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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 VI.

VOLUME VI.

<u>Content</u>	<u>Page Number</u>
-----------------------	---------------------------

TRANSCRIPTS:

- | | |
|--|-------|
| 1. Status Conference held on October 4, 2022 | 1021. |
| 2. Hearing on Defendant's Motion for Summary Judgement | 1111. |
| 3. Plaintiff's Deposition Taken by Defendant's Counsel..... | 1210. |

Transcripts

1 STATE OF SOUTH CAROLINA) COURT OF COMMON PLEAS
2)
3 COUNTY OF CHARLESTON) TRANSCRIPT OF RECORD

4 -----x
5 JIAN-YUN (JOHN) DONG, M.D.,)
6 Ph.D.,)
7)
8 Plaintiff,)
9 vs.) Case No. 2016-CP-10-06683
10)
11 THE MEDICAL COLLEGE OF)
12 SOUTH CAROLINA,)
13)
14 Defendant.
15 -----x

October 4, 2022

10 STATUS CONFERENCE HEARING

11 B E F O R E:

12 The Honorable Jean H. Toal, Presiding Judge

13 A P P E A R A N C E S:

14 Jian-Yun "John" Dong, M.D., Ph.D.,
15 Pro Se Plaintiff

16 Bob J. Conley, Esq.
17 Attorney for the Defendant

18
19
20
21
22
23
24 Court Reporter: Bobbi Fisher, RPR
25 SC Official Court Reporter III

I N D E X

WITNESS/DESCRIPTION

PAGE

Status Conference Hearing

3

E X H I B I T S

(None)

P R O C E E D I N G S

(Whereupon, the following proceedings started at 9:30 a.m.):

THE COURT: Good morning, ladies and gentlemen. My name is Jean Toal. I am a retired Chief Justice of South Carolina, serving in the senior active status as a circuit court judge, and I have been specially assigned the following matter: John Dong, M.D., Ph.D., Plaintiff, against the Medical University of South Carolina, Defendant. This is Case No. 2016-CP-10-06683.

I am conducting this status conference this morning with a court reporter here to make note of what we do. And let me explain, by way of preliminaries, what I'd like to have happen. The goal is to set a scheduling order that sets up everything that needs to be done to bring this case to a pretrial hearing on what might be or might not be dispositive pretrials motions, and then, depending on what happens with the motion hearings, to move on to trial. And I'll schedule all of that in the scheduling order that I will develop in the course and conversation with you.

The first thing I'd like to have done is for the plaintiff, whom I understand is appearing pro se, to introduce himself to the court reporter.

And, Dr. Dong, if you would do this for me: If you would introduce yourself for the record, state your address and your contact information by way of an email address and by way of a

1 cell phone. And I just tell you in advance -- I'll introduce
2 everyone here. This is my law clerk, Zitel Poswal. And I
3 will give y'all information about our contact information as
4 well so that everybody is on the same page.

5 So if you would stand and introduce yourself and give
6 your contact information.

7 DR. DONG: Yes, Your Honor. My name is John, J-o-h-n,
8 last name Dong, D-o-n-g. I currently reside at 71 Delahow
9 Street.

10 THE COURT: Say that again.

11 DR. DONG: 71 Delahow Street. D-e-l-a-h-o-w Street.
12 That's Charleston, South Carolina 29492. My cell number is
13 (843) 991-2332. My email address is j-o-h-n-y dot d-o-n-g at
14 me.com. That's more exclusive than --

15 THE COURT: Very good. Thank you, sir. You may be
16 seated.

17 Counsel, I want you to -- I take it you represent the
18 Medical University of South Carolina.

19 MR. CONLEY: I do, Justice Toal.

20 THE COURT: Glad to see you. Please introduce yourself
21 in the same way and give your name, your firm name and contact
22 information.

23 MR. CONLEY: Certainly. Just so the Court knows, I
24 shared all my contact information with the court reporter
25 while we were waiting in the hallway.

1 THE COURT: That's great. I just want to be sure it
2 appears on the record and that we take it down.

3 MR. CONLEY: Sure. So, my name is Bob Conley. I'm with
4 the law firm of Cleveland and Conley, and it's spelled just
5 like the city. Our address is 171 Church Street, Suite 310,
6 Charleston, 29492. The office number is (843) 577-9626. My
7 work email address is BConley, just spelled like my last name,
8 at Cleveland, like the city, laborlaw.com.

9 THE COURT: Great. Thank you very much.

10 What I'd like to do first is to find out -- I have looked
11 at the pleadings, and I'd like to find out from each of you --
12 and I'll start with you, Dr. Dong -- whether -- well, whether
13 there are any amendments you intend to make to the pleadings
14 and what your view is of what has happened in discovery, if
15 anything so far, with this matter and what kind of pretrial
16 motions you have filed or intend to file.

17 So if you would begin, sir.

18 DR. DONG: Yes, Your Honor. Actually, just give a little
19 bit background with the --

20 THE COURT: Certainly, that would be helpful.

21 DR. DONG: Okay. Thank you very much.

22 The basis of the lawsuit is based on at the time -- first
23 of all, I was the tenured full professor in Medical University
24 of South Carolina. The first appointment at the Department of
25 Immunology and Microbiology. Second appointment is the

1 Department biochemist -- molecular biochemistry, and I also
2 have an appointment at the Hollis Cancer Center as member. So
3 I was recruited from UCSF by then the director Ken Drewsen
4 (ph), come to Medical University of South Carolina.

5 THE COURT: When did you come to the Medical University
6 of South Carolina?

7 DR. DONG: I'm not quite sure. I think it was 2008 or
8 2009.

9 So among the conditions I did not know at the time was --
10 asked me to help the University, under the mundane of the
11 State, to sponsor biotechnology companies and to establish
12 high-paid jobs for South Carolina, especially for the interest
13 of MUSC is to provide job opportunities to the doctoral
14 graduates to be scientists, to have employment opportunity,
15 and, also, being the first duck landing in the pond, attract
16 other biotech companies to a beautiful environment and with a
17 company with high-paid jobs that there's no pollution and
18 actually to fit an environment.

19 At the request of then-president Greenberg --
20 Dr. Greenberg -- and, actually, I did use my contact in San
21 Francisco, brought investors, and they actually joined with
22 the science research foundation of MUSC. It was called FRD.
23 Set up a company. So I was asked to help the company as a
24 consultant to --

25 THE COURT: So they joined the foundation and then

1 established a company?

2 DR. DONG: MUSC established a foundation.

3 THE COURT: Well, I understand. MUSC has a science and
4 research foundation. In addition to that, these San Francisco
5 contacts of yours, did they establish a company?

6 DR. DONG: The foundation -- FRD, Foundation Research
7 Development, established company based on the contact I
8 brought in --

9 THE COURT: What was the name of the company?

10 DR. DONG: The name of the company is GenPhar, Inc.,
11 also, basically, the person who --

12 THE COURT: And GenPhar is capital G-e-n capital P-h-a-r?

13 DR. DONG: Yes, Your Honor.

14 THE COURT: All right.

15 DR. DONG: And the major investor was from Wall Street,
16 who handles billions of dollars in private fund. So the
17 company was founded eventually by his grant's college
18 associate personally with well over \$13 million. But -- and
19 also during this time, I was requested by MUSC to collaborate
20 with them. So I obtained contracts excessive -- more than --
21 I think about \$14 million, and there was also 20- or
22 \$30 million pending. On top of that, there was \$500 million
23 contract was also pending.

24 THE COURT: Contract with who?

25 DR. DONG: With the Department of Defense and as well as

1 NIH, Department of Human --

2 THE COURT: National --

3 DR. DONG: National Institute of Health.

4 THE COURT: Oh, Health. Right.

5 DR. DONG: Sorry.

6 During this time, I actually brought a lot of research
7 money, came with me from UCSF. So, start from there, I was --
8 of course, I'd like to be a productive member for the MUSC, so
9 I actively, at the request of then the vice chair, Jim Norris,
10 actively collaborate with him and many colleagues on the
11 campus, including David Cole, who came in assistant professor
12 at the time, and now, he's the president of the university.

13 So, long story short -- and I will try to help Dr. Norris
14 with his graduate student who was from Iran, could not
15 graduate, there was no publication, no scientific project. So
16 as a help -- I helped Dr. Norris transition from chemical
17 oncology to genetic-level oncology, which is cutting edge at
18 the time; namely, gene therapy.

19 So I helped each -- nine or twelve, his graduate
20 students, based on my research project, my genetic material,
21 and my funding, graduate. And, yes, they graduate the first
22 author because the research project was mine, I should be the
23 correspondent. But Jim Norris -- Dr. Norris always put
24 himself, which he has nothing to do with the actual project
25 other than being the mentor, long story short.

1 And he was the corresponding author, put me in the middle
2 or actually deleted my name completely and put one other
3 person working in my lab into the publication. It's critical
4 for publication is for any faculty member as professors that
5 is associated with future funding as well as career
6 advancement.

7 And, also, at the same time, because he not only use his
8 graduate student, basically, come to my lab, taking materials
9 -- genetic materials, documents, and everything, and also,
10 yes, they were learning from me, from my post-doctoral fellows
11 and the scientists in my lab, paid by me, but that was all
12 appeared to be logistic, but he's supposed to acknowledge me.

13 And, also, in the end -- so long story -- he not only
14 put -- took my genetic material and everything and completely
15 transformed my research project to become his, he also dipped
16 into my grants --

17 THE COURT: And the name of this person you're talking
18 about at MUSC?

19 DR. DONG: Dr. James S. Norris.

20 THE COURT: James S. Norick?

21 DR. DONG: Norris. N-o-r-r-i-s.

22 THE COURT: Norris. Okay. Got it.

23 DR. DONG: Right. He later become the chairman. And he
24 was holding my promotion for tenure and holding my salary.
25 Actually, he reduced my salary based on he's saying the only

1 thing -- he promote everybody around me to full professor with
2 a tenure, not me. I was associate professor at MUSC -- sorry,
3 UCSF, which was a more prestigious university, with promise I
4 will be named the center of gene therapy --

5 THE COURT: Well, you ultimately got tenure at MUSC; did
6 you not?

7 DR. DONG: Yes, I did, but that was -- but that was --

8 THE COURT: How long was it? You came in 2008. When did
9 you receive tenure?

10 DR. DONG: Only 2013 or --

11 THE COURT: That couldn't be right. The trouble started
12 before that. You would have had tenure --

13 DR. DONG: Oh, right. Sorry, sorry. 2010, '09. I'm
14 sorry.

15 THE COURT: So a year or a year and a half after you
16 came, you received tenure; right?

17 DR. DONG: No, no, sorry. I messed up. Actually, I came
18 in 1998. Sorry.

19 THE COURT: You came in 1998?

20 DR. DONG: Right. 1998. So, actually, I was confused
21 with the --

22 THE COURT: And you received tenure --

23 DR. DONG: In two-thousand -- 2010.

24 THE COURT: 2010?

25 DR. DONG: Right.

1 THE COURT: So that still seems kind of off in terms of
2 the timeframe. You received tenure 11 years after you came to
3 MUSC?

4 DR. DONG: Right. About ten years.

5 THE COURT: Okay. All right.

6 DR. DONG: And including assistant professor at the
7 department and being promoted to tenure of full professor.
8 Right. Sorry. I have a problem remembering dates.

9 THE COURT: Right.

10 DR. DONG: And that came from history when I was in
11 China. My family was persecuted by the Communist party,
12 including my father.

13 THE COURT: Well, let's get back to telling me what
14 happened to MUSC.

15 DR. DONG: All right. At the MUSC, basically one of
16 the defect, he criticize -- everything was --

17 THE COURT: Well, let's not try the whole case right now.

18 DR. DONG: All right. Sorry.

19 THE COURT: Your objection was Mr. Norris took your
20 publications and your grants.

21 DR. DONG: Grant money and research material and
22 equipment --

23 THE COURT: Okay. I got that.

24 DR. DONG: So, basically, everything I had, including
25 notebooks and technologies.

1 THE COURT: And when did that happen?

2 DR. DONG: That just -- it happened gradually during the
3 entire process. Right? In the end -- and then I realize,
4 even -- he was holding the -- basically the -- holding over me
5 is the -- if you don't do so, I will not promote you. So the
6 only thing I could not --

7 THE COURT: I get that.

8 DR. DONG: Right. So, finally, I have to raise the issue
9 with the -- actually, at the same time, he's raising issues
10 with the biosafety committees and everything. So I'm
11 basically constantly being involved with defend myself --

12 THE COURT: I got that. What then happens?

13 DR. DONG: Then, eventually, with help of his friend,
14 Dr. Stephen -- sorry, sorry. Could you remind me of the name?

15 MR. CONLEY: Talking about Dr. Lanier?

16 DR. DONG: Yes, Dr. Steve Lanier. With the help of Steve
17 Lanier, they basically shut down my lab. Well, one day,
18 before I know it, they closed down my lab, took all my --

19 THE COURT: Well, now, let's stop here for a minute. Was
20 that in the time period when the federal authorities began to
21 investigate your grants and programs?

22 DR. DONG: No.

23 THE COURT: Is that when the shutdown of your lab took
24 place?

25 DR. DONG: No.

1 THE COURT: Well, when did that occur?

2 DR. DONG: That occurred during the end of the pretense
3 biosafety.

4 THE COURT: What's that?

5 DR. DONG: Biosafety. So they said because they say I
6 brought in --

7 THE COURT: I'm asking what time period are we in right
8 now when your lab -- when they shut your lab down, as you
9 claim?

10 DR. DONG: I think it's almost two years before -- more
11 than two years before 2011.

12 THE COURT: Well, two years before we'll just say --

13 DR. DONG: Two years before signing the contract.

14 THE COURT: All right. Now, there came a time when you
15 signed a contract; right? A separation agreement?

16 DR. DONG: Yes.

17 THE COURT: And why was that?

18 DR. DONG: Right. When? Why?

19 THE COURT: What was the reasoning behind --

20 DR. DONG: Right. That's what I'm going -- just about to
21 go into. So they basically shut down my lab, locked the door,
22 changed the lock from me, changed the lock from the office,
23 and under the false tense, somebody stole genetic material
24 from my freezer.

