _____ Fax _____ E-mail: <u>johndong@gmail.com</u> Other: _____		Defendant's Attorney: <u>Emmanuel J Ferguson</u> , Bar No. <u>81431</u> Address: <u>171 Church St., Ste:310, Charleston, SC 29401</u> Phone: <u>843-577-9626</u> Fax <u>843-577-6672</u> E-mail: <u>eferguson@clevelandlaborlaw.com</u> Other: _____	
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: ☐ YES / ☐ NO			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.  Signature of Attorney for ☒ Plaintiff / ☐ Defendant <u>01/27/2020</u>, 20____ Date submitted			
SECTION III: Motion Fee			
☐ PAID – AMOUNT: <u>\$25.00</u> ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCPP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____, 20____	
CLERK'S VERIFICATION			
Collected by: _____		Date Filed: _____, 20____	
☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED – AMOUNT DUE: \$ _____			

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

John Dong, M.D., Ph.D.
-plaintiff,

V.

The Medical University of South
Carolina ,
-Defendant

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

) CASE NO.: 2016-CP-10-06683
)

) MOTION TO EXPAND DISCOVERY
)

COMES NOW, Plaintiff, John Dong, hereby moves the Court to expand the time
and scope of the discovery in the forgoing case.

As Grounds, the Plaintiff pleads as follows:

BACKGROUND

One January 17th, 2018, Dr. Dong filed the First Request for Production. However, after more than a year, the Defendant failed to produce any documents. On March 5th, 2019, Dr. Dong filed a Motion to Compel. On June 20th, after a hearing, the Court granted Dr. Dong's Motion to Compel, stayed the trial, but allow the discovery to continue, and ordered the Defendant to produce the documents as required.

On July 3rd, 2019, instead of producing the requested documents, the Defendant filed a Motion to Remand, inter alia, blaming its failure to produce the documents on that Dr. Dong is incarcerated at a Federal Camp Facility for a completely unrelated issue, and claimed that this caused difficulties and security concerns of MUSC. The Defendant alleges that for these reasons, Dr. Dong's discovery should be limited to a period that was after the fact, and to the people who have little or no direct knowledge of the circumstances in which the Agreement was the formulated, signed and eventually breached in bad faith by the Defendant. In addition, Defendant requested the Court to issue a "Confidential Order."

FILED
JULIE J. ARMSTRONG
CLERK OF COURT
2020 JAN 29 PM 2:30
BY

On October 4th, 2019, the Court granted Defendant's Motion with conditions that for good cause, either party may file a motion for extension of the time and scope of the discovery.

ARGUMENT

Under the Federal and State Rules of Civil Procedures, Parties in a controversy are entitled to discovery to obtain relevant information to support the Complaint or Defenses of a controversy under the Due Process Clause of Article III of the Constitution. There is no legal basis or precedent that allows a Defendant in the controversy to arbitrarily limit the scope of discoverable materials and the time of discovery in order to make it unreasonable and impractical for the Plaintiff.

As requested by MUSC, the Court ordered that the materials to be produced by MUSC are "limited to documents sent and received by Dr. Saltherman, Stephen Lanier and Dr. John Dong." In other words the documents are limited to only those that Dr. Dong received from Dr. Saltherman who had no direct knowledge of any of the events and the circumstances in which MUSC pressured and enticed Dr. Dong into signing an Agreement to conditionally resign as a tenured-full professor from MUSC. These limitations would allow MUSC to cover up and to deprive Dr. Dong of the information of the true reasons for MUSC to breach the contract by withholding Dr. Dong's technologies, proprietary technologic information, research protocols and biological materials, scientific records, search data, and all his research instruments and equipment, and by refusing to accept the Research Grants Dr. Dong obtained on behalf of MUSC. Dr. Stephen Lanier was involved as a decision maker and one of the masterminds in the schemes. However, Dr. Lanier would not necessarily communicate his scheme with Dr.

Saltherman, and Dr. Lanier certainly would not and did not keep Dr. Dong informed of the scheme designed to obtain Dr. Dong's intellectual properties and to block him from further developing his patent-pending technologies and researches at the expenses of damaging Dr. Dong's career. Therefore the limitations on the discovery would deprive Dr. Dong the information and evidences from the people who were directly involved, benefitted and had the interests in stealing Dr. Dong's grant money, technologies and equipment and blocking him from further advancing his technologies and his career, and from the members of the MUSC management who enabled, endorsed and showed indifference of the scheme perpetrated mainly by the Chairman of the Department of Microbiology and Immunology, Dr. James S. Norris and the Vice President for Research and Technology Development of MUSC, Dr. Stephen Lanier.

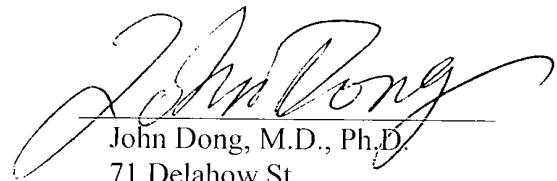
For these reasons, Dr. Dong respectfully requests the Court to lift the limitations or to expand the scope and time of the discovery to include those who directly participated, were involved or have first hand knowledge of the circumstances in which MUSC pressured Dr. Dong into signing the Agreement by threats and trickery, and eventually MUSC breached the contract completely for self enrichment. Specifically, Dr. Dong requests that the discoverable period should start from, at minimum, two years prior to the said scheme or the Agreement was executed, and the scope of the material and information to include any and all relevant information and documents, pursuant to Dr. Dong's right for Due Process afforded by the Constitution.

Hereby, Plaintiff, Dr. Dong, respectfully moves the court to grant this Motion.

Plaintiff does not request a hearing of this motion unless it is directed by the Court, because the issues and the law are clearly on the side of the Plaintiff.

Dated: January 27, 2020

Respectfully,

A handwritten signature in black ink, appearing to read "John Dong", written over a horizontal line.

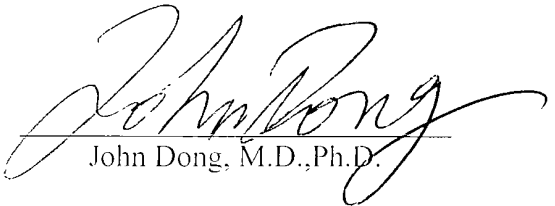
John Dong, M.D., Ph.D.
71 Delahow St
Charleston SC 29492

CERTIFICATE OF SERVICE

This is to certify that I have this *27th day of January 2020*, caused to be served a copy of ***MOTION TO EXPAND DISCOVERY*** via United States Mail Services with postage and addressed as follows:

Attention to:
Emmanuel J. Ferguson
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401

FILED
2020 JAN 29 PM 2:30
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____


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

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

John Dong, M.D., Ph.D.
-plaintiff,

V.

The Medical University of
South Carolina

-Defendant

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

) CASE NO.: 2016-CP-10-06683
)

) RESPONSE TO MOTION TO
) ALTER OR AMEND
)

FILED
2019 JUL 16 AM 10:39
CLERK OF COURT
P

COMES NOW, Plaintiff, Dr. John Dong, hereby submits this Response In Opposition to Defendant's Motion to Alter or Amend and respectfully requests the Court to deny Defendant's Motion because it is without merit and filed in bad faith.

As grounds, the Plaintiff pleads as follows:

I. The Defendant's Motion is filed in bad faith and ulterior intent.

The Defendant erroneously characterizes the Court Order for production dated June 13th, 2019 by falsely claiming that the Court granted a "stay" or "continuance to at least August 2022 and beyond for apparently one, single reason: his incarceration related to conviction for multiple, federal felonies." (P-1)

Such a premise is not only false, but also intended to be inflammatory. The sole purpose of the Defendant's Motion is to further perpetrate the scheme to deprive Dr. Dong's right for discovery by requesting the Court to set a short and firm trial date while Defendant continues with its stonewalling of the discovery requests and proceedings. This scheme violates Dr. Dong's right to due process afforded by the Constitutions of the State of South Carolina and the United States of America, and should be out-rightly denied by the Court.

II. Defendant's Motion is to further its scheme of obstruction of due process

The Defendant's accusation that the Court violates its "right for speedy resolution" is meritless. Records clearly show that it is the Defendant who perpetrates a series of delaying tactics and a scheme of obstruction of due process. MUSC initially deployed the tactic of using bad-faith negotiations and tricked Dr. Dong into not timely pursuing the Complaint. After restoring the Complaint, MUSC once again, causing the year-long delays. For example, it has been well over a year since Dr. Dong filed the First Request for Information, and MUSC has not yet provided a single document as requested, even after the Court has granted the Plaintiff's Motion to Compel. Obviously, it is the Defendant who has been refusing to follow the discovery rules and willfully causing the extensive delays in the proceedings. The Defendant's allegation that the Court denied "MUSC's substantive and procedural rights" and a "speedy resolution of the case" is without any merit and simply false. MUSC does not have such "substantive and procedural rights" to disobey the discovery rules and to deprive Dr. Dong's constitutional rights for due process.

III. Defense Counsel's false claim to obstruct due process is illegal and should be sanctioned by the Court.

The Defense Counsel's accusations that the Court "stayed the case until August 2022," "solely because Dong is incarcerated" and therefore "[t]he Order denies MUSC its substantive, constitutional right to a "speedy," efficient disposition of Dong's claim" are knowingly false. Nowhere in the Order or in the court record it shows such a ruling by this Court. The Court inter alia, ruled that Dr. Dong has a

right for discovery and MUSC has the obligation to produce the requested material. Additionally, since it is the Defendant who repeatedly claims that it has difficulties in complying with discovery rules because Dr. Dong is "incarcerated" for a case that is completely irrelevant to the Complaint, the Court simply allowed both parties more time to resolve the "difficulties" raised by the Defendant. The Defendant's assertion that, inter alia, Dr. Dong's substantial due process right should be denied because of his "incarceration" and that MUSC is somehow entitled to a "speedy resolution " in its favor without due process is without merit. In contrast, the Court's Orders have been sufficiently generous in accommodating Defendants requests, including those which clearly have no merit, such as limiting the formats and scope of the documents that Plaintiff may obtain, under the pretense of security reasons.

As a matter of law, MUSC does not have such a "procedural and substantive right" to disobey the law and to deprive Dr. Dong's due process rights afforded by the Constitution. Therefore, the defense counsel's false accusation and insistence on using the issue that Dr. Dong is "incarcerated" for a unrelated and appeal-pending case to obstruct the discovery proceedings should be rejected and sanctioned by the Court.

IV. Defendant failed to give notice

To further its obstruction scheme, MUSC did not serve a notice, a copy of the Motion for a Confidential Protection, to Dr. Dong to allow him sufficient time to prepare and submit a response before the hearing.

For this reason alone, the Defendant's Motion for Confidentiality Protection should be denied as a matter of law.

Furthermore, Defendant's Motion is a part of its scheme to hamper and to block Dr. Dong's right for discovery. The Defendant requested the Court, without any legal basis, to limit the scope of the discovery to (1) only persons who were not directly involved in the events related to breaching the contracts and causing financial and career damages to Dr. Dong, (2) the time period after the fact so that Defendant can cover up the evidence and facts of its wrongful acts, (3) restricted discovery to electronic format so that Defendant will have full control of content including to modify, to add or deduct contents at will; more importantly the electronic contents are not verifiable and not presentable at trial; (4) to set a "firm trial date" prior to the completion of the discovery in order to "quickly dispose the matter" in Defendant's favor without giving Dr. Dong the opportunity to conduct a thorough discovery and the procedural protection afforded by the law.

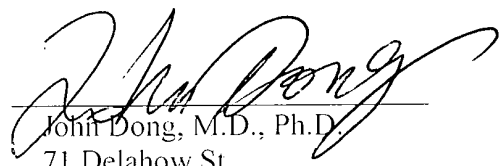
Therefore, the Motion for Confidentiality Protection should be denied as a matter of law.

CONCLUSION

For the reasons stated above, Plaintiff, Dr. Dong, respectfully request the Court to deny Defendant's Motion to Alter or Amend, and to rescind the Order for Confidentiality Protection and to deny the Motion in order to afford both parties the right to due process.

Dated: July 15, 2019

Respectfully submitted,



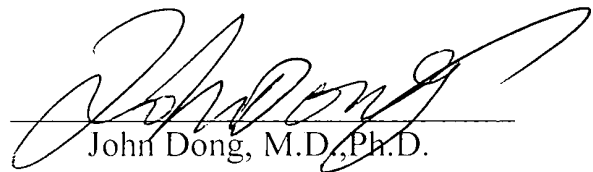
John Dong, M.D., Ph.D.
71 Delahow St
Charleston SC 29492

2016 CP.D. 6683
CERTIFICATE OF SERVICE

This is to certify that I have this 15th day of July 2019, caused to be served a copy of ***RESPONSE TO MOTION TO ALTER OR AMEND*** via United States Mail Services with postage and addressed as follows:

Attention to:
Emmanuel J. Ferguson
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401

FILED
2019 JUL 16 AM 10:59
JULIE J. ARMSTRONG
CLERK OF COURT


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

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF CHARLESTON)

NINTH JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-06683

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

Plaintiff,)

vs.)

The Medical University of South Carolina,)

Defendant.)

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney:

Jian Yun (John) Dong, M.D. Ph.D, 23179171
Pro Se, Bar No. _____

Address:

FCI Williamsburg

Satellite Camp

P.O. Box 340

Salters, SC 29590

Phone: _____ Fax _____

E-mail: Other: _____

Defendant's Attorney:

Bob J. Conley, Bar No. 12243

Address:

171 Church Street, Suite 310

Charleston, SC 29401

Phone: 843-577-9626 Fax 843-577-6672

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

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

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

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

SECTION I: Hearing Information

Nature of Motion: Motion To Alter or Amend

Estimated Time Needed: 1 Hour

Court Reporter Needed: ☒ YES / ☐ NO

SECTION II: Motion/Order Type

☒ Written motion attached

☐ Form Motion/Order

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

Bob J. Conley by Caroline Cleveland 07/3/2019

Signature of Attorney for ☐ Plaintiff / ☒ Defendant 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 _____

Date: _____

CLERK'S VERIFICATION

Collected by: _____ Date Filed: _____

☐ MOTION FEE COLLECTED: \$ _____

☐ CONTESTED – AMOUNT DUE: \$ _____

SCCA 233 (11/2003)

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

**MOTION TO ALTER OR
AMEND**

2019 JUL -3 AM 11:21
JUL 3 11:21 AM
CLERK OF COURT

Defendant Medical University of South Carolina (“MUSC”), pursuant to Rules 52(b) and 59(e) of the South Carolina Rules of Civil Procedure, moves for an order amending and/or altering the Court’s Order dated June 13, 2019, and entered by the Clerk of Court on June 20, 2019 (the “Order”). MUSC received written notice of entry of the Order on Monday, June 24, 2019.

The Order, citing no legal authority, summarily grants Dong a continuance for, potentially, more than three years. Although the Order discusses and refers to a “stay,” the use of this term in the Order is misplaced and mischaracterizes the effect of the Order.

The Order, contrary to its use of the term “stay,” does not stay the case but grants Dong a *continuance* until at least, potentially, August 2022 and beyond. Moreover, the Order grants Dong the continuance for apparently one, single reason: his incarceration related to conviction for multiple, federal felonies.

The Order is issued in err and constitutes abuse of discretion. At its core, the Order denies MUSC a timely trial and disposition of this matter solely because Dong is incarcerated for federal felony convictions. Without explanation, discussion or citation to legal authority, the Order grants

all manner of deference to Dong and the impediments caused by his incarceration, while providing no indication consideration was given to the prejudice the continuance will cause MUSC.

There is no jurisprudence in the State of South Carolina supporting the Order, and the Order cites none. Moreover, the Order either expressly allows or tacitly results in consequences contrary to the South Carolina Constitution and the South Carolina Rules of Civil Procedure. The Court should alter and/or amend the Order by removing the “stay,” allow for the orderly completion of discovery, such as by way of a scheduling order, and set the case for trial. Alternatively, the Court should stay all proceedings in the case, including discovery.

STATEMENT OF THE CASE

Plaintiff, Jian-Yun Dong (“Dong”) originally filed his lawsuit against MUSC on **September 2, 2014**. Subsequently, on October 22, 2015, Dong dismissed the lawsuit pursuant to Rule 40(j), SCRCP. Thereafter, on **December 14, 2016**, Dong restored his lawsuit pursuant to Rule 40(j), SCRCP, and the case was given a new case number.

In April 2013, before Dong restored the case, Dong was indicted for various federal felonies in federal district court. Thereafter, on August 4, 2015, while this case was dismissed pursuant to Rule 40(j), SCRCP, the federal district court convicted Dong of twenty-four of the thirty-four counts charged.

On October 3, 2017, ten months after Dong restored the case to this Court’s active roster, Dong was sentenced to be committed to the custody of the Federal Bureau of Prisons for a term of seventy months. According to the Federal Bureau of Prisons, Dong is not scheduled to be released on August 3, **2022**.

Pursuant to Rule 40(f), SCRCP, this case was transferred to the Charleston County General Docket in December **2017** and placed in line for trial with all other cases then on the General Docket. This case, had it not been removed by way of the Order, would be in, approximately, position twenty-seven for trial on the General Docket.

LEGAL STANDARD

South Carolina Rule of Civil Procedure 52(b) allows a party “not later than 10 days after receipt of written notice of entry of judgment” to request that the court “amend its findings or make additional findings and may amend the judgment accordingly” Rule 52(b), SCRCP, further requires that “[a] party filing a written motion under this rule shall provide a copy of the motion to the judge within ten (10) days after filing the motion.” Correspondingly, and similarly, South Carolina Rule of Civil Procedure 59(e) allows a party to request a court alter or amend a judgment within ten days of receiving the written notice of entry of an order.

LEGAL ARGUMENT

Citing no legal support or supporting jurisprudence, the Court protects Dong from a trial of this case, and thereby denies MUSC a resolution of the now five year old case, *for over additional three years* for one reason: Dong is incarcerated by the federal government for federal felony convictions. Moreover, the Order does not indicate the Court gave consideration – as there is no discussion about it in the Order - as to MUSC’s substantive and procedural rights to have this matter proceed to a resolution. For instance, the Order does not address the applicability or implications of Rule 40, SCRCP, or Article I, § 9 of the South Carolina Constitution. In its current form, the Order results in denying MUSC the procedural protections and substantive rights afforded by the South Carolina Rules of Civil Procedure and the South Carolina Constitution.

Moreover, although referred to as a “stay,” the Order does not stay the case. To the contrary, it allows discovery to proceed for the entire time Dong remains incarcerated, and perhaps beyond. The Order should be clear as to whether it is staying the case or granting Dong a continuance from being subject to trial until August 2022 and, perhaps, beyond. If the Court is staying the case, the Order should stay the case in all respects, including staying all further discovery until Dong is released from prison.

A. MUSC’s Procedural Rights

The Order is contrary, both expressly and implicitly, to the South Carolina Rules of Civil Procedure, in particular the provisions of Rule 40(b), (f) and (i), SCRCP. In short, Rule 40 requires this case be moved toward conclusion, including trial if necessary, absent “good and sufficient cause” pursuant to Rule 40(i)(1), SCRCP. Notably, the Order does not specifically address “good and sufficient cause” and, even if the Order implicitly does so, the Order wrongly concludes Dong’s incarceration constitutes “good and sufficient cause” to continue any trial of the case until August 2022, and perhaps beyond.

Dong’s incarceration for federal felony convictions is not and cannot constitute “good and sufficient cause” to continue any trial of this case until August 2022, or beyond. Although not squarely addressed by the appellate courts in South Carolina, decisions from other jurisdictions are instructive and indicate Dong’s incarceration is not “good and sufficient cause.” *See Morrin v. Koplin*, 2014 WL 4817934, *7 (Superior Ct. Connecticut, August 26, 2014) (unpublished) (concluding incarcerated defendant not entitled to continuance because actions leading to incarceration were voluntary); *Alabama River Group, Inc. v. Conecuh Timber, Inc.*, 261 So.3d

226, 253-55 (AL 2017) (recognizing incarcerated civil litigants in Alabama have no right to continuance or to attend and testify at trial in civil lawsuit unrelated to confinement).

In summary, the Order indefinitely continuing the case is in err because the Order is contrary to the requirements of the South Carolina Rules of Civil Procedure and constitutes an abuse of discretion.

B. MUSC's Substantive Rights

"All courts shall be public, and every person shall have speedy remedy therein for wrongs sustained." S.C. Const., Article I § 9. Article I § 9 applies to "all courts," including civil courts, and it applies equally to plaintiffs and defendants, including public entities such as MUSC. The Order denies MUSC its substantive, constitutional right to a "speedy," efficient disposition of Dong's claim by "staying" the case until August 2022, or thereafter, when Dong is released from federal confinement for felony convictions. *See Morrin* at *7 (referencing an almost identical provision in the Connecticut Constitution in finding a continuance was "unreasonable and highly prejudicial" in a similar circumstance).

For this reason, the Court should alter and/or amend the Order.

CONCLUSION

For the reasons discussed above, MUSC respectfully requests the Court alter and/or amend the Order.¹ The Court should alter and/or amend the Order by removing the "stay," allow for the orderly completion of discovery, such as by way of a scheduling order, and set the case for trial.

¹ MUSC requests the Court schedule and hold a hearing as to this Motion, so to allow MUSC to make a full, fair record of its assertions and positions. MUSC believes a hearing on the record is necessary in this instance to make sure a complete record discussing and considering all arguments and issues is available for consideration by the appellate court.

In the alternative, if the Court does “stay” the case, the stay should stay the case in its entirety, including all discovery, until Dong is released from confinement by federal authorities.

Respectfully submitted,



Caroline-Wrenn Cleveland
Bob J. Conley
Emmanuel J. Ferguson
CLEVELAND & CONLEY, LLC
One Seventy-One Church Street, Suite 310
Charleston, South Carolina 29401
Telephone: (843) 577-9626
Facsimile: (843) 577-6672
ccleveland@clevelandlaborlaw.com
bconley@clevelandlaborlaw.com
eferguson@clevelandlaborlaw.com

ATTORNEYS FOR DEFENDANT

Charleston, South Carolina
July 2, 2019

2016 CP-10-6683

CERTIFICATE OF SERVICE

This is to certify that I have this 3rd day of July 2019 caused to be served a copy of Defendant's Motion to Alter or Amend via United States Mail, with proper postage affixed, and addressed as follows:

Jian-Yun Dong, 23179171
FCI Williamsburg
Satellite Camp
P.O. Box 340
Salters, SC 29590

Loretta M. Plitnick

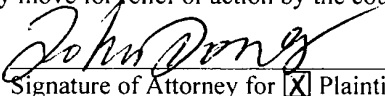
Loretta M. Plitnick
Paralegal

FILED
2019 JUL -3 AM 11:21
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

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

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

**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff's Attorney: Pro Se Plaintiff, John Dong, M.D., Ph. D., Bar No. _____ Address: <u>71 Delahow Street, Charleston, SC 29492</u> Phone: _____ Fax _____ E-mail: <u>johny.dong@gmail.com</u> Other: _____		Defendant's Attorney: <u>Emmanuel J Ferguson</u> , Bar No. <u>81431</u> Address: <u>171 Church St., Ste:310, Charleston, SC 29401</u> Phone: <u>843-577-9626</u> Fax <u>843-577-6672</u> E-mail: <u>eferguson@clevelandlaborlaw.com</u> Other: _____	
☐ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☒ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)			
SECTION I: Hearing Information			
Nature of Motion: _____ Estimated Time Needed: _____ Court Reporter Needed: ☐ YES/ ☐ NO			
SECTION II: Motion/Order Type			
☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.  Signature of Attorney for ☒ Plaintiff/ ☐ Defendant <u>11/12/2017</u> , 20____ Date submitted			
SECTION III: Motion Fee			
☐ PAID – AMOUNT: <u>\$25.00</u> ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____			
JUDGE'S SECTION			
☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____		JUDGE CODE _____ Date: _____, 20____	
CLERK'S VERIFICATION			
Collected by: _____ Date Filed: _____, 20____			
☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED – AMOUNT DUE: \$ _____			

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

) PLAINTIFF'S MOTION TO COMPEL

FILED
MAR-5 AM 11:21
JULIE J. ARMSTRONG
CLERK OF COURT

COMES NOW, Plaintiff, John Dong, M. D., Ph. D. (Dr. Dong), appearing pro se, respectfully moves the Court to grant this Motion to Compel the Defendant, The Medical University of South Carolina (MUSC) to produce each and all the documents and information as required in Plaintiff's First Request for Production, pursuant to South Carolina Rules of Civil Procedure 26 and 37 and Rules for discovery.

For grounds for this Court to grant his motion Plaintiff pleads as follows:

PROCEDURAL HISTORY

1. Under discovery, MUSC filed the The Defendant's First Request for Production and Interrogatory, and Dr. Dong has filed detailed answers. Defendant has not file any follow up questions.

2. On January 16th, 2018, Dr. Dong filed the *Plaintiff's First Request for Production* and gave Defendant 120 days to provide the requested documents.

3. It took Defendant's counsel over eight months, to file a "Response" to Dr. Dong the Request for Production and literally refused to give any answer or produce any document as requested by Dr. Dong.

4. On September 14, Dr. Dong sent MUSC the Plaintiff's *Objection to Defendant's Response to Plaintiff's First Request for Production*, in which Dr. Dong

requested MUSC to produce the documents and information as requested or in good faith to explain which document requested by Dr. Dong is "ambiguous" or "irreverent." See the Attachment.

5. Once again, MUSC failed to produce any document as required or to respond to the discovery request in good faith.

CONCLUSION

For the above stated reasons, Plaintiff respectfully request the Court to compel MUSC to produce each and all the documents as requested in Plaintiff's First Request for Production within 30 days, or sanction MUSC for non-responsive to discovery requests.

Dated: February 26, 2019

Respectfully submitted,


John Dong, M.D., Ph.D.
71 Delahow St.

2016-CP-10-6683

CERTIFICATE OF SERVICE

This is to certify that I have this 26th day of February 2019, caused to be served a copy of PLAINTIFF'S MOTION TO COMPEL via United States Mail Services with postage and addressed as follows:

Attention to:
Emmanuel J. Ferguson
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401

FILED
2019 MAR -5 AM 11:21
JULIE J. ARTHISTON
CLERK OF COURT


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

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

CASE NO: 2016-CP-10-06683

1

**) PLAINTIFF'S OBJECTION TO
) DEFENDANT'S RESPONSE TO
) PLAINTIFF'S FIRST REQUEST
) FOR PRODUCTION**

6683
FILED
2019 MAR -5 AM 11:21
JULIE J. ARMSTRONG
CLERK OF COURT
TO
TO
EST

GROUNDING FOR OBJECTIONS

Dr. Dong objects to the "general objections and reservations" from "A." through "I." because these objections are overbroad, ambiguous and non-specific. Defendant failed to inform Dr. Dong to which specific request that Defendant was objecting, and what and how a specifically requested document subjected to what objection by the Defendant.

B. Defendant's "Specific Responses and Objections" are intended to be obstructive and in bad faith.

Dr. Dong objects to each of the "specific responses and objections" from "1." through "25." because these objections are willfully to be obstructive and intended to deprive Dr. Dong of the documents and information to which he is entitled under the South Carolina Rules of Civil Procedure.