25 Because, one day, I came to the lab, and I was blocked

1 from entering my lab, and then one of my student's facial
2 expression, something serious happened, and it turned out the
3 manager worked with Jim Norris was inside the lab supervising
4 people taking material out of the freezer and basically
5 completely blocked me from my genetic material, my research
6 lab and including --

7 THE COURT: Okay. I get your contention is that, at a
8 certain point in time, they took over your lab, locked you out
9 and so forth.

10 DR. DONG: Right.

11 THE COURT: Then you have a separation agreement after
12 that; right?

13 DR. DONG: That's what actually transpired too. So I
14 have to go through an attrition, finding the most two powerful
15 person over me because they did not --

16 THE COURT: Dr. Dong, let me get you focused a little
17 bit. I just kind of need the time frame. And this is very
18 helpful, so I'm not being critical at all.

19 DR. DONG: Yes, Your Honor.

20 THE COURT: But there came a point in time when you
21 signed, on May the 3rd of 2010, a final separation agreement.
22 And this final separation agreement, I take it, was signed
23 because of the federal investigation.

24 DR. DONG: That's not true. I'm sorry. That's --

25 THE COURT: All right. Well, then, tell me what happened

1 with this May 3rd --

2 DR. DONG: That is all before, actually, the
3 investigation happened. It's about a year after that. So
4 that was actually -- the reason the separation, because I
5 raised the issue with the -- actually, before that, I did
6 raise the issue with the attrition, mainly, Dr. John Greenman
7 who was provost at the time, and also actually was writing
8 letters to Dr. Greenman and also actually was writing letters
9 to Dr. Rick Greenberg to explain --

10 THE COURT: What this -- I really don't need every detail
11 of the interactions, and that doesn't mean you can't bring
12 them out in a later court proceeding. I'm just trying to get
13 an overall view of this thing of what the agreement says. It
14 doesn't tell us why and that's what I was asking. It simply
15 says that this is an irrevocable reservation of your tenured
16 faculty appointment, effective no later than March the 31st,
17 2012. This was signed in May of 2010. So it provides that, a
18 little less than two years after this agreement is signed, you
19 irrevocably resigned your tenured appointment. You retain
20 your faculty appointment until the effective date of the
21 resignation, which is about two years from the time you signed
22 this agreement.

23 DR. DONG: I wasn't challenging those.

24 THE COURT: Sir?

25 DR. DONG: I wasn't challenging those, but I did -- yes,

1 it --

2 THE COURT: Well, I mean, this is what it says.

3 DR. DONG: I understand.

4 THE COURT: It's got your signature on it and initials on
5 it.

6 DR. DONG: Yes.

7 THE COURT: All right. It says that your primary
8 appointment is in biochemistry with a secondary appointment
9 with microbiology and immunology. You will receive annual
10 evaluations, respond to critical inputs. The University
11 acknowledges you were primarily working off-site in the
12 Charleston area, and you agreed to do teaching and writing and
13 so forth and so on.

14 And, then, it says that you relinquished your future use
15 of the lab facilities, campus research laboratories and
16 resources, and it gives some other information, but it says,
17 "The University intends to equip a temporary vector core
18 facility insofar as the temporary relocation of that equipment
19 does not disadvantage the grant funded by other -- to research
20 of other faculty members."

21 And it says, "In lieu of rental payment for the space in
22 GenPhar building, the University will waive direct charging of
23 Dr. Dong's salary to any grants or contracts."

24 And it says --

25 DR. DONG: If I may summarize --

1 THE COURT: Well, it talks about relocating some of your
2 equipment and this sort of thing.

3 DR. DONG: There's a detail --

4 THE COURT: And it lists a lot of this stuff on here.

5 DR. DONG: Right. I think, first of all, why we signed
6 the agreement, because actually --

7 THE COURT: Well, you signed the agreement. That's all I
8 can look at. You signed it.

9 DR. DONG: Right. But the reason was proposed --
10 presented to me was, instead of fighting, it's going to take a
11 long process, because that was going to affect my career, it's
12 going to --

13 THE COURT: Well, I mean, that's what people do
14 sometimes. They resolve their differences in this way. So
15 you signed this agreement?

16 DR. DONG: Yes. I signed the agreement --

17 THE COURT: And you got outside legal --

18 DR. DONG: -- under the condition --

19 THE COURT: And you got outside legal counsel. The
20 agreement says that.

21 DR. DONG: I did not -- well, that's --

22 THE COURT: You signed an agreement --

23 DR. DONG: I signed it, yes.

24 THE COURT: -- that said you got outside legal counsel.

25 DR. DONG: Yes, Your Honor.

1 THE COURT: All right.

2 DR. DONG: All right. Okay. The reason they presented
3 to me is to give me a transitional period or cool down for me
4 to look for another job.

5 THE COURT: Right. It says that in the agreement, that
6 you'll be actively pursuing other appointments.

7 DR. DONG: While I continue my research off-site, they
8 transfer all my documents, material, genetic materials, and
9 equipment on the list to me so I can continue. That's the
10 critical part of it. If a surgeon without equipment -- a
11 surgeon without equipment cannot perform surgery.

12 THE COURT: We don't need to try the case now.

13 DR. DONG: Right, I understand. So what's breached of
14 the contract, first -- actually, I would add a claim because
15 of bad faith, because they presented to me as giving me a
16 cool-down period, transitional period, and they actually said
17 -- the wording as they have is the right to rehire me --

18 THE COURT: Well, what -- is the separation agreement, is
19 that the contract you saying was breached?

20 DR. DONG: Yes.

21 THE COURT: Okay. Now, is there any other amendment to
22 this agreement, or is this -- I think there's a letter.

23 After this agreement was signed and after -- but during
24 the period the agreement was still effective, during that
25 two-year period, a letter was sent to you dated September the

1 29th of 2011, and it says administrative leave. You,
2 apparently, were notified that you had been placed on
3 administrative leave with pay. And it says your -- the
4 administrative leave applies to all your responsibilities
5 until the March 31st, 2012, deadline for the end of the
6 separation agreement. Right?

7 DR. DONG: But that's not a letter I agreed with.

8 THE COURT: It's not a question of whether you agreed
9 with it. That's why we've got cases to try. I'm just looking
10 at the agreement, and it says in the agreement that, in your
11 separation agreement, you relinquished use of your laboratory
12 space at MUSC, agreed to relocate certain equipment to the
13 GenPhar building, "due to a change in ownership of GenPhar, we
14 have been unable to relocate the equipment, and it has
15 remained in a secure place on campus. As you know, the area
16 currently housing your laboratory equipment is scheduled for
17 renovation beginning October 2011." That would be shortly
18 after the date of this letter.

19 "Therefore, Scott Reed, in the Department of Biochemistry
20 and Molecular Biology will coordinate an inventory relocation
21 of your lab equipment and freezers to a secure location. Any
22 access to this material during the period of administrative
23 leave can be coordinated through Scott Marie with the
24 Associate Provost for Research."

25 So that is the action they took after your indictment

1 on -- and when was the indictment?

2 DR. DONG: That was not -- at least a year or two before
3 the indictment.

4 THE COURT: Right. If it was a year or two before that,
5 then it was right about the time you signed the separation
6 agreement. When in relation to the separation agreement were
7 you indicted?

8 DR. DONG: At least two or three years before --

9 THE COURT: No, that can't be right. That can't be
10 correct. The final separation agreement is signed the 3rd of
11 May 2010. This letter of September 2011 says that --

12 DR. DONG: Actually --

13 THE COURT: -- you have been indicted, and you're saying
14 that occurred a year before. So it sounds to me like it
15 occurred around the time of the separation agreement. I can
16 look and find the indictment here.

17 DR. DONG: Right. But, off my memory -- because the
18 trial -- there is a speedy trial, and I think the trial
19 started --

20 THE COURT: Well, if you were indicted around the time of
21 the separation agreement --

22 DR. DONG: No, that's not true.

23 THE COURT: Well, when were you indicted?

24 DR. DONG: I couldn't give you exact date, but I think at
25 least two or three years after all of this occurred.

1 THE COURT: Okay. The indictment -- this is the third
2 superseding indictment, and that is April the 16th, 2013.

3 DR. DONG: Right. So the agreement was signed in --

4 THE COURT: Right. Well, this says the unsealed third
5 superseding indictment. You apparently were indicted before
6 that and then you had superseding indictments. That's what
7 that generally means.

8 DR. DONG: Right, actually --

9 THE COURT: I'll get to you, Counsel. I'm not going to
10 go on forever with this, but --

11 DR. DONG: We can find the date of first indictment
12 because they --

13 THE COURT: Sir?

14 DR. DONG: We can find the date of first indictment --

15 THE COURT: And we certainly can, so I won't spend any
16 more time on that. It sounds to me as if the separation -- if
17 the indictment occurred then, as complicated as this thing is,
18 it probably was the result of some investigation that went on
19 for several years before that, and at some point in time, you
20 would have been contacted and MUSC probably would have been
21 contacted at some point before the indictment was released.

22 DR. DONG: I think that's all excuses. I'll get to it if
23 you allow me to --

24 THE COURT: I want you to really briefly summarize it,
25 but I want you to -- what I'm trying to figure out is when you

1 first knew that the federal government was investigating you
2 for what ultimately became an indictment and a conviction.

3 DR. DONG: Actually, the indictment -- head indictment
4 was sealed, actually, for a long time --

5 THE COURT: Before anybody knew about it.

6 DR. DONG: Right. So the indictment --

7 THE COURT: And the indictment was maybe sealed for a
8 couple of years; right?

9 DR. DONG: Right. So I did not know. There was nothing
10 going on other than there was -- also, there was -- the whole
11 thing was based on the qui tam lawsuit, based on what GenPhar
12 did, not me. I did not take a single dollar from GenPhar,
13 because I was pushed to conduct research --

14 THE COURT: Who was the qui tam action lodged against?

15 DR. DONG: Sorry?

16 THE COURT: Who was sued in the qui tam action? If
17 you're saying the indictment was the result of the qui tam
18 matter -- I'm familiar with what qui tam cases are. They are
19 civil attempts by the government to recover misappropriated
20 funds. Did the qui tam action name you?

21 DR. DONG: No. The qui tam was claimed the company
22 billed with the contract --

23 THE COURT: GenPhar?

24 DR. DONG: Yes.

25 THE COURT: And GenPhar was your company with others;

1 right?

2 DR. DONG: No. I was the consultant before I was pushed
3 into the company based on the contract because --

4 THE COURT: Let's go back to the start. The company was
5 started because of you and the --

6 DR. DONG: No.

7 THE COURT: -- grants you were going to get and the good
8 contacts you had in San Francisco and other places, and that's
9 how GenPhar got started; right?

10 DR. DONG: I was the -- provided, on behalf of MUSC --

11 THE COURT: Right.

12 DR. DONG: -- as a professor. I have no ownership in the
13 company --

14 THE COURT: I understand.

15 DR. DONG: -- except the FRD is part ownership. The
16 investors -- about 130 investors who put over \$30 million
17 there --

18 THE COURT: I understand.

19 DR. DONG: -- was the owner.

20 THE COURT: I understand.

21 DR. DONG: So I was trying to be the good faculty sponsor
22 technology, helping FRD to support the company. In the end,
23 actually because the fighting -- the big dispute over my
24 technology and money, and they pushed me to a cool-off period
25 of time, saying you can -- now you can completely go to

1 GenPhar, conduct your research for MUSC, getting grants. Once
2 you're getting more grants for MUSC, we'll hire you back,
3 bring you back to the campus.

4 So, actually, that was a promise given to me, although
5 they played word game in the agreement, because, at the time,
6 I was tired of it, for years of fighting with the chairman and
7 the --

8 THE COURT: Okay. I get all that.

9 DR. DONG: Right.

10 THE COURT: So, at a certain point in time, you say
11 during the time this contract -- the final separation
12 agreement was in force --

13 DR. DONG: Right.

14 THE COURT: -- and before it came to an end, your
15 contention in this lawsuit is that MUSC breached this
16 contract?

17 DR. DONG: But not transfer any of the genetic
18 material --

19 THE COURT: By not transferring any of your --

20 DR. DONG: Not transfer any genetic material, any of the
21 documents, any of the equipment.

22 THE COURT: Right, right, right. And all of that was
23 specified in a very long Exhibit A --

24 DR. DONG: Yes.

25 THE COURT: -- that's attached to the complaint.

1 DR. DONG: Right.

2 THE COURT: Basically, this is a breach of contract
3 action, as far as you are concerned, that contends that MUSC
4 violated this agreement by not transferring listed items that
5 they were supposed to transfer to who: To you or to GenPhar?

6 DR. DONG: To me.

7 THE COURT: To you personally?

8 DR. DONG: Right. Because, actually, that's -- the
9 reason is, I have agreement at GenPhar to allow me the space
10 to conduct my research on behalf of MUSC, use my genetic
11 material, grants, and the equipment, but they -- including my
12 document notebook.

13 THE COURT: I got it. I understand very clearly exactly
14 what you're saying. It's a breach because of the failure to
15 transfer to you personally listed equipment that was listed on
16 this agreement.

17 DR. DONG: Those are my equipment, actually.

18 THE COURT: And, at that time, your intention was to set
19 up your operation at GenPhar with this equipment; right?

20 DR. DONG: Yes, because --

21 THE COURT: In their physical -- they had a physical --

22 DR. DONG: In their physical space. I relinquish the
23 physical space, which is tight at MUSC. I understand that.

24 THE COURT: Okay. Let me just ask one question. That's
25 2010 when the agreement began. That was the idea that these

1 equipments would be transferred at the end of the agreement,
2 which would be 2012, with the agreement, and that equipment
3 would be transferred to you personally, and you would be at
4 GenPhar, operating with that --

5 DR. DONG: I understand, but they catch me in both --

6 THE COURT: That -- I'm just trying to figure out what
7 was breached about this. And this contract entitled you to a
8 trans- -- as you see it -- to a transfer of all this equipment
9 at the -- when the contract came to an end in 2012?