Each of the "specific Response and Objections" is repeating, recycling of the same verbiage, but fails to specifically inform Dr. Dong which part of the request is "vague" for the Defendant's counsel to understand, or which part is "overbroad" that reaches what document that falls beyond the scope of the discovery as Defendant's counsel alleges.

Dr. Dong further objects to Defendant's claims that all or any of the requested documents subject to Defendant's "attorney-client privilege" or "constitute attorney work product" without providing any specifics of what and why a document is subject to such "attorney-client privilege" or constitutes such an "attorney work product."

More specifically, nearly all documents or information requested are directly related to Dr. Dong's employment and his research work, materials, results, documentation, teaching records, achievements, and administrative matters at MUSC and records related to reasons and conditions of his departure from MUSC as a tenured professor under the agreement/settlement made with MUSC. All these documents existed at MUSC, long before Defendant obtained counsel on this specific matter. However, Defendant's counsel provided no basis for how any of these

document could subject to "attorney-client privilege" or could be an "attorney work product." Nevertheless, Dr. Dong would provide more specifics or readdress the questions if Defendant's counsel can provide specifics with regard to what and how a particular document may be subject to an attorney-client privilege or may constitute an attorney work product.

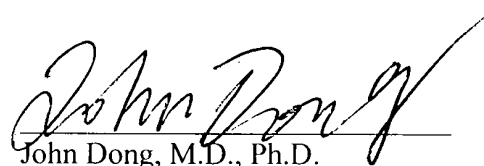
Defendant has produced no document under the Request. It simply defies credibility to conclude that none of Dr. Dong's requests, each targeted to a matter related to the Complaint and Answer, could fail to strike on a single document that exists and is preserved under the obligation at MUSC for the discovery. The Defendant is obligated to produce discoverable information and identify the withheld document subject to objection. The decision to produce no documents and to be in defiant of the procedures imposed under the South Carolina Rules for Civil Procedure is in bad faith.

This correspondence is an effort to resolve the discovery dispute prior to seeking a court order compelling discovery.

CONCLUSION

For reasons stated above, Dr. Dong believes that Defendant's Response through its counsel is willfully made to be obstructive and in bad faith in an effort to deprive Dr. Dong's discovery documents and information that he rightfully entitled under the South Carolina Rules of Civil Procedure. Dr. Dong requests Defendant to provide ALL the documents and information enlisted in *Plaintiff's First Request For Production* within 30 days.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John Dong", written over a horizontal line.

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

71 Delahow St.

Charleston, SC 29492

2016-CP-106683

CERTIFICATE OF SERVICE

This is to certify that I have this 14th day of November 2018, caused to be served a copy of *Plaintiff's Objection to Defendant's Response to Plaintiff's First Request for Production* via United States Mail Services with postage and addressed as follows:

Attention to:
Emmanuel J. Ferguson
Cleveland & Conley LLC
171 Church Street, suite 310
Charleston, South Carolina 29401


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

FILED
NOV -5 AM 11:21
J. ARMSTRONG
CLERK OF COURT

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE NINTH JUDICIAL CIRCUIT
COUNTY OF CHARLESTON	)	CASE NO.: 2016-CP-10-06683
	)	
Jian-Yun (John) Dong, M.D., Ph.D.	)	
	)	
Plaintiff	)	DEFENDANT'S RESPONSES
	)	TO PLAINTIFF'S FIRST
v.	)	REQUESTS
	)	FOR PRODUCTION TO
The Medical University of South Carolina	)	DEFENDANT
	)	
Defendant.	)	
	)	

TO: JIAN-YUN DONG, PRO SE DEFENDANT:

Defendant Medical University of South Carolina ("MUSC"), by and through its undersigned attorneys, responds to the Plaintiff's Requests for Production as follows:

GENERAL OBJECTIONS AND RESERVATIONS

A. Defendant objects to any document request that seeks: (a) information prepared in anticipation of litigation or for trial; (b) information protected by the attorney-client privilege, work product doctrine, the common-interest doctrine, or any other applicable privileges; (c) information pertaining to any periods of time that are irrelevant to the issues or claims in this lawsuit; (d) disclosure of counsel's mental impressions, conclusions, opinions, or legal theories; (e) information that is in any way duplicative, over broad, annoying, oppressive, unduly burdensome, or expensive to produce; (f) information that is obtainable from some other source (*i.e.*, as a matter of public record) that is more convenient, less burdensome, less expensive, and/or as accessible or available to Plaintiff; or (g) information that is otherwise beyond the scope of discovery under the South Carolina Rules of Civil Procedure.

- B. Defendant objects to Plaintiff's document requests to the extent that they seek information or documents not within Defendant's possession, custody, control or knowledge. Defendant objects to Plaintiff's document requests to the extent that Plaintiff seeks information or documents either already possessed by Plaintiff or already within Plaintiff's care, custody, and/or control.
- C. Defendant objects to Plaintiff's document requests to the extent that they are vague or ambiguous or fail to describe the information or documents sought with sufficient particularity to allow for a meaningful response by Defendant.
- D. Defendant objects to Plaintiff's document requests to the extent that they seek the production or disclosure of (a) information or documents that constitute Defendant's confidential, trade secret, or other proprietary information, (b) information or documents that are subject to, and governed by, a confidentiality agreement, non-disclosure agreement, or protective order in another matter or proceeding, and (c) information or documents of third parties, the unrestricted disclosure of which might violate the rights of such third parties.
- E. Defendant objects to Plaintiff's document requests to the extent that they seek documents or information relating to matters that are not raised in the pleadings on the grounds that such document requests are either irrelevant to this action or not reasonably calculated to lead to the discovery of admissible evidence.
- F. Defendant's responses are based upon the best information presently available. Defendant reserves the right to amend, supplement, correct, or clarify their responses if other or additional information is obtained.

- G. Defendant may move for an appropriate protective order if necessary to protect the confidentiality of certain documents.
- H. Defendant will not reproduce responsive documents previously provided to Plaintiff in this matter. Defendant will not reproduce responsive documents produced, or made available, by Plaintiff to Defendant in this matter.
- I. Defendant has made reasonable efforts to locate and make available for inspection all non-privileged documents responsive to Plaintiff's document requests, as Defendant understands them. Defendant generally reserves the right to amend, supplement, or withdraw any response to Plaintiff's requests as Defendant deems necessary or appropriate in light of the information or knowledge obtained during the course of discovery in this action.

SPECIFIC RESPONSES AND OBJECTIONS

1. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's performance or employment at MUSC.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product.

2. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, process, instigation, initiation or in any way lead to any proposed or

suggested any discipline action against Dr. Dong.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product.

3. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, process, instigation, initiation or in any way that related to, lead to the pressure of, suggest of, or the request of Dr. Dong to resign from the MUSC.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product.

4. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, event, or process of inventorying, cataloging, transferring, taking, or removing of any documents, biological material, reagents, ingredients, chemicals, DNA, research agents, records, notebooks, protocols, research methods, and any equipment, instruments, devices, tools, computers, from Dr. Dong's laboratories, offices, vector-core spaces, storage space, or shared, common spaces, computer storages, harddrives, computer files, Homeroom account, and his email accounts. Specifically, but not limited to the inventory lists of Dr. Dong's biological

materials, equipment, reagents, scientific notebooks, records, protocols, copies of Dr. Dong's grant proposals submitted from MUSC.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request.

5. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the negotiation, discussion, decision in reaching agreement that Dr. Dong to resign from MUSC.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product.

6. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the discussions, decisions or suggestions of how the Agreement with Dr. Dong to be carried out, performed, including but not limited to decisions, suggestions not to transfer the biological material, equipments, reagents, scientific notebooks, records, and any conditions listed, promised, suggested in the Agreement.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute

attorney work product.

7. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the discussion, decisions or suggestion to refuse accepting Dr. Dong's grant, and not to rehire Dr. Dong back to MUSC.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product.

8. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the discussions, negotiations, agreement, contract, understanding, or decision to transfer, give, or sale GenPhar shares held by Dr. Dong, FRO, and MUSC to Hubner group, Timothy Scranton, or any other parity or entity, individual, company, or organization.

RESPONSE: MUSC objects to this Request as it is vague and over broad. MUSC further objects to this Request as it will not lead to admissible and/or relevant or admissible evidence. MUSC will reconsider its objection if Plaintiff will more narrowly tailor her Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product.

9. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related

in any way to the relationship, association, ownership, business dealings, between Foundation for Research and Development (FRD) of MUSC and any members of MUSC may in any related to Dr. Dong, and GenPhar, Inc.

RESPONSE: MUSC objects to this Request as it is vague and over broad. MUSC further objects to this Request as it will not lead to admissible and/or relevant or admissible evidence.

10. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong, and GenPhar, Inc. including but not limited to technology disclosures, patent applications, benefit share formulas, plans held at FRD.

RESPONSE: MUSC objects to this Request as it is vague and over broad. MUSC further objects to this Request as it will not lead to admissible and/or relevant or admissible evidence. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product.

11. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to teleology transferring, payments from GenPhar, Inc. license agreement with GenPhar, Inc.

RESPONSE: MUSC objects to this Request as it is vague and over broad. MUSC further objects to this Request as it will not lead to admissible and/or relevant or admissible evidence. MUSC will reconsider its objection if Plaintiff will more

narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product.

12. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to technology transferring, patent applications, nondisclosure agreements, or license agreement with related to technologies developed in Dr. Dong's laboratory with any individuals, company, organization, or entity of every kind.

RESPONSE: MUSC objects to this Request as it is vague and over broad. MUSC further objects to this Request as it will not lead to admissible and/or relevant or admissible evidence. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product.

13. Any and all publications, scientific notebooks, grant applications, records, documents, reports, meeting presentations, or communications, from anyone to anyone including any organizations, government agencies, such as National Institutes of Health, National Science Foundation, Department of Defense, private foundations, publication companies, that any biological material, vectors, DNA, reagents, technology, techniques, or information, that were directly or indirectly obtained, originated from Dr. Dong's laboratories, vector cores or obtained from Dr. James S. Norris.

RESPONSE: MUSC objects to this Request as it is vague and over broad. MUSC further objects to this Request as it will not lead to admissible and/or relevant or

admissible evidence.

14. Any and all publications, scientific notebooks, grant applications, records, documents, reports, meeting presentations, or communications, from anyone to anyone that related to mentioned of cancer gene therapy, apoptosis, or adenovirus vector that express TRIAL, FasL, or adenovirus express cancer suppressor gene, viral antigens, or any adenovirus vector contain any gene under the regulation probacin promoter, Tet-opron promoter, inducible promoter, feedback promoter or any adenovirus vector contain more than one DNA insert (known as CAd, complex Adenovirus) and AAV, especially, but not limited to, the persons, staff, faculty members, students, post-doctoral fellows who had a relationship of any kind with Dr. James S. Norris.

RESPONSE: MUSC objects to this Request as it is vague and over broad. MUSC further objects to this Request as it will not lead to admissible and/or relevant or admissible evidence.

15. Any and all financial records, accounting, and expenditure reports of Dr. Dong's funds, including his startup funds, all grants, payments from GenPhar and any other sources prior 2010.

RESPONSE: MUSC objects to this Request as it is vague and over broad. MUSC further objects to this Request as it will not lead to admissible and/or relevant or admissible evidence.

16. Any and all financial records, accounting, and expenditure reports of Dr. James Norris funds from any source, prior 2010.

RESPONSE: MUSC objects to this Request as it is vague and over broad. MUSC further objects to this Request as it will not lead to admissible and/or relevant or admissible evidence.

17. Any and all records, documents, computer files, correspondence (including emails), reports,

policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's faculty evaluations, annual reports, career development plan, tenure application, tenure approval or Dr. Dong's academic performance.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor its Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request.

18. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any complaint, memorandums made by Dr. Dong and communicated to any members of MUSC administration or committees.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request.

19. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any complaint, recommendations, suggestions, and causes of actions made against Dr. Dong from anyone at MUSC.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request.

20. Any and all documents the Defendant read, reviewed, and/or obtained relating in any way to the allegations made by Dr. Dong.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request.

21. Copies of any and all statements made by anyone related to Dr. Dong's tenure at MUSC.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request.

22. Any and all reports, statements prepared by anyone concerning this complaint against MUSC.

RESPONSE: MUSC objects to this Request as it is vague and overbroad. MUSC will

reconsider its objection if Plaintiff will more narrowly tailor his Request. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request.

23. Any and all contents in Dr. Dong's email account (dongj@musc.edu) and in his Home Room account on MUSC server both in print and in electronic file on computer storage device, such as portable hard drive, or USB drive.

RESPONSE: The email account "dongj@musc.edu" was removed from MUSC's server and deleted on or about July 11, 2012. The content of this email account was permanently removed on or about July 11, 2012.

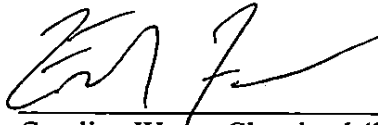
24. Any and all files and documents related to Dr. Dong filed at MUSC, including but not limited to Department of Microbiology and Immunology, office of grant management, and office of human resources.

RESPONSE: MUSC objects to this Request as it is vague and over broad. MUSC further objects to this Request as it will not lead to admissible and/or relevant or admissible evidence. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request.

25. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any complaint, lawsuit, causes of actions, recommendations or resolutions related to

any members of MUSC administrations, including Department chairs, directors, managers, deans, provost, and president, especially related to, but not limited to, Dr. James S. Norris, and Dr. Stephen Lanier.

RESPONSE: MUSC objects to this Request as it is vague and over broad. MUSC further objects to this Request as it will not lead to admissible and/or relevant or admissible evidence. MUSC further objects to this Request to the extent it requests material and communications subject to the attorney-client privilege or that constitute attorney work product. MUSC will reconsider its objection if Plaintiff will more narrowly tailor his Request.



Caroline Wrenn Cleveland (SC Bar #64253)
Bob J. Conley (SC Bar #12243)
Emmanuel J. Ferguson (SC Bar #81431)
CLEVELAND & CONLEY, L.L.C.
One Seventy-One Church Street, Suite 310
Charleston, South Carolina 29401
(843) 577-9626 (Telephone)
(843) 577-6672 (Facsimile)
ccleveland@clevelandlaborlaw.com
bconley@clevelandlaborlaw.com
eferguson@clevelandlaborlaw.com

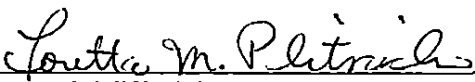
ATTORNEYS FOR DEFENDANT

Charleston, South Carolina
October 18, 2018

CERTIFICATE OF SERVICE

This is to certify that I have this date caused to be served a copy of Defendant's Responses to Plaintiff's First Requests for Production via U.S. mail to Plaintiff at the address below:

John Dong, 23179171
LSCI, Butner
P.O. Box 999
Butner, NC 27509



Loretta M. Plitnick
Paralegal

This the 18th day of October 2018.

CLEVELAND & CONLEY, L.L.C.
LABOR AND EMPLOYMENT DEFENSE

ONE SEVENTY ONE CHURCH STREET, SUITE 310
CHARLESTON, SOUTH CAROLINA 29401
WWW.CLEVELANDANDCONLEY.COM

CAROLINE WHENN CLEVELAND †
BOB J. CONLEY
EMMANUEL J. FERGUSON

TELEPHONE: (843) 577-9626
FACSIMILE: (843) 577-6672

†CERTIFIED SPECIALIST
LABOR & EMPLOYMENT LAW

October 18, 2018

John Dong, 23179171
LSCI, Butner
P.O. Box 999
Butner, NC 27509

Re: *Jian-Yun (John) Dong, M.D., Ph. D., v. The Medical University of South Carolina*
Case No.: 2016-CP-10-06683

Dear Dr. Dong:

In connection with the above-named matter, please find Defendant's Responses to Plaintiff's First Requests for Production.

Sincerely,

CLEVELAND & CONLEY, LLC



Emmanuel J. Ferguson

EJF/lmp
Enclosure

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

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

plaintiff

V.

The Medical University of South
Carolina

Defendants

) IN THE COURT OF COMMON PLEAS

) FOR THE NINTH JUDICIAL CIRCUIT

) CASE NO.: 2016-CP-10-06683

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

**PLAINTIFF'S FIRST REQUEST
FOR PRODUCTION TO DEFENDANT**

FILED
2018 JAN 17 PM 1:15
JULIE J. CLEGG, CLERK
COURT

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

Plaintiff, Dr. John Dong, hereby requests on a continuous basis, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, the Defendant respond within (90) days after the service hereof to the following Requests and that the Defendant produce copies of each of the following documents or things which may be in the possession, custody, or control of the Defendant or its counsel:

1. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's performance or employment at MUSC.

2. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, process, instigation, initiation or in any way lead to any proposed or suggested any discipline action against Dr. Dong.

3. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, process, instigation, initiation or in any way that related to, lead to the pressure of, suggest of, or the request of Dr. Dong to resign from the MUSC.

4. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the decision, event, or process of inventorying, cataloging, transferring, taking, or removing of any documents, biological material, reagents, ingredients, chemicals, DNA, research agents, records, notebooks, protocols, research methods, and any equipment, instruments, devices, tools, computers, from Dr. Dong's laboratories, offices, vector-core spaces, storage space, or shared, common spaces, computer storages, harddrives, computer files, Homeroom account, and his email accounts. Specifically, but not limited to the inventory lists of Dr. Dong's biological materials, equipment, reagents, scientific notebooks, records, protocols, copies of Dr. Dong's grant proposals submitted from MUSC.

5. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the negotiation, discussion, decision in reaching agreement that Dr. Dong to resign from MUSC.

6. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind

from or to anybody related in any way to the discussions, decisions or suggestions of how the Agreement with Dr. Dong to be carried out, performed, including but not limited to decisions, suggestions not to transfer the biological material, equipments, reagents, scientific notebooks, records, and any conditions listed, promised, suggested in the Agreement.

7. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the discussion, decisions or suggestion to refuse accepting Dr. Dong's grant, and not to rehire Dr. Dong back to MUSC.

8. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the discussions, negotiations, agreement, contract, understanding, or decision to transfer, give, or sale GenPhar shares held by Dr. Dong, FRD, and MUSC to Hubner group, Timothy Scranton, or any other parity or entity, individual, company, or organization.

9. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to the relationship, association, ownership, business dealings, between Foundation for Research and Development (FRD) of MUSC and any members of MUSC may in any related to Dr. Dong, and GenPhar, Inc.

10. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind

from or to anybody related in any way to Dr. Dong, and GenPhar, Inc. including but not limited to technology disclosures, patent applications, benefit share formulas, plans held at FRD.

11. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to technology transferring, payments from GenPhar, Inc. license agreement with GenPhar, Inc.

12. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to technology transferring, patent applications, nondisclosure agreements, or license agreement with related to technologies developed in Dr. Dong's laboratory with any individuals, company, organization, or entity of every kind.

13. Any and all publications, scientific notebooks, grant applications, records, documents, reports, meeting presentations, or communications, from anyone to anyone including any organizations, government agencies, such as National Institutes of Health, National Science Foundation, Department of Defense, private foundations, publication companies, that any biological material, vectors, DNA, reagents, technology, techniques, or information, that were directly or indirectly obtained, originated from Dr. Dong's laboratories, vector cores or obtained from Dr. James S. Norris.

14. Any and all publications, scientific notebooks, grant applications, records, documents, reports, meeting presentations, or communications, from anyone to anyone

that related to mentioned of cancer gene therapy, apoptosis, or adenovirus vector that express TRIAL, FasL, or adenovirus express cancer suppressor gene, viral antigens, or any adenovirus vector contain any gene under the regulation probacin promoter, Tet-opron promoter, inducible promoter, feedback promoter or any adenovirus vector contain more than one DNA insert (known as CAd, complex Adenovirus) and AAV, especially, but not limited to, the persons, staff, faculty members, students, post-doctoral fellows who had a relationship of any kind with Dr. James S. Norris.

15. Any and all financial records, accounting, and expenditure reports of Dr. Dong's funds, including his start up funds, all grants, payments from GenPhar and any other sources prior 2010.

16. Any and all financial records, accounting, and expenditure reports of Dr. James Norris funds from any source, prior 2010.

17. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to Dr. Dong's faculty evaluations, annual reports, career development plan, tenure application, tenure approval or Dr. Dong's academic performance.

18. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any compliant, memorandums made by Dr. Dong and communicated to any members of MUSC administration or committees.

19. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any complaint, recommendations, suggestions, and causes of actions made against Dr. Dong from anyone at MUSC.

20. Any and all documents the Defendant read, reviewed, and/or obtained relating in any way to the allegations made by Dr. Dong.

21. Copies of any and all statements made by anyone related to Dr. Dong's tenure at MUSC.

22. Any and all reports, statements prepared by anyone concerning this complaint against MUSC.

23. Any and all contents in Dr. Dong's email account (dongj@musc.edu) and in his HomeRoom account on MUSC server both in print and in electronic file on computer storage device, such as portable hard drive, or USB drive.

24. Any and all files and documents related to Dr. Dong filed at MUSC, including but not limited to Department of Microbiology and Immunology, office of grant management, and office of human resources.

25. Any and all records, documents, computer files, correspondence (including emails), reports, policies, memorandums, evaluations, or other materials of every kind from or to anybody related in any way to any complaint, lawsuit, causes of actions, recommendations or resolutions related to any members of MUSC administrations, including Department chairs, directors, managers, deans, provost, and president, especially related to, but not limited to, Dr. James S. Norris, and Dr. Stephen Lanier.

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

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

January. 16th, 2018
LSCI, Butner,
North Carolina

2016 CP10-6683

CERTIFICATE OF SERVICE

This is to certify that I have this 16th day of January 2018, caused to be served a copy of Plaintiff's Response to Defendant's First Requests for Production via United States Mail Services with postage and addressed as follows:

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

FILED
2018 JAN 17 PM 1:15
JULIE J. ARMSTRONG
CLERK OF COURT



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

Jian-yun Dong, 23179171
P.O.Box 999
LSCI Butner
Butner, NC27509

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
OF THE RETURN ADDRESS, FOLD AT DOTTED LINE

CERTIFIED MAIL®



7017 0190 0001 0188 9222



1000



29401

U.S. POST.
PAID
NORTH CH
29406
JAN 18, 198
AMOUNT
\$4.
R2303\$103

The Clerk of the Court
the Hon. Julie J. Armstrong,
100 Broad Street, Suite 106
Charleston, SC 29401-2258

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

CASE NO.: 2016-CP-10-06683

)

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

i

5

→

N

12

ve

C

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

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

(1) Career damages: \$1,330,000 (\$190,000 X 7 or the number of years to be employed)

(2) Biotechnologies that have significant commercial values:

(a) General cancer gene therapy using regulated Fas-L adeno-vector: \$1M

(b) Advanced and safe CAdVax-TRIAL gene therapy for cancer: \$1M.

(c) Targeted prostate Cancer gene therapy: \$1M

(d) Regulated and positive-feedback loop amplified gene regulation from a CadVec for cancer Gene therapy: \$1M

(e) Highly efficient AAV-gene therapy for genetic diseases: \$1M.

(3) Grant money loses: \$5M (RO1, Dengue vaccine development from NIH)

(4) Equipment replace value: \$500,000

(5) Essential and Biological materials: \$3M

(6) GenPhar Stocks \$1/shares x the total number of shares awarded to MUSC. MUSC given/sold these shares to Hubner group for his hostile takeover of GenPhar.

(7) damages caused by colluding with hostile takeover of GenPhar by Hubner Group: to be determined.

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

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

Woratanadtharm, Dr. Stephanie Smith-Johnson, Dr. Steve London, Dr. Lucile Landon, Mr. Scott Reeds, Ms. Beth Glidden, Mr. Joe Good. Members of Dr. James S. Norris laboratory

Biosafety officers, at the time (do not remember the names), the persons who conducted the search and seizure of Dr. Dong's biological materials in the freezers and scientific records (names are in emails)

5. Expert Witnesses are yet to be identified.

6. The names are the same, but not limited to, as in 4. All the witness would be expected to testify individually or collectively about, but not limited to the facts, events and policies around how the Department Chairman, Dr. James S. Norris abused his authority, took over Dr. Dong's research projects, used Dr. Dong's research fund for Dr. Norris' research and operations, and pressured the GenPhar, Inc. to pay by "renting out" Dr. Dong to be the chief scientific officer for the GenPhar, Inc., and about how GenPhar was established as requested by the MUSC administration to serve the mission of the university to establish knowledge-based companies, and support local economy, and about the business relationship of Foundation for Research and Development (FRD) of MUSC and the administration of MUSC. The policy and shares-holdings of FRD and MUSC, and the dealings of FRD/MUSC with Hubner group by selling MUSC's including Dr. Dong's GenPhar shares to the Hubner group and assisted Hubner's hostile takeover of GenPhar and the damages done to Dr. Dong and GenPhar shareholders, and what and how transpired the event of forcing Dr. Dong to leave MUSC, threaten to fire him, and eventually negotiated the Agreement, and how the Agreement was completely breached.

7. There is no interview or deposition taken and no written records related to discussions. Much of the records regards to the facts exist at MUSC, and in Dr. Dong's email and homerooms, and the email accounts of the all the witnesses at MUSC.

8. Dr. Dong do not recall that he had any discussion of the case outside the MUSC other than the members of the MUSC administrations.

9. Under the Agreement and the discussions, Dr. Dong was given the impression that as long as he continue his research and academic activities and improve his researches toward more benefits to MUSC, especially to get new research grant for MUSC and continued his publications and training graduate students for MUSC, MUSC will hire back Dr. Dong. In addition, Dr. Dong had extensive local connections, Dr. Dong did not interview for any other positions, but worked hard in continue the above mentioned academic activities on behalf of MUSC including obtained a \$5 million research grant for MUSC. The grant was obtained from NIH on a complete new topic because Dr. Dong's research projects could not continue for lack of the research material, documentation and equipment taken by MUSC. However, in order to maximize the punishment to Dr. Dong and find reasons not to rehire Dr. Dong, Dr. Stephen Lanier informed NIH that MUSC refused to accept the grant because Dr. Dong no longer work at MUSC.

10. Dr. Dong had not maintained an account with any social or professional network that contained any information related to MUSC or the lawsuit. Dr. Dong had a LinkedIn account after he left MUSC.

11. Dr. Dong had never been convicted of any crime or wrong doing during or before his tenure at MUSC. In 2016, Dr. Dong was convicted for "misuse grant fund to

construct the research facility" located in Mt. Pleasant, South Carolina based on the allegations of the qui tam lawsuit as described in 3. This, at least in part, is because Dr. Dong was the Principle of Investigator of a number of Research grants, and the "top manager" at GenPhar since he was pushed out of MUSC in 2010, but continued his obligation to the investors at GenPhar. Dr. Dong was not accused misuse any research fund for his personal benefit, but because the company used the fund for the research facility, which is appropriate to use the Facility and Administration Costs of the grants or the investors fund. However, the fact is that the research facility is funded by a combination of GenPhar's private fund and commercial loans. Dr. Dong has maintained his innocence throughout the trial. Dr. Dong is sentenced for 70 months and is currently serving at Low Security Correction Institute, Butner, North Carolina. The case is under direct appeal at the US Appellate Court for the Fourth Circuit. Case number 17-4268.