10 DR. DONG: I don't remember that, but if you're saying
11 that, but that was not represented to me at the time. How I
12 conduct my research on behalf of MUSC without equipment,
13 without document -- that contradicts itself -- using different
14 space.

15 THE COURT: It looks to me like the contract contains a
16 provision on page 3 that describes the material and where it
17 should be transferred, and your contention is that that
18 equipment was supposed to be transferred before the agreement
19 came to an end --

20 DR. DONG: So I can --

21 THE COURT: -- to the facilities at GenPhar; right?

22 DR. DONG: Right. Everything need to be transferred.

23 THE COURT: And that is or is not what the agreement
24 says. I'm saying that's what you contend it says.

25 DR. DONG: Unless how I conduct research on behalf of

1 MUSC at a different location without any equipment, without
2 documents?

3 THE COURT: And then what was going to happen after the
4 agreement came to an end and you were no longer with MUSC?

5 DR. DONG: No, actually, they played word game, but --
6 with it but --

7 THE COURT: I'm just trying to ask you what you
8 understood was what would happen to the equipment and --

9 DR. DONG: Those are my equipment I brought from UCSF.

10 THE COURT: So you would continue to retain the
11 equipment.

12 DR. DONG: That's my personal property.

13 THE COURT: And you would continue to be located at
14 GenPhar; right?

15 DR. DONG: That's correct.

16 THE COURT: That was your understanding of the agreement?

17 DR. DONG: My understanding is a transition period. They
18 used the word they will have right to rehire me, brought me
19 back to campus. That's actually presented.

20 THE COURT: Well, let's -- for goodness' sakes, let's not
21 get into that. Right now, we're just on the agreement and
22 what they did to breach it during the time you --

23 DR. DONG: Right. They did not transfer all the
24 essential materials for me to conduct my research, continue my
25 project. But, in fact, they took all my research projects,

1 continued being used by Dr. Norris.

2 THE COURT: Now, the letter that they sent you after you
3 were indicted was sent while the agreement was -- the
4 separation agreement was still in effect, and it put you on
5 administrative leave, and it said, "We have attempted to
6 relocate your equipment to the GenPhar building, but due to a
7 change in ownership, we have been unable to relocate the
8 equipment." What was the situation there?

9 DR. DONG: There was never change of -- there was never a
10 change of owner, but that's a long time after. So that's what
11 they tried to -- before the end -- first of all, I did not --
12 I do not remember that letter -- I received the letter. But,
13 second of all, there's no so-called ownership change, and
14 actually --

15 THE COURT: So it all --

16 DR. DONG: They never actually -- I repeatedly request
17 they never transferred my genetic material and the equipment.
18 The genetic material documents was supposedly given to me,
19 because that's how I conduct my research. So, basically, they
20 shut down my career cold.

21 THE COURT: Did you continue to have an office at
22 GenPhar?

23 DR. DONG: That has nothing to do with MUSC with my
24 career.

25 THE COURT: Well, I'm just trying to figure out where

1 would they have transferred the equipment, in your view, if it
2 was your equipment and should be transferred. If you didn't
3 have an office at GenPhar, where were they supposed to
4 transfer it?

5 DR. DONG: It's not office but research laboratory, yes.
6 We have research laboratory in GenPhar. And the GenPhar did
7 agree for me -- of course, they would be glad to, for me to
8 pay back as a professor and work on-site and have a better
9 collaboration scientifically.

10 So, GenPhar did agree to provide space for me to locate
11 the equipment at the --

12 THE COURT: And that's where it was supposed to be
13 placed?

14 DR. DONG: Right.

15 THE COURT: And they say they didn't place it there
16 because GenPhar changed ownership, but you say --

17 DR. DONG: No, GenPhar never changed ownership. GenPhar
18 always have the operational lab -- research lab.

19 THE COURT: Okay. Just one more question then: Did you
20 still have an office there?

21 DR. DONG: No. GenPhar actually closed down because of
22 the prosecution.

23 THE COURT: Well, then, in order for them to honor this
24 separation agreement, if GenPhar had closed down, where do you
25 say the equipment should have been transferred?

1 DR. DONG: That's years later, because I was stuck in
2 GenPhar without equipment, without being able to work on the
3 university --

4 THE COURT: Okay.

5 DR. DONG: -- without the opportunity to transfer to
6 another university with my research grant equipment. So my
7 career would be shut down cold.

8 THE COURT: Okay. I understand that.

9 DR. DONG: And that would give me no option. I end up
10 with GenPhar because, once they indicted GenPhar under the qui
11 tam, which is single procedure but managed by the ex-U.S.
12 attorney, who actually used his subordinate he promoted,
13 actually, criminally prosecuted GenPhar, and then they found
14 out we have to have a warm body --

15 THE COURT: Mr. Dong -- or Dr. Dong, we can go into all
16 these things in more detail at the proper time.

17 DR. DONG: Right.

18 THE COURT: I think I got the picture, though. GenPhar
19 was indicted just like you were indicted, and it had been shut
20 down. Right?

21 DR. DONG: It wasn't shut down until two years later.
22 Because, first of all, the indictment was not known for
23 another year or so.

24 THE COURT: I'm going to the time when you knew about it.

25 DR. DONG: When I knew about it, it was unsealed. When

1 it's unsealed.

2 THE COURT: Right. And that was 2011.

3 DR. DONG: No. The indictment in 2013 was sealed --

4 THE COURT: That's a superseding sealed indictment.

5 DR. DONG: The indictment -- they haven't --

6 THE COURT: This letter is dated September the 29th of
7 2011, and it said, after notification of your indictment by
8 then United States Government, MUSC is saying that, in 2011,
9 it got notification from the United States Government, the
10 federal authorities and the U.S. attorney, that you had been
11 indicted, and that is why they sent this letter saying we have
12 been trying -- we have tried to relocate this equipment, but
13 we're unable to.

14 GenPhar was indicted just as you were indicted; right?

15 DR. DONG: Right. But GenPhar is still operational at
16 the time, two years after that. So they had nothing to do
17 with not being able to transfer and also before that, nothing
18 to do with --

19 THE COURT: Well, it's just a big, factual controversy,
20 then, between the two of you about that, but I think I
21 understand what your position is about it.

22 All right. Then you go on forward. At some point, you
23 were tried. Apparently, you had a jury trial. You had some
24 reversals. You had a bench trial. You had some reversals,
25 and then you served, what, about six years or so?

1 DR. DONG: Five years.

2 THE COURT: Five years. All right.

3 And you had brought this lawsuit before you -- well, it
4 was after some of the activity in terms of your criminal side
5 was in place. When did you --

6 DR. DONG: I brought the lawsuit a year -- at least a
7 year before I know anything about the --

8 THE COURT: I gotcha. So your position is that breach of
9 contract action had to do with the time when neither you nor
10 MUSC knew that you were indicted or anything else, and they
11 violated that agreement before --

12 DR. DONG: Not before that. My indictment was
13 invalidate. As a result, they push me into off-site GenPhar
14 to conduct my research. So I was the only so-called warm body
15 in charge for GenPhar issue the fund for research for city
16 deal. So I was indicted the same, which I was just a
17 scientist being a consultant. So, actually, that's --

18 THE COURT: And, of course, I can't relitigate that.

19 DR. DONG: That's why, actually, we should not actually
20 touch the case --

21 THE COURT: Well, I think it looms as a factor in all of
22 this, but I can't retry that case, of course. The final word
23 has been spoken on that.

24 DR. DONG: But if you brought in the indictment as the
25 issue, which they use it as the issue after facts, which would

1 be --

2 THE COURT: Well, that's what we're going to --
3 apparently, that, itself, is a factual dispute.

4 DR. DONG: And then allow me to add in a claim because
5 they basically used this situation, pushed me into a company,
6 eventually end up with a problem, or they may knew there was a
7 problem --

8 THE COURT: So the bottom line of this summary is you
9 want to amend your complaint?

10 DR. DONG: Yes. Actually, after discovery, I need to
11 establish were my documents -- why my documents were seized to
12 begin with.

13 THE COURT: Okay. I understand that. Now --

14 DR. DONG: And where the documents were.

15 THE COURT: What discovery has taken place so far?

16 DR. DONG: Nothing. Actually, basically -- actually,
17 I'll say the discovery -- first of all, I followed the request
18 for production for documents. Right? Basically, MUSC denied
19 all the document with one line, was clearly --

20 THE COURT: Okay. You filed a request for production.
21 The defendant denied --

22 DR. DONG: Produce anything.

23 THE COURT: Production. All right. And then did you
24 file interrogatories?

25 DR. DONG: I haven't yet, because, actually, it was still

1 -- we're in the process to what can be produced, what cannot
2 be produced, and, so far, I can say the document was limited
3 under condition, can be extended at any time to --

4 THE COURT: You don't need to give me the explanation.
5 Just the one piece of discovery you have filed is a request
6 for production, and they have denied that; right?

7 DR. DONG: Right. The judge did agree conditional,
8 limiting the first counter for production to the
9 communications.

10 THE COURT: Was that Cothran's order -- Judge Cothran's
11 order, Counsel?

12 MR. CONLEY: Judge, the issue he speaks of was actually
13 addressed by two different circuit court judges.

14 THE COURT: Okay. I'll get to the history with you in
15 little bit. Thank you so much. All right.

16 So the request for production was denied. There has been
17 some judicial action on that issue. And I also understand
18 that this matter has been designated as trial not before
19 November 1st, and that is rapidly approaching. And I can tell
20 you, I'm going to sign a scheduling order that, first of all,
21 deals with all this discovery and sets some firm dates for
22 when things have to be proposed and answered by each party so
23 we won't have any confusion about that. I'm going to set that
24 today before I leave.

25 DR. DONG: Yes.

1 THE COURT: And, then, I'm going to set the trial date.
2 And I'm going to set it as soon as I possibly can. Now, the
3 trial may or may not take place, depending on what happens
4 with the motions, but I'm going to set all of that before we
5 depart from each other today.

6 DR. DONG: Yes, Your Honor. I think to actually smooth
7 out the process without a dispute --

8 THE COURT: Sure.

9 DR. DONG: -- I think it would be prudent for the Court
10 to issue a standing discovery order like this.

11 THE COURT: What do you have there?

12 DR. DONG: This is the standing discovery order. This is
13 issued by Judge Roger Young, but that's adopted by a number of
14 judges.

15 THE COURT: Would you hand that up to me and let me just
16 look at it?

17 DR. DONG: Yes.

18 THE COURT: I'll give it right back to you.

19 DR. DONG: No, actually, I will submit it. I'll file a
20 motion to adopt this order.

21 THE COURT: Okay. Well, that's -- you're just verbally
22 making that motion at this time. All right. This is Judge
23 Roger Young's -- this is his standing order.

24 DR. DONG: Right.

25 THE COURT: It's not specific to this case. It's his

1 standing order.

2 DR. DONG: Right. You can see the title.

3 THE COURT: And I will tell you right now that I intend
4 to make a specific scheduling order for this case. And I
5 thank you for giving me this. I'll certainly be guided by
6 Judge Young. I'm familiar with his standing order. It's a
7 good one. And I will be mindful of that. But in terms of the
8 deadlines and so forth here, we're going to talk about those
9 and deal with those today.

10 DR. DONG: Right. Actually, I have nothing against it,
11 but I was requesting, instead of stonewalling me on every
12 step, allow me to conduct discovery if they timely --

13 THE COURT: Well, they're going to have to do the same
14 thing. They're going to be allowed to conduct discovery as
15 well.

16 DR. DONG: Yes.

17 THE COURT: They may have some dispositive motion that
18 will be heard before that, which is their motion to dismiss.
19 I don't know exactly what they're going to say about that, but
20 you and I will find out, and then I'll tell you what I'm going
21 to do.

22 DR. DONG: Yes. I think that the normal process is
23 normal. First, discovery and mediation and dispositive --

24 THE COURT: Well, I don't know that we're going to file
25 all that normal process here. This case has been pending

1 since 2016. There's been a lot of exchange back and forth
2 about the case. I'm going to compress all that as much as I
3 can, because this case needs to be dealt with.

4 DR. DONG: I understand. But I think the schedule will
5 be --

6 THE COURT: Well, there's no sense in debating in the
7 abstract.

8 Let me hear first from defense counsel about his position
9 about the case, and then I'll talk to both of you about
10 scheduling. Okay?

11 DR. DONG: Yes, Your Honor. I would just state that
12 discovery is the -- assured of my constitutional rights --

13 THE COURT: Yes, sir. It's not a constitutional
14 provision. It's a practice and procedure. But, yes, we
15 follow it. A trial judge has the authority to set a special
16 scheduling order for any kind of case, and I'm going to do
17 that.

18 DR. DONG: Yes, Your Honor.

19 THE COURT: Okay. Mr. Conley?

20 MR. CONLEY: Good morning, Judge. I'm not sure where you
21 would like me to start. I don't want to go over what you have
22 already heard about.

23 THE COURT: The first thing, Mr. Conley, what would be
24 helpful is you-all have filed an answer, which is basically a
25 motion to dismiss -- a general denial and a motion to dismiss.

1 MR. CONLEY: That is correct.

2 THE COURT: All right. And that matter -- it's just been
3 filed, but it hasn't been briefed or -- at least I have not
4 seen anything to indicate exactly how we would proceed. A
5 motion to dismiss, as we know, is something that's based on
6 the pleadings. And I have not seen the traditional memo. I
7 would have to examine to see exactly what you contend about
8 the pleadings, looking at them in the light most favorable to
9 the non-moving party what would give me the basis for
10 dismissing it, just based on the pleadings.

11 Has something been submitted like that?

12 MR. CONLEY: It has not, Your Honor. And I think the
13 reason is, is because I think, collectively, my client and I
14 decided this case is more of a summary judgment case --

15 THE COURT: I agree with you.

16 MR. CONLEY: -- in light of discovery than it is a
17 12(b)(6) motion --

18 THE COURT: Sure.

19 MR. CONLEY: -- just based on the four corners.

20 So to go directly to your question, this is not a case
21 where we're going to pursue a 12(b)(6) motion.

22 THE COURT: Very good.

23 MR. CONLEY: I don't mind telling the Court that on the
24 record on behalf of my client and MUSC. So this is a case
25 that is a summary judgment case from a dispositive motion

1 standpoint, Judge.