John Dong, M.D., Ph.D.
LSCI, Butner
P.O.Box 999
Butner, NC 27509

Butner, North Carolina,
December 27th, 2017

2016 CP 10-6683

CERTIFICATE OF SERVICE

This is to certify that I have, on this 27th day of December 2017, served a copy of Plaintiff's Answers to Defendant's First Interrogatories to Plaintiff via United States Postal Service with postage and addressed as follows:

Cleveland & Conley, LLC
Att: Bob J. Conley
171 Church Street, Suit 310
Charleston, South Carolina 29401



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

FILED

JAN 02 2018

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

STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

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

V.

The Medical University of South
Carolina
Defendants

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

) CASE NO.: 2016-CP-10-06683
)

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

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

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

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

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

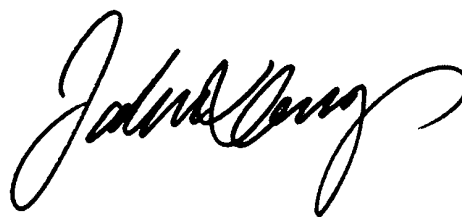
Dr. Dong currently do not have documents, or things other than those in Mr. Home's possession, or not be able to have access to any additional documents, as you requested in question 1-16. However, All or most of the documents related to this lawsuit are in possession of MUSC, in the offices of the administration,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

FILED

JAN 02 2018

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

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

A handwritten signature in black ink, appearing to read "John Dong", with a stylized, cursive script.

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

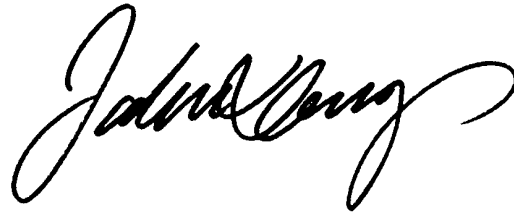
Dec. 28th, 2017
LSCI, Butner,
North Carolina

2016-CP-10-6683

CERTIFICATE OF SERVICE

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

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

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

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

FILED

JAN 02 2018

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

STATE OF SOUTH CAROLINA)

IN THE COURT OF COMMON PLEAS

COUNTY OF Charleston)

Ninth JUDICIAL CIRCUIT

CASE NO.: 2016-CP-10-06683

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

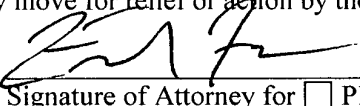
**MOTION AND ORDER INFORMATION
FORM AND COVERSHEET**

Plaintiff,)

vs.)

The Medical University of South Carolina,)

Defendant.)

Plaintiff's Attorney: Pro Se Plaintiff Jian-Yun Dong, M.D., Ph.D., Bar No. _____ Address: 71 Delahow Street, Charleston, SC 29492 Phone: _____ Fax _____ E-mail: _____ Other: _____	Defendant's Attorney: Emmanuel J Ferguson, Bar No. 81431 Address: 171 Church St., Ste: 310, Chas, SC 29401 Phone: 843 577-9626 Fax 843 577-6672 E-mail: eferguson@clevelandlaborlaw.com Other: _____
☒ MOTION HEARING REQUESTED (attach written motion and complete SECTIONS I and III) ☐ FORM MOTION, NO HEARING REQUESTED (complete SECTIONS II and III) ☐ PROPOSED ORDER/CONSENT ORDER (complete SECTIONS II and III)	
SECTION I: Hearing Information Nature of Motion: MOTION TO COMPEL Estimated Time Needed: 1 HOUR Court Reporter Needed: ☐ YES / ☒ NO	
SECTION II: Motion/Order Type ☒ Written motion attached ☐ Form Motion/Order I hereby move for relief or action by the court as set forth in the attached proposed order.  Signature of Attorney for ☐ Plaintiff / ☒ Defendant 3/27/2017 Date submitted	
SECTION III: Motion Fee ☒ PAID - AMOUNT: \$ _____ ☐ EXEMPT: (check reason) ☐ Rule to Show Cause in Child or Spousal Support ☐ Domestic Abuse or Abuse and Neglect ☐ Indigent Status ☐ State Agency v. Indigent Party ☐ Sexually Violent Predator Act ☐ Post-Conviction Relief ☐ Motion for Stay in Bankruptcy ☐ Motion for Publication ☐ Motion for Execution (Rule 69, SCRCP) ☐ Proposed order submitted at request of the court; or, reduced to writing from motion made in open court per judge's instructions Name of Court Reporter: _____ ☐ Other: _____	
JUDGE'S SECTION ☐ Motion Fee to be paid upon filing of the attached order. ☐ Other: _____	JUDGE CODE _____ Date: _____
CLERK'S VERIFICATION Collected by: _____ Date Filed: _____ ☐ MOTION FEE COLLECTED: \$ _____ ☐ CONTESTED - AMOUNT DUE: \$ _____	

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

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

MOTION TO COMPEL

FILED
2017 MAR 29 PM 12:01
JULIE J. ARMSTRONG
CLERK OF COURT

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

PLEASE TAKE NOTICE, pursuant to South Carolina Rules of Civil Procedure ("SCRCP") 26 and 37, counsel for Defendant Medical University of South Carolina ("MUSC") will move before this Court within ten (10) days from the date of service hereof, or as soon thereafter as counsel may be heard, for an order compelling Plaintiff Jian-Yun Dong, M.D., Ph.D. ("Dr. Dong") to provide full and complete responses to Defendant's First Interrogatories to Plaintiff¹ and Defendant's First Requests for Production to Plaintiff² (collectively, "Discovery Requests"). The grounds for this Motion to Compel ("Motion") are outlined below.

PROCEDURAL HISTORY

Dr. Dong, while represented by counsel, filed his Summons and Complaint on September 2, 2014. MUSC served Dr. Dong with MUSC's Discovery Requests on December 22, 2016. On January 25, 2017, the Court issued an order and relieved Dr. Dong's counsel from representing

¹ Exhibit A.
² Exhibit B.

Dr. Dong in his lawsuit against MUSC (the “Order”).³ The Court also ordered Dr. Dong retain substitute counsel within 30 days of the Order or proceed pro se. Dr. Dong has not retained substitute counsel and, pursuant to the Court’s Order, became a pro se litigant on February 25, 2017. On March 1, 2017, counsel for MUSC notified Dr. Dong by letter his responses to MUSC’s Discovery Requests were delinquent and requested Dr. Dong respond to the Discovery Requests by March 14, 2017.⁴

On March 17, 2017, Dr. Dong filed a “First Extension Filing” (the “Extension Filing”) with the Court.⁵ In his Extension Filing, Dr. Dong appears to request MUSC’s counsel consent to a stay of all activity regarding his lawsuit for 60 days.⁶ The Extension Filing stated Dr. Dong’s request is based on 1) Dr. Dong’s claim he is unemployed and indigent; 2) Dr. Dong’s claim he recently resigned; and, 3) Dr. Dong’s claim he is undergoing a medical procedure.⁷

As of the date of this filing, Dr. Dong has not responded to MUSC’s Discovery Requests.

CONCLUSION

MUSC requests the Court issue an order requiring Dr. Dong respond to Defendant’s First Interrogatories to Plaintiff and Defendant’s First Requests for Production of Documents to Plaintiff.

³ Exhibit C.

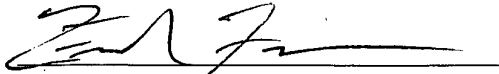
⁴ Exhibit D.

⁵ Exhibit E.

⁶ MUSC does not consent to the request in Dr. Dong’s Extension Filing.

⁷ Dr. Dong does not state the position he recently resigned or the type of medical proceeding he claims he is undergoing.

Respectfully submitted,



Caroline Wrenn Cleveland

Bob J. Conley

Emmanuel J. Ferguson

CLEVELAND & CONLEY, L.L.C.

One Seventy-One Church Street, Suite 310

Charleston, South Carolina 29401

(843) 577-9626 (Phone)

ccleveland@clevelandlaborlaw.com

bconley@clevelandlaborlaw.com

eferguson@clevelandlaborlaw.com

ATTORNEYS FOR DEFENDANT

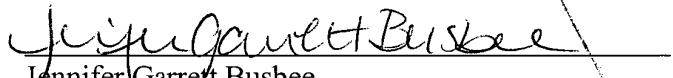
Charleston, South Carolina
March 27, 2017

2016 CP-10-6683

CERTIFICATE OF SERVICE

This is to certify that I have this 27th day of March 2017, caused to be served a copy of Defendant's Motion to Compel via United States Mail, with proper postage affixed, and addressed as follows:

Jian-Yun (John) Dong, M.D., Ph.D.
71 Delahow Street
Charleston, SC 29492


Jennifer Garrett Busbee

FILED
MAR 29 PM 12:02
JULIE J. ARMSTRONG
CLERK OF COURT
BY

EXHIBIT A

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

**DEFENDANT'S FIRST
INTERROGATORIES TO PLAINTIFF**

TO: ALLAN R. HOLMES, ATTORNEY FOR PLAINTIFF

You are hereby required to answer in writing the following Interrogatories propounded by the Medical University of South Carolina ("MUSC") within thirty (30) days of service. These interrogatories shall be deemed to continue until the time of trial pursuant to Rule 33 of the South Carolina Rules of Civil Procedure:

1. Provide a list of photographs, plats, sketches, and/or other documents, including electronic records and documents (i.e., email and electronic data) in Plaintiff's possession that relate to Plaintiff's claims in this case.
2. Provide an itemized statement of the total dollar amount of damages, including, but not limited to, the alleged financial losses, Plaintiff seeks as a result of Defendant's alleged actions and the associated method used to calculate the alleged damages. (The response should provide a *specified amount* of alleged damage for each component of damage alleged in Plaintiff's Complaint.)
3. Identify any claims or lawsuits (including workers compensation claims) in which the Plaintiff has been or currently is a party, including the name of each, nature of each, where filed, date of filing, docket number, date of trial or disposition, and ultimate disposition thereof.

4. State the full names, addresses, and telephone numbers of all lay witnesses whose testimony Plaintiff may use at the trial of this case, and describe the factual issues to which that testimony is expected to relate.

5. Identify by full name, address, and telephone number each person whom Plaintiff expects to call as an expert witness at the trial of this case and, as to each expert so identified, state the subject matter on which (s)he is expected to testify, the substance of the facts and opinions to which (s)he is expected to testify, and a summary of the grounds for each opinion.

6. Provide the names and addresses of persons known to Plaintiff or his counsel to be witnesses concerning the facts of the case and indicate whether or not written or recorded statements have been taken from the witnesses and indicate who has possession of such statements.

7. For each person known to Plaintiff or his counsel to be a witness concerning the facts of the case, set forth either a summary sufficient to inform Defendant of the important facts known to or observed by such witness, or provide a copy of any written or recorded statements taken from such witnesses.

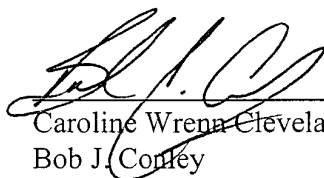
8. Provide the name, address and telephone number of each person (with the exception of Plaintiff's counsel), with whom Plaintiff has discussed his claims and allegations against Defendant including the following: (a) the date(s) the discussion(s) took place; (b) the location of the discussion(s); (c) the name(s) of anyone else present for the discussion(s); and, (d) a summary of what was discussed on each occasion. (If any of the noted communications occurred by email, or otherwise in writing, Plaintiff should provide a copy of the written communication in response to Defendant's First Set of Requests for Production.)

9. Provide the telephone number(s), name(s), and address(es) of employer(s) to which the

Plaintiff applied and/or actively sought employment during or after Plaintiff's relationship with Defendant, including the approximate dates of each such application or inquiry.

10. State whether Plaintiff, between January 1, 2010, and the present, maintained an account with any social or professional networking site. If so, please provide the name of the social networking site and the date(s) Plaintiff's account(s) was active.

11. State whether Plaintiff has ever been convicted of a crime, including, but not limited to federal felonies. If yes, provide the date of the conviction, a list of the charges for which Plaintiff was convicted, and the sentence(s) imposed.



Caroline Wrenna Cleveland
Bob J. Conley
Emmanuel J. Ferguson
CLEVELAND & CONLEY, L.L.C.
One Seventy-One Church Street, Suite 310
Charleston, South Carolina 29401
(843) 577-9626 (Telephone)
ccleveland@clevelandlaborlaw.com
bconley@clevelandlaborlaw.com
eferguson@clevelandlaborlaw.com

ATTORNEYS FOR THE DEFENDANT

Charleston, South Carolina
This 22nd day of December 2016.