2 THE COURT: All right. Now, very little has been done
3 with discovery, I take it.

4 MR. CONLEY: Let me give a small piece of background on
5 discovery.

6 THE COURT: Sure. Sure.

7 MR. CONLEY: So, at the outset of the case, on behalf of
8 MUSC, we served both interrogatories and requests for
9 production on Dr. Dong. Dr. Dong responded to those
10 interrogatories and requests for production. He produced both
11 documents and responded to interrogatories.

12 To my recollection, there was no motion to compel in
13 regard to Dr. Dong's responses. As he has indicated to you,
14 he, likewise, served MUSC with requests for production. Those
15 requests for production were subject to what I would call
16 various contested issues in what he was asking for in regard
17 to documents.

18 And I want to make sure I get my date right here, Judge.
19 In March of 2019, Dr. Dong actually filed a motion to compel
20 regarding MUSC's responses to his request for production.
21 That motion was heard by Circuit Court Judge Craig Brown out
22 of Florence. Judge Brown held a hearing. He actually ended
23 up holding two hearings, and I'll explain that in a moment.

24 Dr. Dong attended both of these hearings by phone. Of
25 course, he was in -- I'm not sure where he was incarcerated at

1 the time, but he was --

2 THE COURT: But, regardless, he was still in federal
3 custody.

4 MR. CONLEY: That is correct. But the Court made
5 arrangements for him to appear by phone each time.

6 The result of his motion to compel was that Judge Brown
7 issued an order that really contained two things in general,
8 Judge. One, it contained a very ex- -- fairly explicit
9 detailed order as to what MUSC was required to produce in
10 regard to documents, and in addition to that, what we were not
11 required to produce.

12 I don't want to be held to this, but my recollection is
13 it ended up being about somewhere in the nature of 500 pages
14 of documents, including in emails -- many emails and other
15 related documents.

16 THE COURT: So the required production was about 500
17 pages?

18 MR. CONLEY: Somewhere in that neighborhood. That's my
19 recollection, Judge.

20 Those documents were all produced to Dr. Dong. Even
21 though he was incarcerated at the time, we made arrangements
22 to be able to produce those to him and did produce those to
23 him.

24 Judge Brown's order also contained another component too.
25 A little unusual but Judge Brown determined it was the right

1 thing to do at the time. He also built into that order a
2 scheduling order because he even recognized that, even at that
3 point in 2019, obviously, the case had a lot of age on it
4 already. And so, in order to try and move it along, he put a
5 scheduling order into that order. So if the Court were to
6 look at his first order, it's got the motion to compel
7 component and the production of records, and it's also got
8 this component regarding scheduling.

9 The other thing that Judge Brown did in that order was he
10 built into the order that he was going to stay the case until
11 Dr. Dong was released from federal custody. MUSC filed a
12 motion to alter or amend that order with Judge Brown in only
13 one respect and that was his order that the case was going to
14 be stayed while Dr. Dong was in federal custody.

15 As a consequence of that motion to alter or amend, Judge
16 Brown issued a new order, and the only thing he changed about
17 the new order was he removed the stay component --

18 DR. DONG: Your Honor --

19 THE COURT: Just -- no -- I'll get back to you. Don't
20 worry. Just make a note of what you want to say, and I'll get
21 back to you. Just like I didn't let him interrupt, I'll treat
22 you the same way.

23 THE COURT: So Brown altered by removing the stay?

24 MR. CONLEY: Correct. So, in other words, what we were
25 left with at the end of Judge Brown's involvement, as I will

1 phrase it, was an order that ordered us to produce the
2 records, which MUSC did, and had the scheduling order that
3 applied going forward. And the scheduling order included the
4 typical things we would see, such as a discovery deadline, a
5 dispositive motion deadline. I think it has a mediation
6 deadline, and I believe it's got a trial before deadline, just
7 speaking from memory.

8 So that's what we operated under going forward. One of
9 the things --

10 THE COURT: Let me just interrupt you, Mr. Conley, to
11 say, I'm going to get you to prepare for me, before it's all
12 over, a little notebook that gives me all these orders.

13 MR. CONLEY: Sure. So we --

14 THE COURT: You operated under this order.

15 MR. CONLEY: We operated under Judge Brown's built-in
16 scheduling order, and when we got into early 2020, one of the
17 things that Judge Brown's order had in it was it had a
18 discovery deadline built in it that I believe was the end of
19 February of 2020.

20 We actually, in advance of that deadline, worked with the
21 federal correctional facility in Salter, South Carolina, where
22 Dr. Dong was at the time, to take Dr. Dong's deposition. It
23 was scheduled to occur at Salters, at the correctional
24 facility. It was all scheduled, set up. And in the days
25 before we were scheduled to go take Dr. Dong's deposition, he

1 filed a motion with the Court seeking to delay his deposition.

2 So as a consequences of him filing --

3 THE COURT: What was the basis?

4 MR. CONLEY: I don't have it in front of me, but I
5 believe the basis of his motion was something to the effect of
6 he wasn't ready to be deposed, he didn't feel like he had been
7 produced all the documents he was entitled to.

8 THE COURT: Right. Okay.

9 DR. DONG: Because of COVID, actually.

10 THE COURT: No, no. I'll get back to you.

11 MR. CONLEY: So that's --

12 THE COURT: Was COVID mentioned?

13 MR. CONLEY: To my knowledge, no, but if you look at the
14 dates, Judge --

15 THE COURT: That's right when COVID is striking.

16 MR. CONLEY: That's exactly right. It's within days of
17 that.

18 THE COURT: So that's not unreasonable that you would
19 have done that because of COVID. That's what I thought it was
20 going be, the end result, because a lot of what Craig Brown
21 put forward would have been interfered with, to some extent,
22 by COVID.

23 MR. CONLEY: It is, Judge, particularly anything with the
24 discovery deadline that ended the end of February because, as
25 we all remember, it's mid-February that COVID begins to raise

1 its ugly head.

2 So, yes, there is a COVID component there. Nonetheless,
3 the combination of Dr. Dong's motion, if you will, he files to
4 delay it and then, subsequently, COVID, where we couldn't even
5 go to Salters at that point -- I mean, there's just no -- it
6 was just shut down -- that just shut down the case, as best I
7 can put it, Judge.

8 Dr. Dong had also filed some other motions that I will
9 give to the Court in a notebook in the interim. He filed a
10 motion to expand the discovery period in January of 2020.

11 And so, in summary, we get into March of 2020 and the
12 courts are shut down, and Dr. Dong -- we can't really do
13 anything with the case without taking his deposition.

14 On September 2nd, 2020 -- so we're roughly seven months
15 later, Judge -- Dr. Dong filed a notice of change of address
16 indicating that he had, at that point, been released from
17 confinement at Salters and was back in his residence on Daniel
18 Island, living in, apparently -- I can let him speak to
19 that -- completing the remainder of his sentence.

20 Obviously, that was not unusual at that point that the
21 federal correctional system was releasing a lot of people at
22 that point to try and reduce capacity.

23 THE COURT: Yes. And that was September what?

24 MR. CONLEY: I think it was filed on or about
25 September 2nd, 2020, was when --

1 THE COURT: All right.

2 MR. CONLEY: We got notice by way of his change of
3 address that he was no longer in Salters.

4 THE COURT: Right.

5 MR. CONLEY: Three months, four months later on
6 January 11th, 2021, Dr. Dong filed a motion again to expand
7 the discovery schedule due to COVID-19, and on January 20 of
8 2021, he filed a second motion to compel production.

9 What occurred --

10 THE COURT: To expand production?

11 MR. CONLEY: Exactly. Both expand it, and as I'll get to
12 in a minute, sort of reinstitute his prior motion to compel
13 that Judge Brown had resolved a year and a half or so prior.

14 Those motions languished. Again, I don't like to blame
15 everything on COVID, but the fact of the matter is, it did
16 languish due to COVID.

17 And so, on December 13th of 2021, Judge Cothran heard
18 Dr. Dong's then pending motions, and the pending motions were
19 a motion to amend the discovery schedule and a second motion
20 to compel production, which the second motion to compel
21 production was, as I mentioned a minute ago, effectively a
22 renewal of his prior motion that Judge Brown had ruled on.

23 Judge Cothran held a hearing on December 13th, 2021, and
24 Dr. Dong appeared. I appeared on behalf of MUSC. The sum
25 result of that is a fairly detailed order. It's about eight

1 pages long that Judge Cothran issued. It really contains two
2 components. It's much like Judge Brown's prior order from
3 2019. The two only components are what I would call a denial
4 of -- a re-denial of Dr. Dong's motion to compel the
5 production of any further records. Judge Cothran said, "I'm
6 not ordering MUSC to produce any further records at this
7 point."

8 And, then, like Judge Brown, recognizing the case had
9 languished and recognizing the Court needed to do something to
10 sort of move it forward, Judge Cothran, like Judge Brown,
11 built in a scheduling order into it.

12 We conducted ourselves under that scheduling order, and
13 one of the components of it was a discovery deadline that
14 ended -- I think it's June 28th or 30th. The end of June,
15 I'll just put it, Judge Toal.

16 In mid-June, with that date approaching, I had scheduled
17 Dr. Dong's deposition, and it was scheduled in my office, and
18 Dr. Dong, of course, appeared for it. A court reporter was
19 there. That deposition never went forward, Judge. And the
20 reason it did not go forward was Dr. Dong asked if he could
21 record the deposition on his iPhone in addition to
22 the stenographic reporter that was there.

23 THE COURT: Our rules don't allow that. You have a
24 stenographic reporter. The reporter is to take it down.

25 MR. CONLEY: That was my position, Judge. Dr. Dong did

1 not agree with that at the time. I suggested, as I always do
2 in dealing with pro se plaintiffs, that we take a pause, and
3 he look at the rules or perhaps seek some legal advice on his
4 own. I did not want to debate him on what the rules required.
5 So what I agreed to do, in light of his position, was delay
6 his deposition once again.

7 So the other thing that happened in conjunction with that
8 is Dr. Dong, leading up to the June discovery deadline, had
9 served a number of deposition notices himself. I counted this
10 morning; it's 11 in total deposition notices. In general, he
11 had noticed most of all these depositions to occur by video,
12 meaning he wanted to videotape the deposition, not a virtual
13 deposition, but he wanted to videotape each deposition.

14 THE COURT: That's not provided for in the rules.

15 MR. CONLEY: And he also, Judge, wanted to -- the
16 deposition notices indicate that a number of them were
17 scheduled to take place at his residence, at his house on
18 Daniel Island.

19 Because of the issues that arose at his deposition in mid
20 June, as I described, and the issues that I had with his
21 deposition notices in regard to the 11 individuals he had
22 asked to depose, several who don't even work at MUSC any
23 longer and, I think, who live out of state, I filed a very
24 brief motion for a protective order simply to make sure I had
25 made a record of what was occurring with respect to these

1 depositions, which, since that occurred, Judge, nothing has
2 happened with the case. My motion for protective order has
3 remained pending and not heard, and that's where we are in
4 terms of discovery.

5 From my standpoint, as I mentioned a minute ago, Dr. Dong
6 has responded to our request for production and
7 interrogatories. We have not moved to compel anything
8 further. I need to take his deposition in the case.

9 THE COURT: That is the remaining -- from your
10 standpoint, you have received production and interrogatory
11 responses, and, from your standpoint, you need to take his
12 deposition.

13 MR. CONLEY: That is correct.

14 THE COURT: Right.

15 MR. CONLEY: And unless he were to tell me something at
16 his deposition that was, you know, sort of wholly unknown, I
17 don't know of anyone else I would need to depose in the case,
18 Judge. So, in other words, standing here this morning before
19 you, I only know of a single deposition I need to take in this
20 case, is Dr. Dong, with one footnote to that.

21 As I mentioned, there are several of these MUSC witnesses
22 who either don't work -- well, don't work for us anymore, and
23 some are no longer residing in South Carolina. It may be
24 necessary for me to take de bene esse depositions of one or
25 two of those individuals to make sure I have that testimony,

1 given their, over the years, since 2010, departure from MUSC
2 and moving on to other institutions or retired. So that's the
3 one caveat to what I would need to do.

4 But, to summarize that, I believe I can do that fairly
5 efficiently, and -- for the Court, I can do it fairly
6 efficiently. Again, I was prepared to take his deposition in
7 June, so taking his deposition now can happen right away.

8 THE COURT: So you can provide me with a list -- the
9 deposition of the plaintiff is one and possible de bene esse
10 depositions of several other MUSC former employees that are
11 not currently with MUSC?

12 MR. CONLEY: Correct. And live out of state.

13 THE COURT: And live out of state.

14 MR. CONLEY: Yeah, they're living elsewhere. One name
15 that comes up is Steve Lanier. That was mentioned by
16 Dr. Dong. My understanding is -- I mean, Dr. Lanier has been
17 gone from MUSC for probably close to a decade now, Judge. I
18 believe he lives up in the Northeast somewhere.

19 THE COURT: Right.

20 MR. CONLEY: That's just by way of an example.

21 And, then, of course, there's the depositions that
22 Dr. Dong wants to take, and --

23 THE COURT: Have you got a list with you?

24 MR. CONLEY: I do. I have a -- well, I printed out the
25 email that I had gotten from MUSC when I was asking them,

1 specifically, who is still active and who is no longer at
2 MUSC. There's 11 names. I counted it this morning. I think
3 all but three of the 11, most of them are still with us.
4 Those people are giving scheduling issues. For instance, he
5 wants to depose Dr. Cole. Well, as you might imagine,
6 scheduling Dr. Cole does take a little bit of time and effort,
7 just given he's the president of MUSC. So it's not as if he
8 can sort of be scheduled on a quick term.

9 Another one, by way of example, is Lisa Saladin. I
10 believe she's now the provost.

11 So there's -- you know, all of these people are fairly
12 senior people within the institution that he wants to depose,
13 so from my standpoint in trying to schedule these people for
14 him, that does take some time to try and find --

15 THE COURT: Yeah, I understand. And we're going to take
16 a look at this list and see what needs to be done about it. I
17 take it that, while Brown and Cothran dealt with issues, both
18 what could be and what could not be produced, no one yet has
19 dealt with the issue of who he can depose; correct?

20 MR. CONLEY: No. No one has dealt with that issue.

21 THE COURT: So that hasn't been dealt with yet.

22 MR. CONLEY: No, it has not.

23 And, then, the secondary issue that ties in to who he can
24 depose, Judge, there's the secondary issue of -- I believe
25 it's going to be in the Court's assistance in any kind of

1 order on putting some very clear constraints on what -- how
2 depositions have to occur.

3 As you noted a minute ago, there's a stenographic
4 reporter. You can't be recording the deposition on an iPhone
5 as well.

6 Dr. Dong, at some point -- I don't know if this is his
7 intent now -- at some point, he mentioned to me, when I was
8 speaking to him about what the rules require in terms of
9 video --

10 DR. DONG: Would you let me --

11 THE COURT: Dr. Dong, please do not interrupt counsel.
12 Thank you, sir.

13 MR. CONLEY: As the Court knows, under Rule 30, if you're
14 going to take a video deposition, it's a very methodical
15 process you have to go through to do that. You have got to
16 have specific people do the videography and that sort of
17 thing.

18 I don't know what Dr. Dong's intent on that issue is now,
19 but, at some point, he mentioned to me that he was going to
20 video those on his iPhone, and I simply indicated to him that
21 I did not believe, under the rules, that's something --

22 THE COURT: No, that's not the way we're going to conduct
23 any of these.

24 MR. CONLEY: What I don't want to have happen and I want
25 to guard against, to the extent we can, is once Dr. Dong and I

1 have depositions set that the depositions will occur and that
2 we're not going to have --

3 THE COURT: Another disagreement about how they're going
4 to be conducted. I agree.

5 MR. CONLEY: Correct, Your Honor.

6 THE COURT: I think that needs to be done.

7 MR. CONLEY: And the second component of that, I would
8 suggest -- and it's one of the reasons I suggested it to Judge
9 Young several few weeks ago, that a specific judge be assigned
10 to this case, is I think it might be helpful if, once those
11 depositions are set, if the Court were provided a list of the
12 dates and times that those depositions are going to occur, in
13 the event that something did arise that there might be an
14 opportunity to communicate with the Court in realtime to try
15 and resolve any issues so something doesn't have to completely
16 get rescheduled.

17 THE COURT: Yeah, I'm not going to attend all these
18 depositions for sure, and I have other trials that I have got
19 to deal with. This is not, by any means -- but just one of --
20 I manage the whole asbestos docket, and the mediator --
21 federal mediator in a big multi-district litigation case, so
22 I've got a pretty full schedule myself.

23 MR. CONLEY: That wasn't to suggest you attend. It was
24 to suggest that at least the Court were aware of when
25 depositions were scheduled.

1 THE COURT: Sure. So that, if an email or a text comes
2 to me saying we're having a disagreement, I can figure out a
3 way to resolve it.

4 MR. CONLEY: If you were available, you might be able to
5 resolve it on the spot so that we don't have to stop a
6 deposition and reschedule it.

7 THE COURT: Right. I understand.

8 All right. So that's kind of your point of view about
9 discovery. Do you have any recommendations about an actual
10 time schedule?

11 MR. CONLEY: Yeah, I have thought about that a little
12 bit, Judge. And I realize and I appreciate that the Court
13 wants to -- because of the age of this case -- wants and needs
14 to move it. You know, I always get concerned as we get into
15 November and December, it just becomes exceedingly hard.

16 THE COURT: Yeah, you have got seasonal holidays and
17 things of that nature.

18 MR. CONLEY: Sure. My general thought -- and I thought
19 in terms of discovery not really -- I mean, we can talk about
20 mediation and that sort of thing, but --

21 THE COURT: I can tell you about mediation, that I'm
22 going to retain very strict control over mediation and how it
23 occurs, because I am not going to have that turn into a
24 minitrial. That's not going to happen. If this thing can't
25 be mediated successfully, then we're going to recognize that

1 up front and not spin that out into something that prolongs
2 this thing.

3 MR. CONLEY: I understand. My suggestion --

4 THE COURT: But, of course, mediation won't even think
5 about taking place until close to the trial. What will happen
6 before that is a motion for summary judgment will be heard.
7 That's the way I run my docket.

8 In asbestos, sometimes I will have mediations occur
9 before summary judgment is actually heard, but that is only if
10 it's a real straightforward kind of thing. But, in this case,
11 I'm not going to put you through mediation before we hear this
12 motion for summary judgment. That's going to come first.

13 MR. CONLEY: Thank you.

14 My suggestion on discovery, given this is October the
15 4th, is that we consider putting a discovery deadline at the
16 end of February, and that may initially strike the Court as a
17 bit long but, again, my thinking on that is --

18 THE COURT: No, I think that's reasonable.

19 MR. CONLEY: I think if we put it at the end of February,
20 even accounting for holidays and that sort of thing, that
21 should be --

22 THE COURT: But coupled with that is going to have to be
23 -- the discovery deadline is the end of February, and then I'm
24 going to also consult the powers that be on when this can be
25 set for trial. And I'm going to set it for trial, and I'm

1 going to set a pretrial in the scheduling order so that
2 everything will be in there that needs to be in there to move
3 the case along. That's the one thing I can't do on my own as
4 I sit here today. I've got to consult and see what other
5 schedules are in Charleston to set a time to try the case.

6 MR. CONLEY: My other only suggestion to dovetail the --

7 THE COURT: But we don't need to just put an end to
8 discovery. We need to do some setting of specifics of
9 depositions, when they're going to take place and the like,
10 and we're going to start with Dr. Dong's deposition. That's
11 going to be the first one to be taken, and it's going to be
12 taken pretty immediately and it's going to be taken according
13 to the rules of Court, with a court reporter, and all of what
14 is required to have that deposition done. It's not going to
15 be somebody privately videoing or anything like that. That is
16 not permitted, and I'm not going to vary it from this.

17 DR. DONG: That's a misrepresentation --

18 THE COURT: Sir?

19 DR. DONG: That's a misrepresentation, Your Honor, on
20 the --

21 THE COURT: Right. Well, we're going to get to you.

22 But I'm just saying, Dr. Dong's deposition needs to be
23 set today before we leave here.

24 MR. CONLEY: Certainly.

25 THE COURT: Have you got a suggestion?

1 MR. CONLEY: I would suggest we have it sometime here in
2 October.

3 THE COURT: All right. I'm going to look at my calendar
4 right now.

5 Okay. What are you suggesting?

6 DR. DONG: Are you asking me, Your Honor?

7 THE COURT: I'm asking Mr. Conley first. I'm going to
8 come to you. I'm not going to set it based on what he says
9 without asking you, of course.

10 MR. CONLEY: Judge, I would suggest we do it the week of
11 October 17th mainly because I just settled a case at mediation
12 yesterday and a number of depositions that week have fallen
13 off my calendar. So the next two weeks --

14 THE COURT: Okay. Let me just tell you, in terms of my
15 availability. You know, I don't have to be there, obviously,
16 but my availability if some dispute arises.

17 MR. CONLEY: Sure.

18 THE COURT: October 17th or 18th are completely clear for
19 me. On October the 19th, I have a 3:00 conference call on the
20 National Law Enforcement accreditation group that I serve on.
21 We have our hearings for the accreditation for the agencies
22 I'm responsible for, 3 p.m. on the 19th.

23 And just to be safe about it, that generally takes a
24 couple of hours. I would just -- I'd X out the 19th. The
25 20th, I have a pretrial in two big asbestos cases. So that

1 week, the 17th would work for me, the 18th would work for me,
2 or the 21st would work with me.

3 MR. CONLEY: I suggest the 18th.

4 THE COURT: All right. That's a Tuesday.

5 I'm going to turn to you, Dr. Dong. October the 18th at
6 9:30 p.m. [verbatim].

7 MR. CONLEY: 9:30 a.m.

8 THE COURT: 9:30 a.m. in the offices of your law firm?

9 MR. CONLEY: Right. And I'll notice it just like we did
10 with the other one.

11 THE COURT: Now, let's turn to him and see if -- what he
12 feels about it.

13 Dr. Dong?

14 DR. DONG: That's agreeable, Your Honor.

15 THE COURT: Sir?

16 DR. DONG: That's agreeable, Your Honor.

17 THE COURT: That's great. Thank you so much.

18 All right. You then -- while we have got you up,
19 Mr. Conley -- I'm coming back to you for your discovery, of
20 course -- you also have a list of folks that are out of state
21 -- that no longer work for MUSC and live out of state that you
22 want to do de bene esse.

23 And let me just -- frankly, somebody with a Ph.D. and the
24 kind of education Dr. Dong has, I know I'm speaking to someone
25 of big education, so you probably know what a de bene esse

1 deposition is, but I'll put it on the record and explain to
2 you that that is a deposition to preserve testimony and that
3 is why he is going to wherever these people are located to
4 take that deposition. You can go and participate in that
5 deposition if you care too. We cannot video that and allow
6 you to participate by video unless we set up, under the rules,
7 for video depositions. My guess is that Mr. Conley will go to
8 where these individuals are to take the depositions.

9 Mr. Conley, I'm just going to ask you: How do you feel
10 about any video piece of this thing by Dr. Dong? Or do you
11 think he should have to be there? How many people are we
12 talking about?

13 MR. CONLEY: Yeah, I'm looking at the list now. There's
14 a couple of them I haven't verified where they are. It looks
15 to look me like I have -- it looks to me like I've got
16 somewhere from two to four who are no longer -- who are no
17 either -- who are both no longer at MUSC --

18 THE COURT: And not in South Carolina.

19 MR. CONLEY: -- and appears to live out of state. So
20 there's either two or four.

21 THE COURT: Where are they, do you know?

22 MR. CONLEY: One of them, I know, and I mentioned
23 Dr. Lanier. I believe Dr. Lanier is somewhere in the
24 Northeast perhaps. I think the last time maybe he was at
25 Wayne State. I'm not sure where Wayne State is.

1 THE COURT: Wayne State's in Detroit.

2 MR. CONLEY: Then I believe that's where Dr. Lanier still
3 is.

4 The others, I am not for sure, and I've asked MUSC to
5 inquire about that, but I don't have a response back yet. One
6 person is just a former grants administrator of MUSC, and
7 she's, I think, maybe retired now, and I'm not sure where
8 she's living.

9 THE COURT: Okay. Two to four, you're going to have to
10 let us know, and we would then be able to deal with de bene
11 esse.

12 How do you feel about his videotaped appearance if it's
13 done according to the rules of videotaping?

14 MR. CONLEY: Sure, Judge. I have no problem if he wants
15 to attend by way of Zoom or some virtual platform. We can
16 make that arrangement so he could attend.

17 THE COURT: Okay. You feel comfortable about arranging
18 some kind of virtual platform where he could attend?

19 MR. CONLEY: That's correct.

20 THE COURT: And I will explain the rules of the road
21 about depositions before we leave here today to make sure
22 everybody understands how those matters are conducted.

23 All right. Now, what other depositions besides the de
24 bene esse and the deposition of Dong? Anything else?

25 MR. CONLEY: He's got somewhere from six to seven other

1 depositions that he's asked to take of MUSC personnel who, to
2 my knowledge, based upon information I got yesterday, are
3 still at or associated with --

4 THE COURT: All right. And what are the names?

5 MR. CONLEY: So one of them is Mark Sothman. And that's
6 Sothman.

7 THE COURT: S-o--

8 MR. CONLEY: --t-h--

9 THE COURT: --t-h--

10 MR. CONLEY: --m-a-n.

11 THE COURT: --m-a-n.

12 MR. CONLEY: James Norris, who Dr. Dong spoke about.

13 He's also asked to take the deposition of a Michael
14 Schmidt. And that last name is S-c-h-m-i-d-t.

15 He also asked to take the deposition of Steven -- and
16 that's Steven, S-t-e-v-e-n --

17 THE COURT: -p-h-e-n?

18 MR. CONLEY: S-t-e-v-e-n.

19 THE COURT: And what's the last name?

20 MR. CONLEY: The last name is Tomlinson.
21 T-o-m-l-i-n-s-o-n.

22 He's also asked to take the deposition of a Christina --
23 and that's C-h-r-i-s-t-i-n-a. And I'm not sure I'm going to
24 pronounce the last name correctly.

25 THE COURT: Spell it.

1 MR. CONLEY: I think it Voelkel. V-o-e-l--

2 THE COURT: All right. Say it again.

3 MR. CONLEY: V as in "Victor," o-e-l-k-e-l hyphen
4 Johnson.

5 THE COURT: Okay.

6 MR. CONLEY: He's also asked to take the deposition of
7 Dr. Cole, who is the president of MUSC. And he's also asked
8 the take the deposition of Lisa Saladin. And that's
9 S-a-l-a-d-i-n, who, I think her current position is the
10 provost.

11 THE COURT: All right. Is that it?

12 MR. CONLEY: Based on the notices that he had previously
13 given, that's it, Judge. I think that's a total of 11 I
14 counted this morning.

15 THE COURT: There's seven there and then the de bene
16 esses would take it up to 11.

17 MR. CONLEY: Yes.

18 THE COURT: All right. Now, let's talk about how those
19 depositions will be conducted. They are not going to be just
20 conducted at his residence. I'm not going to have any kind of
21 confidence that that kind of location would entail -- and I'm
22 going to make the suggestion -- and you don't have to do it if
23 your firm can't accommodate it, but I would prefer to have all
24 these depositions taken Williams & Conley. Or not Williams &
25 Conley; that's the one in Washington. Cleveland and Conley.

1 MR. CONLEY: Judge, I believe, at some point, I already
2 suggested that perhaps just verbally to Dr. Dong, at some
3 point, he is welcome to take his depositions at our office, in
4 our conference room.

5 THE COURT: I think that's the better way to do it. All
6 right. Set up the conference room. If there's need to attend
7 by virtual, you're set up to do that. That's what I would do.
8 And y'all are amenable if he is?