CERTIFICATE OF SERVICE

This is to certify that I have this 22nd day of December, 2016, caused to be served a copy of Defendant Medical University of South Carolina's First Set of Interrogatories to Plaintiff on counsel for Plaintiff via hand-delivery to the following address:

Allan R. Holmes, Esq.
171 Church Street, Suite 110
Post Office Box 938
Charleston, South Carolina 29402

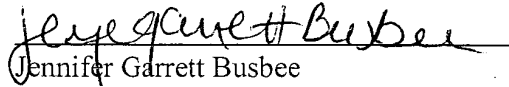

Jennifer Garrett Busbee

EXHIBIT B

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,	)	
v.	)	DEFENDANT'S FIRST
	)	REQUESTS FOR PRODUCTION
The Medical University of South	)	TO PLAINTIFF
Carolina,	)	
	)	
Defendant.	)	
_____	)	

TO: ALLAN R. HOLMES, ATTORNEY FOR PLAINTIFF

Defendant Medical University of South Carolina ("MUSC") hereby requests, pursuant to Rule 34 of the South Carolina Rules of Civil Procedure, that Plaintiff respond within thirty (30) days after the service hereof to the following Requests and that Plaintiff produce and permit counsel for MUSC to inspect, copy or photograph, at the office of MUSC's counsel located at 171 Church Street, Suite 310, Charleston, South Carolina 29401, each of the following documents or things which may be in the possession, custody, or control of Plaintiff and/or his counsel:

1. Any and all correspondence (including emails), reports, policies, or other documents or materials of every kind received from or provided to any witness whom Plaintiff expects to call as a witness at trial.
2. Any and all documents and writings of every kind in Plaintiff's or his counsel's or representatives' possession listed in, mentioned in, or used in compiling Plaintiff's answers to Defendant's First Set of Interrogatories to Plaintiff.

3. Any and all documents, records, or tangible objects upon which Plaintiff intends to rely upon to support the allegations in his Complaint and/or which he may attempt to introduce as evidence.

4. Any and all records, documents or other materials (including email) in Plaintiff's or his representatives' or counsel's possession, custody or control concerning or relating, in any way, to the allegations in Plaintiff's Complaint.

5. Any and all documents Plaintiff read, reviewed, and/or obtained (other than documents protected by the attorney-client privilege and/or the work product doctrine) relating in any way to his lawsuit and/or the causes of action raised in it.

6. Plaintiff's personal journal entries, notes, calendars, letters and/or other documents (including, but not limited to, electronic mail messages) that he created, sent, and/or received regarding, referencing, and/or otherwise discussing his claims since January 1, 2010.

7. Copies of any and all statements of witnesses given which are in the possession of the Plaintiff or his attorney, whether written or recorded or on a tape recorder or otherwise.

8. Any and all reports prepared by any witnesses concerning this litigation, specifically any expert witnesses' reports.

9. Copies of any and all other litigation pleadings and/or criminal charges/convictions involving Plaintiff.

10. All documents, including notes, correspondence and email, that discuss in any manner, refer to or otherwise mention the claims in Plaintiff's Complaint.

11. All documents, including notes, correspondence and email, regarding or related to meetings or discussions by and between Plaintiff and any employee or agent of Defendant that are related to the claims in Plaintiff's Complaint.

12. All email related to Plaintiff's lawsuit, including his claimed damages, regardless of who the communications were sent to or received from; this specifically includes, but is not limited to, all email sent to or received by Plaintiff in all email accounts Plaintiff currently or previously maintained.

13. All information contained on Plaintiff's personal/home/laptop computer(s), including all email(s) related to his lawsuit or his claimed damages.

14. All postings by Plaintiff, regardless of the user name used to make the posting, on any blog or any social networking site or other postings by Plaintiff on any website, whatsoever, regarding, but not limited to, his lawsuit, the claims made in his lawsuit, or his claimed damages.

15. All emails Plaintiff has sent to anyone since January 1, 2010, discussing or otherwise referring to Exhibit One to his Complaint or any alleged breach of Exhibit One to his Complaint.

16. All emails and documents Plaintiff has sent to anyone or received from anyone since January 1, 2010, relating to an alleged breach of Exhibit One to Plaintiff's Complaint by Defendant.



Caroline Wrenn Cleveland
Bob J. Conley
Emmanuel J. Ferguson
CLEVELAND & CONLEY, L.L.C.
One Seventy-One Church Street, Suite 310
Charleston, South Carolina 29401
(843) 577-9626 (Telephone)
ccleveland@clevelandlaborlaw.com
bconley@clevelandlaborlaw.com
eferguson@clevelandlaborlaw.com

ATTORNEYS FOR DEFENDANT

Charleston, South Carolina
This 22nd day of December 2016.

CERTIFICATE OF SERVICE

This is to certify that I have this 22nd day of December, 2016, caused to be served a copy of the Defendant Medical University of South Carolina's First Set of Requests for Production of Documents to Plaintiff on counsel for Plaintiff via hand-delivery to the following address:

Allan R. Holmes, Esquire
171 Church Street, Suite 310
Post Office Box 938
Charleston, South Carolina 29402

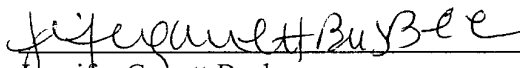

Jennifer Garrett Busbee

EXHIBIT C

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. 16-CP-10-6683

vs.)

ORDER

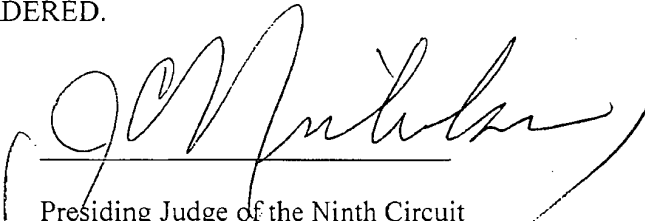
THE MEDICAL UNIVERSITY OF)
SOUTH CAROLINA,)

Defendant.)

FILED
2017 JAN 25 AM 8:51
JULIE J. HANCOCK
CLERK OF COURT

Upon Consent of the Parties and good cause shown, Allan R. Holmes and Timothy O. Lewis of Gibbs & Holmes, Counsel for Plaintiff, are hereby relieved as counsel in the above captioned action. Plaintiff is hereby given 30 days from the date of this Order to retain substitute counsel or proceed in this matter *pro se*.

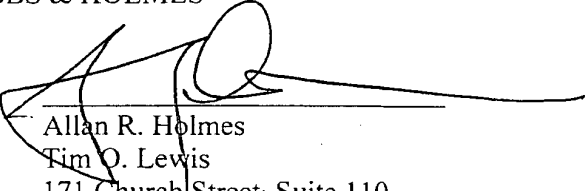
AND IT IS SO ORDERED.


Presiding Judge of the Ninth Circuit
J.C. Nicholson, Jr.

January 24, 2017
Charleston, SC

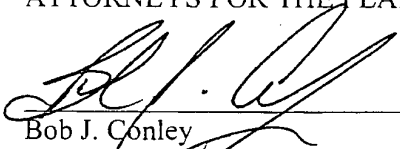
WE CONSENT:

GIBBS & HOLMES

By: 

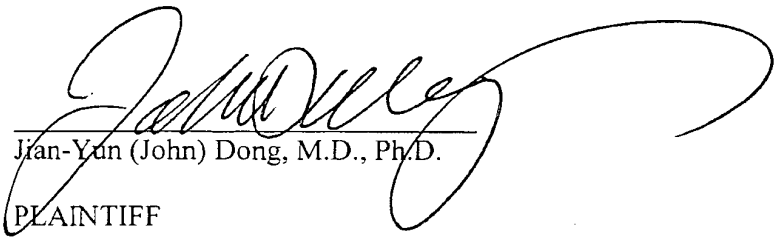
Allan R. Holmes
Tim O. Lewis
171 Church Street, Suite 110
Post Office Box 938
Charleston, South Carolina 29402
(843) 722-0033

ATTORNEYS FOR THE 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


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

PLAINTIFF

EXHIBIT D

CLEVELAND & CONLEY, L.L.C.
LABOR AND EMPLOYMENT DEFENSE

ONE SEVENTY ONE CHURCH STREET, SUITE 310
CHARLESTON, SOUTH CAROLINA 29401
WWW.CLEVELANDANDCONLEY.COM

CAROLINE WRENN CLEVELAND +
BOB J. CONLEY
EMMANUEL J. FERGUSON

TELEPHONE: (843) 577-9626
FACSIMILE: (843) 577-6672

CERTIFIED SPECIALIST
LABOR & EMPLOYMENT LAW

March 1, 2017

Jian-Yun (John) Dong, M.D., Ph. D.
4201 Victory Point Drive
Mt. Pleasant, South Carolina 29466

Re: *Jian-Yun (John) Dong, M.D., Ph. D., v. The Medical University of South Carolina*
Case No.: 2016-CP-10-06683

Dear Dr. Dong:

I am an attorney with the law firm of Cleveland and Conley, LLC. This law firm represents the Medical University of South Carolina in the above referenced lawsuit.

On January 25, 2017, the Court issued the enclosed Order allowing you 30 days to retain counsel or proceed pro se (on your own behalf, without an attorney). It is my understanding you have not retained counsel within the court ordered time period and are now proceeding pro se. If this is incorrect and you have retained counsel, please have your attorney contact me immediately.

On December 22, 2016, our office sent you a copy of Defendant's First Interrogatories to Plaintiff and Defendant's First Requests for Production to Plaintiff, pertaining to the above referenced matter. Your responses to these discovery requests were due January 22, 2017. As of the date of this letter, I have not received a response.

Please notify me, in writing, of the status of these discovery responses. Please provide our office with complete responses to these discovery requests by March 14, 2017, or we will move to compel a response pursuant to Rule 37, South Carolina Rules of Civil Procedure.

Sincerely,

CLEVELAND & CONLEY, LLC



Emmanuel J. Ferguson

EJF/jgb
Enclosure: as stated

-0984-

ATTACHMENT 1

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,)

Civil Action No. 16-CP-10-6683

vs.)

ORDER

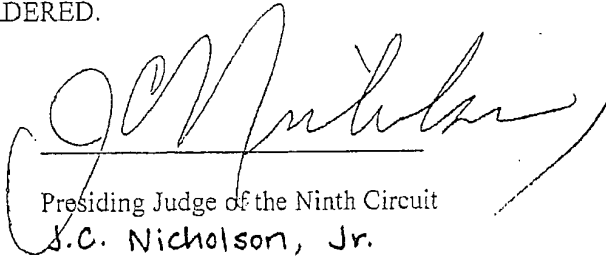
THE MEDICAL UNIVERSITY OF)
SOUTH CAROLINA,)

Defendant.)
_____)

FILED
2017 JAN 25 AM 8:51
JAMES J. ANGELO
CLERK OF COURT

Upon Consent of the Parties and good cause shown, Allan R. Holmes and Timothy O. Lewis of Gibbs & Holmes, Counsel for Plaintiff, are hereby relieved as counsel in the above captioned action. Plaintiff is hereby given 30 days from the date of this Order to retain substitute counsel or proceed in this matter *pro se*.

AND IT IS SO ORDERED.

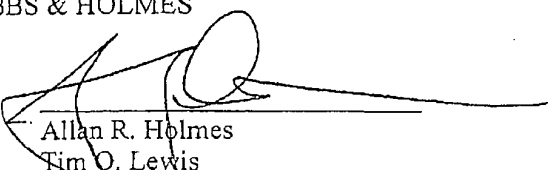


Presiding Judge of the Ninth Circuit
J.C. Nicholson, Jr.

January 24, 2017
Charleston, SC

WE CONSENT:

GIBBS & HOLMES

By: 

Allan R. Holmes
Tim O. Lewis
171 Church Street, Suite 110
Post Office Box 938
Charleston, South Carolina 29402
(843) 722-0033

ATTORNEYS FOR THE 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

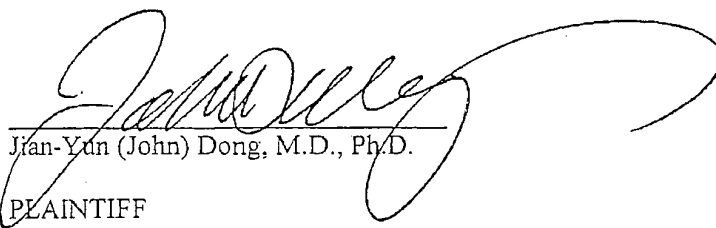

Jian-Yun (John) Dong, M.D., Ph.D.
PLAINTIFF

EXHIBIT E

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.: 2016-CP-10-6683
Vs.)	
THE MEDICAL UNIVERSITY OF)	FIRST EXTENSION FILING
SOUTH CAROLINA,)	
Defendant.)	
_____)	

Bob Conley
171 Church Street, Suite 310
Charleston, SC 29401

The Ninth Judicial Circuit
Charleston County Judicial Center
100 Broad Street
Charleston, SC 29401
March 5th, 2017

Honorable Judge,

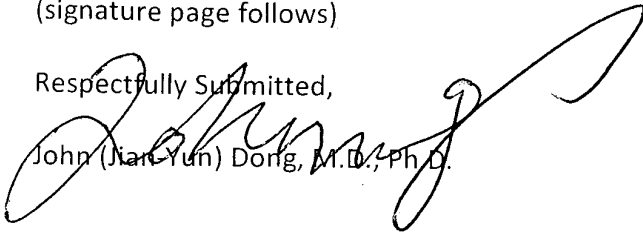
Herby, comes the Plaintiff, John (Jian-Yun) Dong, M.D., Ph.D., move the court for the first extension of time for the above referenced proceedings for reason included, but not limited to:

- 1) Due to the breach of employment contracts, and illegal taking possession of and seizing all Dr. Dong's essential research materials, scientific notes, documentations, and equipment, Dr. Dong has lost his ability to continue his academic research and teaching, and ultimately lost his employability in his professional area. Since then, Dr. Dong has exhausted his financial savings and has become indigent. Dr. Dong has neither been able to pay his attorney fees for the lawsuit based on the agreement nor has he been able to obtain a new attorney who is willing to take on MUSC who has the nearly unlimited resources.
- 2) Dr. Dong attorney has recently resigned.
- 3) Dr. Dong is currently undergoing a medical procedure and is not able to attend the forgoing proceedings.