9 MR. CONLEY: Absolutely. He's welcome to take these
10 depositions at our office.

11 THE COURT: Okay. Now, is there anything else by means
12 of -- when would you, then, think, if we could get these
13 depositions -- the rest of these depositions taken? End of
14 February is going to be a trial target. These depositions
15 need to be taken very soon, here in the fall, and not run into
16 Christmas, if you can avoid it.

17 MR. CONLEY: I guess what I was -- and maybe I misspoke.
18 I think what I was thinking when I said the end of February --

19 THE COURT: Is the deadline for discovery?

20 MR. CONLEY: Exactly, Judge.

21 THE COURT: So you would anticipate some taken now and
22 some taken after the holidays?

23 MR. CONLEY: That's correct, just because I think some of
24 these would be more easily scheduled --

25 THE COURT: That's fine.

1 MR. CONLEY: -- than others.

2 THE COURT: I'm amenable to that.

3 MR. CONLEY: But I had full cooperation of MUSC's
4 in-house counsel to get these scheduled for depositions,
5 whether it's this case or any other I might be involved in.
6 So that coordination --

7 THE COURT: And, then, that would mean something -- if I
8 can arrange it -- something in a -- would then have a summary
9 judgment hearing after that. And then mediation to trial, if
10 we're going to do mediation.

11 MR. CONLEY: Sure. In my mind, I equate -- I do so much
12 work in federal court, Judge, I was sort of thinking along the
13 lines of, you know, typically in federal court, a scheduling
14 order might have a discovery deadline, and, then, what I'm
15 accustomed to dealing with is a dispositive summary judgment
16 deadline that's 30 days after that discovery deadline.

17 THE COURT: Yes.

18 MR. CONLEY: Because that allows adequate time to prepare
19 the motion and the brief but also to get in any straggler
20 transcripts or anything like that. So I'm thinking,
21 generally, if we had a discovery deadline at the end of
22 February --

23 THE COURT: At the end of March would be the time for
24 submission of summary judgment motions and, of course,
25 adequate time for Dr. Dong to answer those summary judgment

1 motions, and then I would schedule a summary judgment -- a big
2 pretrial hearing. If that's the end of March, then I'd
3 probably set a pretrial hearing -- of course, he has ten days
4 to respond to a motion. So he would have ten days or whatever
5 to work out about that.

6 I could then have, at the end of April, a hearing and
7 then try for sometime in early May for trial. I generally
8 like pretrial, and if you're going to mediate, it's going to
9 be one day, some day shortly thereafter. If it can't be
10 mediated, presuming the trial is going forward, we'd try it in
11 May.

12 Okay. That just at least gives me the framework to look
13 at it as I mark down in setting these things. And, again, I
14 can't do what I really love to do and announce it from the
15 bench this morning, but I will attempt to very quickly after I
16 consult with various court administration in Charleston County
17 to see when I can set these various things.

18 Okay. Let's go back to you, now, Dr. Dong, and let's
19 talk about the discovery. First of all, I take it that the
20 end of February for a discovery deadline is suitable?

21 DR. DONG: Yes, Your Honor.

22 THE COURT: Good.

23 DR. DONG: Under the condition they do provide the
24 documents.

25 THE COURT: Well, he says he's given you all the

1 documents these orders require.

2 DR. DONG: That's why I was going to respond.

3 THE COURT: Okay. Well, why don't we do that first.

4 Tell me what he's not given you that the orders of Judge Brown
5 and Judge Cothran entitle you to have.

6 DR. DONG: Right. Okay. Under the rules, actually
7 Judge --

8 THE COURT: Can you just hold on for a minute? I'm not
9 refusing to let you go forward.

10 Mr. Conley, do you happen to have a copy of those two
11 orders?

12 MR. CONLEY: I have a copy of -- I have a copy of one. I
13 may have a copy of both. Actually, I do have a copy of both.

14 THE COURT: I'll give them back to you.

15 MR. CONLEY: No, that's fine. May I approach?

16 THE COURT: You certainly may. Thank you so much.

17 MR. CONLEY: So the top one is Judge Brown's order.

18 THE COURT: All right.

19 MR. CONLEY: The second one is Judge Cothran's order.

20 DR. DONG: May I --

21 THE COURT: If you'd just give me a moment, Dr. Dong, and
22 let me just take a peek at these.

23 (Pause in the proceedings while the Court reviews
24 documents.)

25 THE COURT: Okay. I have now read both of these orders,

1 particularly the part that deals with discovery, and what I
2 understand from Judge Brown's order is that he limited the
3 scope of discovery -- of materials to be produced by the
4 defendant as follows:

5 "The First Request for Production to the defendant.
6 Plaintiff's First Request for Production to the defendant, the
7 scope of discoverable materials shall be limited to relevant
8 documents generated or created no earlier than April 1, 2010.
9 Either party may, at any time prior to the discovery deadline,
10 for good cause, petition the Court to expand its limitation."

11 Then, in responding to Plaintiff's First Request for
12 Production to the defendant, the scope of discoverable
13 materials shall further will be limited to relevant documents
14 generated or created by or sent to or received from Dr. Dong;
15 Mark Sothman, Ph.D.; or Steven Lanier, Ph.D. Either party
16 may, at any time prior to discovery deadlines, for good cause,
17 petition the circuit court to expand this limitation as
18 discovery progresses."

19 So those are the two categories Brown limited for
20 production to Dr. Dong by MUSC. This was an order filed on
21 October the 4th, 2019. And, then, Judge Cothran filed an
22 order on February the 7th, 2022, earlier this year, and he,
23 again, looked at the scope of discoverable materials. And he
24 says this: "On October the 14th, 2019, consistent with Judge
25 Brown's orders, MUSC produced documents to Dr. Dong. Dr. Dong

1 did not subsequently move to further compel production under
2 Judge Brown's October 4th, 2019, order or otherwise assert
3 MUSC failed to comply with Judge Brown's October 4th, 2019,
4 order concerning the documents produced. Instead, Dr. Dong,
5 in January 2020, filed his motion to expand discovery and
6 serve Plaintiff's Second Request for Production. On March 18,
7 2020, MUSC served its responses to Plaintiff's Second Request
8 to Production.

9 "As noted in MUSC's responses to Plaintiff's Second
10 Request to Production, Plaintiff's Second Request to
11 Production are subject to objection and rejection by the Court
12 for two particular reasons: First, Dr. Dong did not obtain
13 leave of the Court to request materials beyond those expressly
14 required by Judge Brown's prior orders; however, even if
15 Dr. Dong's Second Request for Production can be viewed as
16 implied and requesting the Court's permission to request the
17 materials beyond expressed parameters in Judge Brown's October
18 4th, 2019, order, the Court denies Dr. Dong's request.

19 "Dr. Dong, neither in his submission to the Court nor his
20 arguments at the December 13th, 2021, hearing, provided
21 sufficient basis, reason, or good cause for expanding the
22 scope of discovery.

23 "Moreover, and importantly, the request contained in
24 Plaintiff's Second Request for Production are the very same,
25 i.e., identical or virtually identical requests, contained in

1 Plaintiff's First Request for Production, being the request
2 previously ruled upon by Judge Brown in his October 2019
3 order. In particular, Request for Productions 1 through 16 --
4 Request to Production 1 and 16 through 40 in the Plaintiff's
5 Second Request for Production are also in the Plaintiff's
6 First Request for Production. In other words, 26 of the 40
7 requests contained in Plaintiff's Second Request for
8 Production that Dr. Dong moves to compel MUSC to respond to
9 were previously reviewed and limited by Judge Brown in his
10 October 4th, 2019, order.

11 "Finally, even in respect to the remaining 14 requests
12 being Requests 2 through 15 that do not appear to be identical
13 to those contained in Plaintiff's First Request for
14 Production, the noted request seek the very same broad
15 materials sought by Dr. Dong's in Plaintiff's First Request
16 for Production.

17 "For the reasons stated, and based on the submission of
18 the parties and the arguments presented at the hearing on
19 December the 13th, 2021, Dr. Dong's second motion to compel is
20 denied."

21 And that is signed by R. Farrell Cothran, Jr., Circuit
22 Court Judge, filed February the 7th, 2022.

23 Now, based on that, Dr. Dong, I am not going to vary from
24 these previous judges' orders. I am going to take the same
25 position that they took. So, on the issue of production, I

1 find that MUSC has produced to you all of what is required by
2 the orders that I have just read from.

3 DR. DONG: Could I just briefly comment on --

4 THE COURT: Yes, you can comment, but I tell you, when I
5 rule, I rule. The rules say, when I rule, there's no further
6 argument. You can comment very briefly, but I don't want to
7 spend time on something that has already been decided by two
8 judges before me.

9 DR. DONG: I understand. The first order, actually,
10 Judge Brown's order issued -- granted a motion to compel, asks
11 MUSC to --

12 THE COURT: And it limited the production to the things
13 that were contained in Judge Brown's order --

14 MR. DONG: Your Honor --

15 THE COURT: -- and it said that a motion to expand could
16 be made. It didn't say it would be granted. It was made, and
17 Judge Cothran, for the reasons I just read and put on the
18 record out of his order, denied your second motion to compel.

19 Your first motion to compel was granted on a limited
20 basis. They produced what was granted by Judge Brown's order.
21 Now, you came back and asked Judge Cothran to expand that. He
22 denied that motion. I am not going to vary from that.

23 DR. DONG: Actually, if Your Honor may, let me just make
24 a comment of what my concern was. First of all, the -- Judge
25 Brown did granted the motion to compel --

1 THE COURT: Please don't repeat what you just said about
2 Judge Brown's order. I just read the whole thing.

3 DR. DONG: No, that's the second order. Under the
4 conditions, what they presented was --

5 THE COURT: That is the effective order, the one I just
6 read from -- by Judge Craig Brown. That is the order that
7 decides the limitations on production. He did not change that
8 in any respect. That was his order. And Judge Cothran chose
9 to follow that order.

10 DR. DONG: I would make a brief comment. Judge Cothran
11 did comment, granting extension of the --

12 THE COURT: The dates are not what I'm talking about.

13 DR. DONG: That actually was under the order to -- they
14 submitted a proposed order, but all of the things that was
15 discussed was not discussed in the courtroom, was not --

16 THE COURT: I don't need what was discussed in the
17 courtroom. The judge signed an order. That is what is before
18 me.

19 DR. DONG: Right. And that's --

20 THE COURT: And that order limited the production in two
21 ways, that I just read into the record.

22 DR. DONG: I understand.

23 THE COURT: And MUSC produced those materials, about 500
24 pages. Then you moved to compel for the second time and asked
25 to expand beyond Judge Brown's order. And Judge Cothran heard

1 argument on that, and he denied your motion.

2 DR. DONG: That's actually the -- I would just comment.
3 That's the motion subject to motion for reconsideration and
4 was denied -- I think was denied just a couple of days ago.
5 And, actually, based on the rule, the prior discovery is one
6 of the top reasons for interlocutory appeal --

7 THE COURT: No, let me tell you, I sat on the Supreme
8 Court for 27 years. Discovery matters are not directly
9 appealable. You can appeal them after the case is over. If
10 you lose, that can be a grounds for appeal, but you cannot
11 immediately appeal that or stop this trial or anything else.
12 That's what the rules provide. And I'm real familiar with
13 them. I have practiced for 27 years on that Court.

14 DR. DONG: I understand that.

15 THE COURT: So, if I'm wrong about that, you'll just note
16 that for any future use of any appeal you take from what
17 happens with this case, but no, sir, the discovery limitation
18 is effective, it's been ruled on by two judges. I choose, as
19 the third judge, to handle this matter to follow what they
20 have ruled, and we're not going to discuss that matter
21 anymore. They have produced what these judges required that
22 they produce, and that's the end of it in terms of production
23 of documents. Do you understand?

24 DR. DONG: I understand what Your Honor is saying --

25 THE COURT: And you cannot directly appeal that to the

1 Supreme Court. If you try that, they're going to deny it.
2 But you can't stop these proceedings by appealing a discovery
3 motion.

4 DR. DONG: My reading -- excuse me, sorry. I'm not
5 trying to argue, but my reading was, the interlocutory appeal
6 is something depriving discovery --

7 THE COURT: It's a grounds for appeal, Dr. Dong, when the
8 case is appealable at the end of the whole case. It is not
9 immediately appealable, meaning you cannot go and appeal it
10 right now and have it be heard and stop these proceedings. It
11 doesn't work that way. You can note it, and it can be a
12 grounds for appeal if you lose this case.

13 If you win this case, you won't care. If you lose this
14 case, it can be an ultimate grounds for appeal. But it is not
15 a grounds for stopping these proceedings. We're going to go
16 forward with the trial on the limitations of the documents
17 that two judges have ruled upon. Do you understand?

18 DR. DONG: I understand what you're saying.

19 THE COURT: Very good. All right.

20 Now, let's turn -- now, we've got the document production
21 out of the way, let's turn to these depositions. Now, we've
22 got yours scheduled. Your deposition is scheduled October the
23 18th, 2022 at 9:30 a.m. in the offices of Cleveland and Conley
24 here in Charleston, and you are amenable to that, and I
25 appreciate it and thank you for it.

1 Now, we come to -- and that's the only deposition he's
2 taking other than the preservation of testimony, de bene esse
3 depositions. Let's talk about those next.

4 He will go to the location of where these witnesses are
5 and he will take their deposition, but he will allow you to
6 participate by Zoom.

7 Now, let me explain something to you about that. You
8 cannot interrupt these witnesses. You cannot try to stop the
9 deposition. This is a preservation of testimony. If there
10 are problems that you have with that deposition, you may
11 present those to me after the deposition is concluded and it's
12 typed up and you have a copy of it and can look at it. If
13 there are objections that you have, you don't have to note
14 those objections at the time; you can make those objections on
15 the record afterwards. But during the Zoom, you will be
16 listening to him preserve the testimony. Do you understand
17 how that works?

18 DR. DONG: I understand.

19 THE COURT: And that's not something - you're familiar
20 with that? That's not something that is a problem for you, as
21 long as you have good information about participating by Zoom.