For these reasons, the plaintiff respectfully requests the attorney representing MUSC, Mr. Bob

Conley, to consent to, and request the court to grant him a 60-day extension.
(signature page follows)

Respectfully Submitted,

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

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

CLEVELAND & CONLEY, L.L.C.
LABOR AND EMPLOYMENT DEFENSE

ONE SEVENTY ONE CHURCH STREET, SUITE 310
CHARLESTON, SOUTH CAROLINA 29401
WWW.CLEVELANDANDCONLEY.COM

CAROLINE WRENN CLEVELAND †
BOB J. CONLEY
EMMANUEL J. FERGUSON

TELEPHONE: (843) 577-9626
FACSIMILE: (843) 577-6672

CERTIFIED SPECIALIST,
LABOR & EMPLOYMENT LAW

March 27, 2016

The Honorable Julie J. Armstrong
Court of Common Pleas, Charleston County
100 Broad Street, Suite 106
Charleston, South Carolina 29401-2258

Re: *Dong, M.D., Ph.D. v. The Medical University of South Carolina,*
Case No.: 2016-CP-10-06683

Dear Ms. Armstrong:

Enclosed, please find one original and one copy of Defendant's Motion to Compel, a fully executed Motion and Order Information cover sheet, and check to cover the filing fee, pertaining to the above-referenced matter.

We are requesting the original be filed with the court and a file-stamped copy be returned to our attention using the envelope provided.

Your assistance with this matter is appreciated and if you have any questions, please contact me.

Sincerely,

CLEVELAND & CONLEY, LLC



Emmanuel J. Ferguson

EJF/jgb

Enc: as stated

cc: Jian-Yun (John) Dong, M.D., Ph.D., Pro Se Plaintiff

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

ANSWER

BY S

JULIE J. ARMSTRONG
CLERK OF COURT
2016 DEC 28 PM 2:51

FILED

Defendant Medical University of South Carolina ("MUSC"), by and through its undersigned attorneys, hereby answers Plaintiff's Complaint as follows:

FOR A FIRST DEFENSE

I MUSC moves to dismiss Plaintiff's Complaint pursuant to Rule 12(b)(6), SCRCPP, because Plaintiff's Complaint fails to state facts sufficient to constitute causes of action.

FOR A SECOND DEFENSE AND BY WAY OF ANSWER

II Each allegation in Plaintiff's Complaint not hereinafter expressly admitted is denied.

A. MUSC responds to the allegations in Plaintiff's Complaint by paragraph as follows:

1. MUSC lacks sufficient information to admit or deny the allegations in Paragraph 1 of Plaintiff's Complaint and, therefore, denies all allegations in Paragraph 1 of Plaintiff's Complaint.
2. MUSC admits it is a political subdivision of the State of South Carolina and operating in Charleston, South Carolina. MUSC denies any remaining allegations in Paragraph 2 of Plaintiff's Complaint.

3. MUSC admits, upon information and belief, the Plaintiff holds a Doctor of Philosophy and Doctor of Medicine. MUSC further admits Plaintiff was previously a tenured faculty member at MUSC. MUSC denies all remaining allegations in Paragraph 3 of Plaintiff's Complaint.
4. MUSC admits it entered into a "Final Separation Agreement" with Plaintiff on or about May 3, 2010. MUSC defers to the "Final Separation Agreement" for its specific terms and conditions, and denies the allegations in Paragraph 4 of Plaintiff's Complaint to the extent the allegations in it are inconsistent with the "Final Separation Agreement."
5. Denied, including all sub-paragraphs.
6. Denied.

DEMAND FOR A JURY TRIAL

MUSC denies all allegations in Plaintiff's Complaint and expressly denies Plaintiff is entitled to any of the relief requested in his prayer for relief.

FOR A THIRD DEFENSE

- III Plaintiff's claim(s) is barred by the parol evidence rule.

FOR A FOURTH DEFENSE

- IV Plaintiff failed to mitigate his damages, and some or all of his claims are thus precluded or limited under the doctrine of avoidable consequences.

FOR A FIFTH DEFENSE

- V The actions taken by MUSC were made for legitimate business reasons, in good faith, and without malice, and are thus subject to qualified privilege.

FOR AN SIXTH DEFENSE

VI MUSC acted in good faith, on reasonable grounds, and without malice or intent to harm.

FOR A SEVENTH DEFENSE

VII Plaintiff is barred from recovery from MUSC by the doctrine of waiver.

FOR A EIGHTH DEFENSE

VIII Plaintiff is barred from recovery from MUSC by the doctrine of laches.

FOR A NINTH DEFENSE

IX Plaintiff is barred from recovery from MUSC by the doctrine of estoppel.

FOR A TENTH DEFENSE

X Plaintiff is barred from any recovery from MUSC due to the doctrine of unclean hands.

FOR AN ELEVENTH DEFENSE

XI Plaintiff's claims are barred under the doctrine of misrepresentation.

FOR A TWELFTH DEFENSE

XII Any and all alleged claims as to MUSC are barred under the doctrine of mistake.

FOR A THIRTEENTH DEFENSE

XIII Plaintiff's claims are barred by the doctrine of accord and satisfaction.

FOR A FOURTEENTH DEFENSE

XIV Plaintiff's claims are barred by the Statute of Frauds.

FOR A FIFTEENTH DEFENSE

XV Plaintiff's claims are barred in whole or in part by the statute of limitations.

FOR A SIXTEENTH DEFENSE

XVI MUSC pleads the provisions of the South Carolina Tort Claims Act, S.C. Code §§ 15-78-10, *et seq.*, including all the immunities, limitations, and defenses granted or preserved in the Act.

FOR A SEVENTEENTH DEFENSE

XVII Plaintiff's exclusive and preemptive remedy for any injury he claims arose out of and in the course and scope of his employment is under the South Carolina Workers' Compensation Act, and any such injuries as alleged in the Plaintiff's Complaint, if substantiated, would be barred pursuant to S.C. Code § 42-1-540.

FOR AN EIGHTEENTH DEFENSE

XVIII Plaintiff received full payment for his services during his employment with MUSC.

FOR A NINETEENTH DEFENSE

XIX Plaintiff's claims are barred by the doctrine of settlement and release.

FOR A TWENTIETH DEFENSE

XX Plaintiff's claims are barred by the doctrine of equitable estoppel.

FOR A TWENTY-FIRST DEFENSE

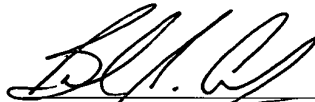
XXI Plaintiff's claims are barred by the doctrine of consent.

FOR A TWENTY-SECOND DEFENSE

XXII MUSC did not breach the terms of any contract(s) or agreement(s) with Plaintiff. To the extent any contract(s) or agreement(s) was breached that existed by and between Plaintiff and MUSC, Plaintiff breached said contract(s) or agreement(s).

WHEREFORE, having fully answered Plaintiff's Complaint and asserted defenses thereto, MUSC prays that this Honorable Court grant the following relief:

- (a) The dismissal of the claims against MUSC;
- (b) Award MUSC the costs of this action; and,
- (c) Such additional relief as this Honorable Court deems just and proper.



Caroline Wrenn Cleveland
Bob J. Conley
Emmanuel J. Ferguson
CLEVELAND & CONLEY, LLC
One Seventy-One Church Street, Suite 310
Charleston, South Carolina 29401
Telephone: (843) 577-9626
Facsimile: (843) 577-6672
ccleveland@clevelandlaborlaw.com
bconley@clevelandlaborlaw.com
eferguson@clevelandlaborlaw.com

ATTORNEYS FOR DEFENDANT

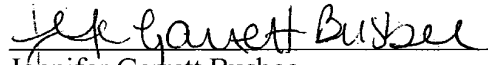
Charleston, South Carolina
December 22, 2016

2016-CP-10-6683

CERTIFICATE OF SERVICE

This is to certify that I have this date caused to be served a copy of Defendant's Answer on counsel for Plaintiff by hand delivering same to Plaintiff's counsel at the address below:

Allan Holmes, Esquire
Gibbs & Holmes
171 Church Street, Suite 110
Charleston, SC 29402


Jennifer Garrett Busbee

This 22nd day of December 2016.

FILED
2016 DEC 28 PM 2:51
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

CLEVELAND & CONLEY, L.L.C.
LABOR AND EMPLOYMENT DEFENSE

ONE SEVENTY ONE CHURCH STREET, SUITE 310
CHARLESTON, SOUTH CAROLINA 29401
WWW.CLEVELANDANDCONLEY.COM

CAROLINE WRENN CLEVELAND †
BOB J. CONLEY
EMMANUEL J. FERGUSON

TELEPHONE: (843) 577-9626
FACSIMILE: (843) 577-6672

†CERTIFIED SPECIALIST,
LABOR & EMPLOYMENT LAW

December 22, 2016

The Honorable Julie J. Armstrong
Court of Common Pleas, Charleston County
100 Broad Street, Suite 106
Charleston, South Carolina 29401-2258

Re: *Dong, M.D., Ph.D. v. The Medical University of South Carolina,*
Case No.: 2016-CP-10-06683

Dear Ms. Armstrong:

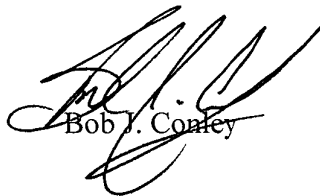
Enclosed, please find one original and one copy of Defendant's Answer, pertaining to the above-referenced matter.

We are requesting the original be filed with the court and a file-stamped copy be returned to our attention using the envelope provided.

Your assistance with this matter is appreciated and if you have any questions, please contact me.

Sincerely,

CLEVELAND & CONLEY, LLC



Bob J. Conley

BJC/jgb
Enc: as stated
cc: Allan R. Holmes, Esquire

STATE OF SOUTH CAROLINA

COUNTY OF CHARLESTON

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

Plaintiff(s)

vs.

THE MEDICAL UNIVERSITY OF
SOUTH CAROLINA

Defendant(s)

IN THE COURT OF COMMON PLEAS

CIVIL ACTION COVERSHEET

14 -CP- 10 -5332

Submitted By: Allan R. Holmes

Address: Gibbs & Holmes, Suite 110, 171 Church Street,
Charleston, SC 29401

SC Bar #: 2576

Telephone #: 843-722-0033

Fax #: 843-722-0114

Other:

E-mail: aholmes@gibbs-holmes.com

NOTE: The coversheet and information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is required for the use of the Clerk of Court for the purpose of docketing. It must be filled out completely, signed, and dated. A copy of this coversheet must be served on the defendant(s) along with the Summons and Complaint.

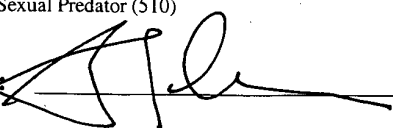
DOCKETING INFORMATION (Check all that apply)

**If Action is Judgment/Settlement do not complete*

- ☒ **JURY TRIAL** demanded in complaint. ☐ **NON-JURY TRIAL** demanded in complaint.
☐ This case is subject to **ARBITRATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is subject to **MEDIATION** pursuant to the Court Annexed Alternative Dispute Resolution Rules.
☐ This case is exempt from ADR. (Proof of ADR/Exemption Attached)

NATURE OF ACTION (Check One Box Below)

- | | | | |
|--|--|---|---|
| Contracts | Torts - Professional Malpractice | Torts - Personal Injury | Real Property |
| ☐ Constructions (100) | ☐ Dental Malpractice (200) | ☐ Assault/Slander/Libel (300) | ☐ Claim & Delivery (400) |
| ☐ Debt Collection (110) | ☐ Legal Malpractice (210) | ☐ Conversion (310) | ☐ Condemnation (410) |
| ☐ Employment (120) | ☐ Medical Malpractice (220) | ☐ Motor Vehicle Accident (320) | ☐ Foreclosure (420) |
| ☐ General (130) | Previous Notice of Intent Case # | ☐ Premises Liability (330) | ☐ Mechanic's Lien (430) |
| ☒ Breach of Contract (140) | 20____-CP-_____ | ☐ Products Liability (340) | ☐ Partition (440) |
| ☐ Other (199) | ☐ Notice/ File Med Mal (230) | ☐ Personal Injury (350) | ☐ Possession (450) |
| | ☐ Other (299) | ☐ Wrongful Death (360) | ☐ Building Code Violation (460) |
| | | ☐ Other (399) | ☐ Other (499) |
| Inmate Petitions | Administrative Law/Relief | Judgments/Settlements | Appeals |
| ☐ PCR (500) | ☐ Reinstate Drv. License (800) | ☐ Death Settlement (700) | ☐ Arbitration (900) |
| ☐ Mandamus (520) | ☐ Judicial Review (810) | ☐ Foreign Judgment (710) | ☐ Magistrate-Civil (910) |
| ☐ Habeas Corpus (530) | ☐ Relief (820) | ☐ Magistrate's Judgment (720) | ☐ Magistrate-Criminal (920) |
| ☐ Other (599) | ☐ Permanent Injunction (830) | ☐ Minor Settlement (730) | ☐ Municipal (930) |
| | ☐ Forfeiture-Petition (840) | ☐ Transcript Judgment (740) | ☐ Probate Court (940) |
| | ☐ Forfeiture—Consent Order (850) | ☐ Lis Pendens (750) | ☐ SCDOT (950) |
| | ☐ Other (899) | ☐ Transfer of Structured Settlement Payment Rights Application (760) | ☐ Worker's Comp (960) |
| Special/Complex /Other | | ☐ Confession of Judgment (770) | ☐ Zoning Board (970) |
| ☐ Environmental (600) | ☐ Pharmaceuticals (630) | ☐ Petition for Workers Compensation Settlement Approval (780) | ☐ Public Service Comm. (990) |
| ☐ Automobile Arb. (610) | ☐ Unfair Trade Practices (640) | ☐ Other (799) | ☐ Employment Security Comm (991) |
| ☐ Medical (620) | ☐ Out-of State Depositions (650) | | ☐ Other (999) |
| ☐ Other (699) | ☐ Motion to Quash Subpoena in an Out-of-County Action (660) | | |
| | ☐ Sexual Predator (510) | | |

Submitting Party Signature: 

Date: September 2, 2014

Note: Frivolous civil proceedings may be subject to sanctions pursuant to SCRCP, Rule 11, and the South Carolina Frivolous Civil Proceedings Sanctions Act, S.C. Code Ann. §15-36-10 et. seq.