22 DR. DONG: I don't know if Zoom changed the situation
23 because I was supposed to raise objections during the
24 deposition.

25 THE COURT: No, sir. You do not raise depositions --

1 objections during the depositions. The rules of discovery are
2 clear about that. And it's really a good thing for an
3 objecting party. You can look at this thing after it's typed
4 up and scrutinize it and you can then make your objections.
5 The only thing you can object to is the form of the question,
6 which is rarely done because that doesn't have anything to do
7 with what information is coming in.

8 DR. DONG: Yes, Your Honor.

9 THE COURT: So you're completely protected in terms of
10 objections, and that is why it's not permitted to put
11 objections on the record during a deposition. But you have
12 got the full ability to do that afterwards, and you certainly
13 will be listened to by me on your objections to anything that
14 goes on in those de bene esse depositions. Do you understand
15 that?

16 DR. DONG: Yes, Your Honor.

17 THE COURT: All right. What I would suggest with these
18 de bene esse depositions, Mr. Conley, is that you propose --
19 copy me, please, on anything y'all are doing with each other.
20 You propose to Mr. -- to Dr. Dong how you're going to line up
21 these depositions, and he's going to cooperate with you as
22 best he can, of course. And I detect that about him; he's
23 going to be cooperative. I don't think there's any problem
24 about that.

25 You know, if he's got some pressing medical appointments

1 or something else that interferes, he'll tell you. And
2 Mr. Conley is a very accommodating lawyer. So he's going to
3 work with you on developing a schedule for these two or four
4 depositions. And those will be the first ones you're taking,
5 and those you can probably get done pretty quickly after your
6 own deposition.

7 And, then, we have got the live depositions of these
8 seven witnesses. And I'm just going to read the names on the
9 record again. That is Mark Sothman, James Norris, Michael
10 Schmidt, Steven Tomlinson, Christina Voelkel-Johnson, Dr. --
11 what is Dr. Cole's first name?

12 DR. DONG: David.

13 THE COURT: David?

14 DR. DONG: Yes.

15 THE COURT: David Cole. And Lisa Saladin.

16 MR. CONLEY: Yeah, Saladin.

17 THE COURT: Saladin. Very good.

18 All right. And what Mr. Conley will do for you is this
19 -- and this is probably the easiest way to set this up. He
20 will communicate with these folks to see when their
21 depositions will be taken. I think he'll do that promptly.

22 DR. DONG: And, also, give me some time to arrange the
23 stenographer.

24 THE COURT: The stenographer part of it. And they'll be
25 taken at the offices of Cleveland and Conley. And please pay

1 attention to the fact that this has to be a certified court
2 reporter. You know the rules about who can take -- what kind
3 of court reporter can take a deposition.

4 DR. DONG: There's no dispute over that.

5 THE COURT: Very good.

6 So y'all will work together and get up a schedule of
7 these depositions. Some of them may not take place, I
8 understand fully, until after the first of the year. So we
9 have a February deadline, end of February, February 28th or
10 29th, whichever it is, for it -- for all discovery to be
11 concluded. So you-all, within that time frame, work out
12 yourselves how to take the depositions.

13 DR. DONG: If they can actually provide a --

14 THE COURT: Sir?

15 DR. DONG: If MUSC can provide the proper date --

16 THE COURT: Exactly. And they'll do that for you.
17 They'll be set out, you know, in an orderly way during the
18 time period we're talking about from now in October until the
19 end of February. We'll set them up and get them taken and so
20 forth.

21 DR. DONG: Thank you, Your Honor.

22 THE COURT: I would very much like to be advised of these
23 deposition dates so I can target my calendar in case I need to
24 be available. I pay close attention to my phone and to texts
25 and this kind of thing, and I'll try to be as available as I

1 can whenever any of these matters are taken care of.

2 DR. DONG: Your Honor, one more thing.

3 THE COURT: Yes, sir.

4 DR. DONG: Actually, Mark Sothman --

5 THE COURT: Mark Sothman?

6 DR. DONG: Sothman, correct.

7 THE COURT: Yes, sir.

8 DR. DONG: The reason I never -- I do know -- I did not
9 know him, I just know him by name, the reason is, I was taking
10 his deposition in case he knew something about it, he was not
11 directly involved, but the MUSC request my communication
12 limited to him. He has nothing to do with it.

13 So a judge, actually Cothran, made comment during the
14 hearing and said you can go ahead and do the deposition. With
15 the new deposition, you can decide what document you're going
16 to require.

17 THE COURT: I'm not going to get into any more documents
18 than what documents have --

19 DR. DONG: Correct.

20 THE COURT: So, please --

21 DR. DONG: So I can -- can I actually substitute Mark
22 Sothman with another -- with another witness?

23 THE COURT: Who is it?

24 DR. DONG: Just anybody --

25 THE COURT: No, no. We're going to decide the witnesses

1 right now today, so you need to tell me --

2 DR. DONG: With his time slot, I will provide them --

3 THE COURT: No, no, no. You've got to provide -- if I'm
4 going to strike a witness that was identified as the witness
5 before, I'm not going to let you substitute them unless you
6 tell me who it is now so that I will know --

7 DR. DONG: Semyon Rubinchik.

8 THE COURT: Sir?

9 DR. DONG: Dr. Semyon Rubinchik. R-u-b-i--

10 THE COURT: R-u-b-i--

11 DR. DONG: --i-n-c-h--

12 THE COURT: V?

13 DR. DONG: C.

14 THE COURT: C.

15 DR. DONG: H-i-c -- i-k. C-h-i-k. Yes.

16 THE COURT: All right. I'm going to hear from Mr. Conley
17 on the subject of whether you can do that. It's well beyond
18 the notice of -- we're not into complete discovery. We're not
19 into adding to discovery at this point. That's been set.

20 So I'm going to have to inquire of Mr. Conley as far as
21 striking Sothman and adding Rubinchik as something he will
22 agree to; otherwise, I'm not doing to do it. So hold there
23 for a minute.

24 Mr. Conley?

25 MR. CONLEY: Judge, I don't know anything about this new

1 witness he's identified, but with that said, I don't have a
2 problem with him telling us today he's not going to take Mark
3 Sothman's deposition and he wants to take this other
4 individual's.

5 What I will tell the Court is, as I was able to
6 articulate some of these witnesses, where they are, whether
7 they still work for us or whether they're elsewhere, I don't
8 know anything about this witness.

9 THE COURT: Who is this person, Dr. Dong?

10 DR. DONG: He was the person -- he worked for me in my
11 laboratory, and he was named associate director of gene --

12 THE COURT: Where is he now?

13 DR. DONG: I think he moved to Chicago. I think actually
14 in the University of Chicago.

15 THE COURT: So that would have to be a de bene esse
16 deposition.

17 Can you answer today or do you want to give me an answer,
18 Mr. Conley?

19 MR. CONLEY: Again, I don't have a problem giving you the
20 answer today, Judge. We're going to substitute this doctor
21 for Dr. Sothman.

22 THE COURT: Okay. Very good. It's done.

23 DR. DONG: Thank you, Your Honor.

24 THE COURT: We will strike Mark Sothman and we will add
25 Semyon Rubinchik.

1 DR. DONG: Correct.

2 THE COURT: All right. That's done.

3 DR. DONG: Thank you, Your Honor.

4 THE COURT: Now, let's see --

5 MR. CONLEY: Judge, the only thing I want to be clear
6 about is we're striking Sothman as somebody who is going to be
7 deposed. I'm not striking him -- he's not being struck as a
8 potential witness.

9 THE COURT: Oh, I understand. We're simply doing
10 depositions and trying to set that up. This is discovery. We
11 get the witness list way on down the road. Okay.

12 Here's what I want to do now. It's 11:25. Our court
13 reporter has been very patiently taking all this down. I
14 would like to take a break and get the documents that both
15 sides have given me copied, which I can get done while I take
16 a break, and let y'all take a break, and then we'll come back
17 and conclude our hearing and see what else we've got left that
18 needs attention. Is that suitable to everyone?

19 DR. DONG: Yes, Judge.

20 MR. CONLEY: Yes.

21 THE COURT: Let's take a 15-minute recess, and we will
22 reconvene at a quarter of.

23 MR. CONLEY: Judge, if you'd like some kind of a notebook
24 put together --

25 THE COURT: I would very much.

1 And, of course, Dr. Dong, please understand that anything
2 Mr. Conley gives me by way of a judge's notebook, you'll be
3 supplied with a copy of it, of course.

4 MR. CONLEY: That's correct.

5 THE COURT: But, yes, that would be very, very helpful.

6 And the same is true of you, Dr. Dong. If there are
7 things that you have that will assist me before we move
8 forward, certainly, you may have them.

9 And just for the record, let me give you my contact
10 information. Do you need an extra sheet of paper? I got it
11 one.

12 DR. DONG: I got one. Thank you.

13 THE COURT: Okay. It's Chief Justice Retired Jean,
14 J-e-a-n, middle initial H, last name Toal, T as in "Thomas,"
15 T-o-a-l. My P.O. Box is P.O. Box 12456, Columbia, 29211.

16 I have chambers in the Richland County Courthouse, but
17 lawyers quite frequently mail me or deliver to me at my home,
18 documents, so I'm going to give you my home address, and I'll
19 be happy to -- if something is just so big you don't know if
20 it's going to fit in a mailbox at the post office, it will be
21 mailed to my home, which is, 2418 Wheat Street, W-h-e-a-t
22 Street, in Columbia. The ZIP is 29205.

23 Now, my email address is JToal@sccourts.org. And my cell
24 phone I use for everything -- and don't mind y'all having it;
25 and I can be texted or called -- (803) 530-0457.

1 And let me explain to you what you'd be using these
2 contact points for. If you contact me, you'll always let the
3 other side know that you've contacted me by copying the email
4 and copying the mail. If you text me, you'll be sure that
5 they know you've done that. It's probably better that I not
6 receive phone conversations except for just technical matters,
7 in other words, not communicating about rulings on the case or
8 things of that nature, because everybody needs to be included
9 when I do anything in that regard.

10 But all my lawyers at home will know all my contact and
11 it facilitates getting things to me since I am supposedly
12 part-time active but seems like I'm more active sometimes than
13 just part time.

14 But, in any event, that information is yours to make use
15 of as you need to.

16 DR. DONG: Thank you.

17 THE COURT: Okay. I'm going to take a little break.

18 (A brief recess was taken at 11:32 a.m. to 11:57 a.m.)

19 DR. DONG: I gave the wrong name is Semyon Rubinchik
20 twice. Sorry. It's a different spelling. It's S-e-m-y-o-n.
21 S-e-m-y-o-n.

22 COURT REPORTER: Thank you.

23 (Pause in the proceedings.)

24 THE COURT: Thank you for your indulgence. I'm sorry to
25 delay, but that's where I was, just saying hello to Julie, the

1 clerk of court, Julie Armstrong, who was one of my right hands
2 when I was chief. She came by to visit for a moment, so I'm
3 sorry for the delay, but that's where I was, just saying hello
4 to her.

5 Okay. It looks to me like -- and I spoke with her. She
6 said she can make a May date happen for trial and she can
7 certainly accommodate pretrial hearings in April or so. I
8 think we've just got to look at the schedule that Court
9 Administration gives me. I will select something very, very
10 shortly. Let me just ask on the front end: Is there anything
11 that you two know now that you have planned in May?

12 MR. CONLEY: I do not, Judge.

13 THE COURT: How about you, Dr. Dong?

14 DR. DONG: I have nothing planned.

15 THE COURT: Wonderful. Well, the sooner I get this to
16 you, then, the better, because you can then plan around those
17 kind of dates. So I will get that plugged in pretty quickly.

18 So I almost think we're done in terms of having a
19 schedule of how we go. We have got discovery going until the
20 end of February. We have got Dr. Dong's deposition set.
21 We've got a plan of action for deposing the other witnesses,
22 both the out-of-state ones and the in-state ones.

23 You'll get me the schedule when you have it and who is
24 going to be deposed when. I'll plug that into my calendar in
25 case I need to be reached, and I will let you know if any of

1 those dates coincide with other things I'm doing so you'll
2 know kind of where I am if I'm needed.

3 I have ruled on the discovery matters, and we now know
4 that discovery of documents is complete. All right. Not to
5 everybody's satisfaction, but discovery of documents is done.
6 So discovery -- interrogatories are done. So all we're
7 talking about in discovery --

8 DR. DONG: I haven't submitted interrogatories.

9 THE COURT: What's that?

10 DR. DONG: I have not submitted interrogatories yet
11 because all the delays in the --

12 THE COURT: You have not submitted interrogatories --

13 DR. DONG: Correct.

14 THE COURT: -- to MUSC?

15 The time for submitting interrogatories has long since
16 passed, even under expirations. Why have you not?

17 DR. DONG: Because, actually, all the other issues has
18 been complete --

19 THE COURT: Okay. Well, let's talk right now about
20 interrogatories. The interrogatories are really one of the
21 first things you do in a lawsuit. It doesn't really depend on
22 all these other issues that develop. But let's just...

23 Mr. Conley, what were the deadlines on interrogatories?

24 MR. CONLEY: The most recent deadline under Judge
25 Cothran's order, June 30th --

1 THE COURT: I mean, that was the deadline. It doesn't
2 depend on any other discovery matters, Dr. Dong.

3 DR. DONG: That was not the deadline, my understanding --

4 THE COURT: Sir?

5 DR. DONG: Your Honor, what's the June 30th deadline?

6 MR. CONLEY: Judge, June 30th was --

7 THE COURT: Sir?

8 MR. CONLEY: June 30th, 2022, was the discovery deadline
9 set by Judge Cothran.

10 THE COURT: By Farrell Cothran. That's what --

11 DR. DONG: He extended it.

12 MR. CONLEY: So other than depositions which this Court
13 has allowed -- as I understand it, I should say, my
14 understanding is you have allowed the extension of the
15 discovery deadline --

16 THE COURT: For these depositions.

17 MR. CONLEY: -- so take these depositions.

18 THE COURT: That's correct.

19 MR. CONLEY: Any interrogatories and that sort of thing
20 should have been done by June 30th. There would have been no
21 -- that I know -- there would have been no impediment to
22 those.