-0999-

FOR MANDATED ADR COUNTIES ONLY

Aiken, Allendale, Anderson, Bamberg, Barnwell, Beaufort, Berkeley, Calhoun, Charleston, Cherokee, Clarendon, Colleton, Darlington, Dorchester, Florence, Georgetown, Greenville, Hampton, Horry, Jasper, Kershaw, Lee, Lexington, Marion, Oconee, Orangeburg, Pickens, Richland, Spartanburg, Sumter, Union, Williamsburg, and York

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

You are required to take the following action(s):

1. The parties shall select a neutral and file a "Proof of ADR" form on or by the 210th day of the filing of this action. If the parties have not selected a neutral within 210 days, the Clerk of Court shall then appoint a primary and secondary mediator from the current roster on a rotating basis from among those mediators agreeing to accept cases in the county in which the action has been filed.
2. The initial ADR conference must be held within 300 days after the filing of the action.
3. Pre-suit medical malpractice mediations required by S.C. Code §15-79-125 shall be held not later than 120 days after all defendants are served with the "Notice of Intent to File Suit" or as the court directs. (Medical malpractice mediation is mandatory statewide.)
4. Cases are exempt from ADR only upon the following grounds:
 - a. Special proceeding, or actions seeking extraordinary relief such as mandamus, habeas corpus, or prohibition;
 - b. Requests for temporary relief;
 - c. Appeals
 - d. Post Conviction relief matters;
 - e. Contempt of Court proceedings;
 - f. Forfeiture proceedings brought by governmental entities;
 - g. Mortgage foreclosures; and
 - h. Cases that have been previously subjected to an ADR conference, unless otherwise required by Rule 3 or by statute.
5. In cases not subject to ADR, the Chief Judge for Administrative Purposes, upon the motion of the court or of any party, may order a case to mediation.
6. Motion of a party to be exempt from payment of neutral fees due to indigency should be filed with the Court within ten (10) days after the ADR conference has been concluded.

**Please Note: You must comply with the Supreme Court Rules regarding ADR.
Failure to do so may affect your case or may result in sanctions.**

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
14-CP-10-5332
FOR THE NINTH JUDICIAL CIRCUIT

JIAN-YUN (JOHN) DONG, M.D., Ph.D.,)
Plaintiff,)
vs.)
THE MEDICAL UNIVERSITY OF)
SOUTH CAROLINA,)
Defendant.)

SUMMONS

FILED
2014 SEP -2 PM 4:28
JULIE J. ARMSTRONG
CLERK OF COURT
BY _____

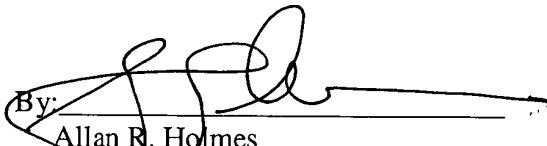
TO: THE DEFENDANT ABOVE NAMED

YOU ARE HEREBY SUMMONED and required to answer the Complaint herewith served upon you and to serve a copy of your Answer to the said Complaint on Plaintiff's attorney, Allan R. Holmes, Esquire, Gibbs & Holmes, 171 Church Street, Suite 110, Post Office Box 938, Charleston, South Carolina 29402, within thirty (30) days after the service hereof, exclusive of the day of such service.

YOU ARE HEREBY GIVEN NOTICE FURTHER that if you fail to appear and defend and fail to answer the Complaint as required by this Summons within thirty (30) days after the service hereof, exclusive of the day of such service, judgment by default will be entered against you for the relief demanded in the Complaint.

GIBBS & HOLMES

September 2, 2014

By: 
Allan R. Holmes
Suite 110, 171 Church Street
Charleston, South Carolina 29401
Phone: 843-722-0033

ATTORNEYS FOR PLAINTIFF

STATE OF SOUTH CAROLINA)
COUNTY OF CHARLESTON)

IN THE COURT OF COMMON PLEAS
14-CP-10-5332
FOR THE NINTH JUDICIAL CIRCUIT

JIAN-YUN (JOHN) DONG, M.D., Ph.D.,)
Plaintiff,)
vs.)
THE MEDICAL UNIVERSITY OF)
SOUTH CAROLINA,)
Defendants.)

COMPLAINT

FILED
2014 SEP -2 PM 4:29
JULIE J. ARMSTRONG
CLERK OF COURT
BY

The above-named Plaintiff, by his undersigned counsel, complains of the above-named Defendant and alleges that:

1. Plaintiff is a citizen and resident of Charleston County, South Carolina;
2. Defendant is a body corporate and politic organized under the laws of South Carolina with authority to sue and be sued.
3. Plaintiff holds Doctor of Philosophy and Doctor of Medicine degrees, is an internationally renowned scientist, and served as a tenured faculty member and employee of the Defendant from 1998 until March 31, 2012.
4. Disputes between the Plaintiff and Defendant led to their entry into an Agreement dated May 3, 2010. A copy of said Agreement is attached hereto as Exhibit On May One and its terms are incorporated herein by reference.
5. On, or about, September 29, 2011, the Defendant breached the May 3, 2010, Agreement. A summary of some of the breaches of the Agreement is provided by the September 29, 2011, letter of the Defendant authored by its agents, Mark S. Sothman, Ph.D., and Vice President for Academic Affairs and Provost, and Stephen M. Lanier, Ph.D., Associate Provost

for Research. A copy of this letter is attached as Exhibit Two and incorporated fully herein. *Inter alia*, these breaches violate the May 3, 2010, Agreement, and constitute actionable breaches of contract. They include:

- a. The placement of the Plaintiff on administrative leave and denying him all his duties and responsibilities as a faculty member of the Defendant;
- b. The complete failure to relocate his laboratory equipment and the destruction of his laboratory research materials thereby depriving the Plaintiff of his research, the opportunity to conduct research, the value of his research and diminished his ability to conduct research and obtain research funding and continue or advance his position at another university.
- c. The denial to him of this right to conduct research under the auspices of the National Institutes of Health and other funding agencies, and the destruction of grant activities which he had already secured;
- d. The failure to return to the Plaintiff various biological materials which were wrongfully taken from the Plaintiff by the Defendants and used by other employees of the Defendant;
- e. The failure to support Plaintiff's applications for research funds;
- f. The blocking of the Plaintiff's anticipated research at the biotech firm, GenPhar, Inc., by supporting an unlawful take over of GenPhar, Inc. *Inter alia*, the Defendant, through its agents, contributed to GenPhar shares of stock. These shares included those which the Plaintiff had obtained for the Defendant, and included shares owned by the Plaintiff. These actions caused the full control of GenPhar, Inc., to be given to a German national unlawfully, and unlawfully deprived the Plaintiff of the value of his shares while destroying his efforts to conduct research.

6. The foregoing acts and omissions of the Defendant constitute its breach of its Agreement with the Plaintiff, and have proximately caused damages to the Plaintiff in an amount to be determined at trial.

DEMAND FOR JURY TRIAL

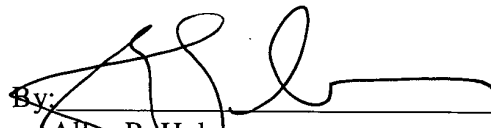
7. Plaintiff demands a trial by jury on all claims.

WHEREFORE, plaintiff requests that this Court:

- a. Set this case down for trial by jury;
- b. Enter Judgment in favor of the Plaintiff in an amount of damages to be determined at trial;
- c. Tax costs and fees against the Defendant;
- d. Grant such other and further relief as is deemed just and proper.

GIBBS & HOLMES

September 2, 2014

By: 
Allan R. Holmes
Suite 110, 171 Church Street
Charleston, South Carolina 29401
Phone: 843-722-0033

ATTORNEYS FOR PLAINTIFF

EXHIBIT ONE

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

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

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

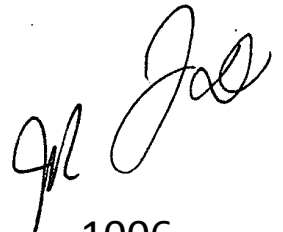
During the term of this final agreement, the University will continue Dr. Dong's employment, faculty appointment and make scheduled salary payments to him. In consideration, Dr. Dong acknowledges that this final agreement constitutes his irrevocable resignation of his tenured faculty appointment to be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

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

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

Payment of Faculty Compensation

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



Retention of Faculty Appointment and Faculty Duties

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

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

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

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

Irrevocable Resignation effective no later than March 31, 2012

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

Irrevocable Resignation under this agreement

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



Access to Campus Research Laboratories and Resources

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

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

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

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

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

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



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

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

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

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

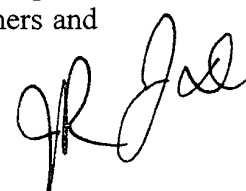
Active Grants at the Time of Resignation

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

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

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

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



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

Medical University of South Carolina

Witness

By: _____


J.G. Reves, MD
Vice President for Medical Affairs
and Dean, College of Medicine

Witness

By: _____

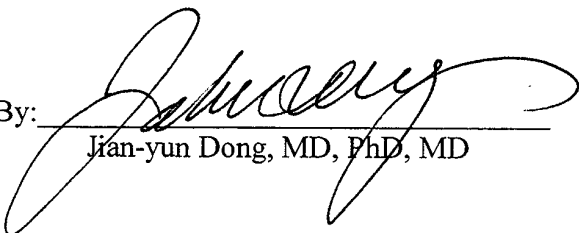

Jian-yun Dong, MD, PhD, MD

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

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

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



-1011-

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

[Handwritten signature]
-1012-

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

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


-1014-

EXHIBIT TWO



Office of the
Vice President for Academic Affairs
and Provost
Colcock Hall
179 Ashley Avenue
MSC 002
Charleston SC 29425-0020

Tel 843 792 3031
Fax 843 792 5110
www.musc.edu

PERSONAL AND CONFIDENTIAL

REVISION REFLECTING CORRECTED DEPARTURE
DATE OF MARCH 31, 2012 IN PARAGRAPH #1

October 3, 2011

Jian-yun (John) Dong, M.D., Ph.D.
4201 Victory Point Drive
Mt. Pleasant, SC 29466
Via Certified Mail #7005-1160-0004-4699-9335

RE: Administrative Leave

Dear Dr. Dong:

Please find attached, revised correspondence to you dated September 29, 2011, which reflects the corrected departure date of March 31, 2012, as stipulated in the May 3, 2010 Final Separation Agreement with Dean Reves (See paragraph #1).

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Sothmann".

Mark S. Sothmann, Ph.D.
Vice President for Academic Affairs and Provost

A handwritten signature in black ink, appearing to read "Stephen M. Lanier".

Stephen M. Lanier, Ph.D.
Associate Provost for Research

MSS/jjs



Office of the
Vice President for Academic Affairs
and Provost
Colcock Hall
179 Ashley Avenue
MSC 002
Charleston SC 29425-0020

Tel 843 792 3031
Fax 843 792 5110
www.musc.edu

PERSONAL AND CONFIDENTIAL

**REVISION REFLECTING CORRECTED DEPARTURE
DATE OF MARCH 31, 2012 IN PARAGRAPH #1**

September 29, 2011

Jian-yun (John) Dong, M.D., Ph.D.
4201 Victory Point Drive
Mt. Pleasant, SC 29466
Via Certified Mail #7005-1160-0004-4699-9335

RE: Administrative Leave

Dear Dr. Dong:

After notification of your indictment by the United States Government, pursuant to MUSC policies Dean Etta Pisano notified you by letter on September 20, 2011 that you had been placed on administrative leave with pay. This administrative leave applies to all of your duties and responsibilities as a faculty member at MUSC and will continue until the charges against you are resolved, or until your agreed upon departure date of March 31, 2012 as stipulated in the May 3, 2010 Final Separation Agreement with Dean Reves.

In your Separation Agreement you relinquished use of your laboratory space at MUSC and the University agreed to relocate certain equipment to the GenPhar Building. Due to a change in ownership at GenPhar, we have been unable to relocate the equipment and it has remained in a secured space on campus. As you know, the area currently housing your laboratory equipment is scheduled for renovation beginning in October 2011. Therefore, Scott Reid in the Department of Biochemistry and Molecular Biology will coordinate an inventoried relocation of your lab equipment and freezers to a secure location. Any access to this material during the period of administrative leave can be coordinated through Scott Reid with the approval of the Associate Provost for Research.

We understand that you have received positive feedback regarding a pending grant application you submitted to the National Institutes of Health. While on administrative leave you cannot perform duties as a MUSC faculty member and according to your Separation Agreement any active federally funded research awards to MUSC would be relinquished to the funding agency upon your March 31, 2012 departure. Thus, it may be prudent to postpone accepting any grants or delaying the start date until you have made arrangements to start the grant at another institution.

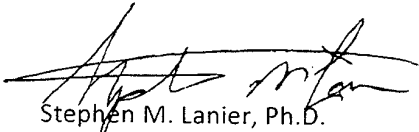
Dr. Dong
September 29, 2011
Page 2

Please contact Dr. Lanier if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark S. Sothmann".

Mark S. Sothmann, Ph.D.
Vice President for Academic Affairs and Provost

A handwritten signature in black ink, appearing to read "Stephen M. Lanier".

Stephen M. Lanier, Ph.D.
Associate Provost for Research

MSS/jjs