23 DR. DONG: That's not in the order.

24 THE COURT: Sir?

25 DR. DONG: There is no statute of limitations --

1 THE COURT: No, this is not a statute. This is --

2 DR. DONG: That order was --

3 THE COURT: Dr. Dong, scheduling orders are orders that
4 schedule and define the dates for things to be done in
5 pretrial discovery. In Charleston, they do it in a standing
6 order of Judge Young -- I mean, yeah, from Judge Roger Young,
7 that talks about preparation for discovery and things of that
8 nature.

9 In this case, discovery has been set several different
10 times with deadlines not just for depositions but for
11 interrogatories and production. Brown did it the first time.
12 Brown did a modification. And, then, Farrell Cothran, in
13 December of this last year -- I think that was -- or February
14 of this year, set the dates one more time for the completion
15 of discovery, and that date was June of 2020 -- June 30th of
16 2022.

17 That doesn't change -- there's no other rule that changes
18 that. An order of the Court is an order of the Court. And
19 when the order is made, that is the deadline. That's why you
20 had to get those things changed. That's why you moved to
21 reschedule.

22 So I don't understand what you're saying that you don't
23 understand that was the deadline.

24 DR. DONG: Actually, that was -- all the delays was
25 because they filed a motion or, actually, filed a motion was

1 not hearing way past the deadline before actually the pending
2 motion was dealt with, and also, none of the deadline came due
3 to maturation because the very issue, MUSC refused to produce
4 the document, and I was asking --

5 THE COURT: MUSC -- I'll repeat one more time -- has not
6 refused to produce documents. The same discovery orders we're
7 talking about now that deal with deadlines for
8 interrogatories, set limitations on the production that MUSC
9 was required to make. There's no dispute of things they
10 didn't give you. They have given you everything that is
11 required they give you pursuant to two judges' orders, and I
12 have denied your motion to expand that.

13 So production of documents is complete. And the same is
14 true on depositions and on interrogatories or any other
15 discovery mechanisms. Cothran set some deadlines. Y'all have
16 moved to expand those deadlines with respect to these
17 depositions, and I have set depositions and a new deposition
18 date, which is February -- end of February of next year.

19 There has been no motion by you to expand the
20 interrogatory deadlines. So I don't understand how that is --
21 you can't just kind of decide, "Hey, once I take these
22 depositions, I'm going to go back and take some more
23 interrogatories."

24 DR. DONG: How about the amendment of the complaint?
25 Actually, that was supposedly --

1 THE COURT: The amendment of the complaint can only be
2 made if I grant your motion to amend your complaint. If you
3 amend your complaint, which you have not done so far --

4 DR. DONG: And that has to be based on information that
5 I'm getting through the discovery.

6 THE COURT: Well, I may or may not grant your motion to
7 amend.

8 DR. DONG: I understand that. I understand that.

9 THE COURT: But that's something you'll have to do at
10 that time. But with respect to your interrogatories, the time
11 has passed for the interrogatories.

12 DR. DONG: Thank you, Your Honor.

13 THE COURT: All right. Mr. Conley, anything further?

14 MR. CONLEY: I do not. Thank you, Judge.

15 THE COURT: Here what's I want done: I would like an
16 order that reflects the deadlines we just talked about to be
17 prepared by you, Mr. Conley, with a copy to you, Dr. Dong.

18 Dr. Dong, when you get this proposed order, if it does
19 not comport with what you think I ruled in this hearing, you
20 let me know immediately. I am not going to sign anything
21 until I have received your comments, and then we'll have
22 something that's in the record. That's the main thing I was
23 is to have something that's on file so that, when you look
24 your case up, you'll see exactly what's going to happen. And
25 that is going to depend on these -- scheduling of these

1 depositions. And I'd like that to be in the order.

2 So it's going to be a couple of days before -- or maybe a
3 little bit more than that before Mr. Conley can give us some
4 information about when these things can be scheduled.

5 So, Mr. Conley, what I'm taxing you with is, after you
6 have completed the consultations you need to see how the
7 de bene esses can be scheduled and how the in-persons can be
8 scheduled, then you will prepare an order with regard to them.
9 Separately from that and -- gotten to us more immediately --
10 is the general order for the deadline for discovery, the
11 pretrial, the fact that a pretrial will take place, the fact
12 that a mediation will take place, the fact that a trial will
13 take place, and the months that those things will take place,
14 and I will plug in the deadline -- the actual dates as soon as
15 I get that information.

16 So the first thing is just a general outline of the
17 schedule, and then, the second thing is, once you get the
18 listing of all these witnesses and exactly when the
19 depositions can be scheduled, then -- and that's going to take
20 some consultation with him because Dr. Dong is going to be the
21 one to do the question-asking for his witnesses that are MUSC
22 people. You'll coordinate when those are going to take place.

23 And I suggest this, Dr. Dong: Let him get some times
24 from these people when they can be available, consult with
25 you, and then we can get it plugged in in a way that suits

1 both of you. But, Mr. Conley, I think, will work with you to
2 make that happen.

3 DR. DONG: That's fair, Your Honor.

4 THE COURT: And we'll go from there. But that will be a
5 separate order.

6 And I just do that, frankly, to protect y'all. I mean,
7 these witnesses are not voluntary witnesses by any means, but
8 an order from me saying that their depositions will be taken
9 pursuant to this agreed-upon schedule, I think, will protect
10 everybody. So that's what we'll do.

11 DR. DONG: Yes, Your Honor.

12 THE COURT: Anything further, Dr. Dong?

13 DR. DONG: Not at this time, Your Honor.

14 THE COURT: Thank you so much.

15 DR. DONG: Thank you.

16 THE COURT: Anything further, Mr. Conley?

17 MR. CONLEY: No, Judge. Thank you very much.

18 THE COURT: All right. Gentlemen, I appreciate your
19 attention in these details, I appreciate the very professional
20 way you have conducted yourself in these proceedings, and I
21 promise you, I'll try to meet your standard of professionalism
22 in how I conduct our hearings and the trial of this case.

23 Thank you so much. This matter is adjourned.

24 (At 12:09 p.m., the above hearing concluded.)
25

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
)
COUNTY OF CHARLESTON) Case No.:2016CP1006683
)
Jian-Yun Dong,)
)
 Plaintiff,)
)
 v.)
)
Medical University of South)
Carolina,)
)
 Defendant.)
_____) May 26, 2023

TRANSCRIPT OF MOTION

BEFORE THE HONORABLE JEAN HOEFER TOAL
Special Acting Circuit Court Judge, presiding

APPEARANCES:

For Plaintiff: Jian-Yun Dong, M.D., Ph.D.
 Pro Se

For Defendant: Robert Conley, Esquire
 Attorney at Law

Transcribed by:
Teresa B. Johnson, CVR-M-CM, RVR, RVR-M
P.O. Box 2812
Greenville, S.C. 29602

I N D E X

DESCRIPTION	PAGE
Motions	4
Certificate of Transcriptionist	99

EXHIBITS PAGE

NO.

DESCRIPTION

ID EV

(No exhibits offered.)

P R O C E E D I N G S

THE COURT: All right. Please be seated.

Dr. Dong?

MR. DONG: Thank you, Your Honor.

THE COURT: Yes, sir.

MR. DONG: Before I start to address MUSC's motion for summary judgment, I have a couple of issues of my own I would like to present to the Court.

THE COURT: Okay. Speak up so we could all hear you.

MR. DONG: Yes.

Before I start addressing the summary judgment filed by MUSC, I have a few issues I would like to present to the Court and to at least put on record.

First of all, I understand Your Judge -- Your Honor already denied my motion for continuance, but I'd like to say, under due process, I -- I'm entitled to be heard. And also, the reasons for continuance also have implications for the following response. With -- with -- with regard to MUSC's claim, there was no evidence provided, no depositions taken, no, actually, affidavit provided. And all of this

1 because the strict -- the strict timelines,
2 short timelines set at the request by MUSC
3 without any conference -- status conference to
4 get report from both side with regard to the due
5 process progress.

6 And secondly, I would like to request the
7 Court to give me leeways and latitude in
8 presenting my case and following less stringent
9 standard and -- in term of scheduled deadlines
10 as well as the content, for -- for better way to
11 say it. I can quote numerous cases from Supreme
12 Court to Appellate Court of United States as
13 well as the appellate court -- Court of Appeals
14 of South Carolina.

15 Give me a minute. I can try to locate the
16 -- the cases and also as well as provide by the
17 Court -- South Carolina's Rule of Civil
18 Procedures. Particularly, actually, even the
19 one at issue, Rule 56. There is actually
20 clearly statutes when the party cannot provide
21 affidavit of sufficient evidence, the Court may
22 order continuance for this affidavit -- for this
23 affidavits to be obtained or depositions to be
24 taken or discovery to be had. One may take --
25 one may make such order as a judge.

1 So actually there's -- rules of discovery
2 as assured by due process, arbitrary timelines
3 is at the Court's convenience after due process
4 has been satisfied. So there is plenty rulings
5 from Supreme Court down to Court of Appeals of
6 South Carolina. The due process interests
7 overweigh the deadline -- (inaudible) deadline
8 interest of the Court, even when the deadline is
9 authorized by statute. But the scheduling order
10 is not authorized by statute, is at the
11 discretion of the Court when the due process has
12 been fully satisfied.

13 Actually, I can read some of the -- with
14 your permission, I can read some of the cases --
15 cite some of the cases from Supreme Court as
16 well as to -- they are circuit courts as well as
17 due process -- the Court of Appeals of South
18 Carolina.

19 All right. In Haines versus Kermer --
20 Kerner, H- --

21 **THE COURT:** Spell that for me, please.

22 **MR. DONG:** H-a-i-n-e-s versus Kerner, K-e-
23 r-n-e-r.

24 **THE COURT:** All right.

25 **MR. DONG:** It's 404 U.S. 1- -- 119.

1 **THE COURT:** All right.

2 **MR. DONG:** In this case, the United States
3 Supreme Court held proceeds -- pleadings should
4 be held with less stringent standards than those
5 drafted by attorneys, it says contact. And also
6 this extent to the entire presentation and
7 process in prosecuting her case. The Court
8 explains pro se complaint, however inartfully
9 pleaded, must be held less stringent standards
10 than formal pleadings drafted by lawyers.

11 In *Estelle versus Gamble*, E-s-t-e-l-l-e
12 versus Gamble, G-a-b-l-e [sic], 429 U.S. 97, in
13 this case, Supreme Court held that pro se
14 pleadings in civil rights cases should be given
15 certain degree of latitude in presenting their
16 cases. And there's -- there's at least four,
17 five, six cases I don't have too.

18 In *Erickson versus Pardus*, E-r-i-c-k-s-o-n
19 versus P-a-r-d-u-s, 5- -- 551 U.S. 89, in this
20 case, Supreme Court reaffirmed the principal
21 that pro se pleadings should be held less
22 stringent standards than those drafted by
23 attorneys. And the Court stated pro se
24 complaint must be -- complaint must be literally
25 construed and held to less stringent standards

1 than formal pleadings drafted by lawyers. And
2 there is also rulings literally construed means
3 even in the pleaders do not artfully represent
4 the case, the Court has to consider as if the
5 pleader for why they write argument, because
6 based on the issue the pleader raised. And
7 actually there is also specifically regarding to
8 the procedural latitude.

9 In *Rand versus Rowland*, R-a-n-d versus R-o-
10 w-l-a-n-d, 154 Fed. 3d Edition, 592, this is
11 Ninth Circuit. In this case, Ninth Circuit
12 Court of Appeals held pro se litigant should be
13 held to the -- should not be held to the same
14 stringent standards as attorneys with respect to
15 procedural requirements such as filing
16 guidelines. Actually, this echoed in many
17 cases.

18 The Fourth Circuit, which is more relevant
19 to -- to this circuit, also held that pro se
20 litigants should be given leeway in complying
21 with procedural rules and guidelines,
22 particularly where the litigant is incarcerated,
23 but this does not apply here, as well has
24 limited access to legal resources. But as the
25 layman is well-established rules by Supreme

1 Court. And no matter how much education the
2 person may have, would not be able to comprehend
3 the --

4 **THE COURT:** What's the name of the Fourth
5 Circuit case?

6 **MR. DONG:** All right. Sorry.

7 *Anderson versus Angelone*, A-n-d-r-s-o-n
8 [sic], A- -- versus A-n-g-e-l-o-n-e, 86 Fed 3d.
9 Edition, 932. It's Fourth Circuit, 1996.
10 Tracing this, particularly, there's plenty
11 rulings. The pro se pleadings should not --
12 layman should not be asked for following -- or
13 should give leeways to in term the deadlines
14 with -- even with the statute authorization, for
15 example, the appeal -- appellate deadlines,
16 because the due process overweigh the procedural
17 deadlines.

18 So in -- in this case, actually, the
19 overall scheme of the entire case is the
20 defendant set up the limitations for discovery,
21 limiting the scope and the timeline, for
22 example, as ridiculous as limiting discovery
23 only to e-mail from or to the plaintiff during a
24 certain period of time. That's unheard of.
25 Absolutely no legal basis for -- for the

1 defendant to ask the Court to limit the scope of
2 discovery. And then they follow it by limiting
3 the time for discovery. So everything --
4 there's a scheduling order. That order has not
5 -- not been able to change. But at the expense,
6 the plaintiff cannot conduct discovery. For
7 example, in this case, the notice deposition --
8 we did not abandon the notice deposition.
9 That's after a series of delay, give me -- give
10 me very little time. Then, I have
11 uncontrollable situations.

12 I had to file the motion to extend the
13 discovery. The motion was clear denied without
14 state a rule or a reason. And basically,
15 because the -- it's complex, where the very
16 issue we're talking is the scheduling order.

17 So -- and also with regard to protection
18 order, when I filed the protection order with my
19 eye surgeries, I will -- I will not be able to
20 schedule my eye surgery with both my eyes just
21 to cause delay for the -- for filing report of
22 summary judgment. And I was trying to -- with
23 my eyes and the operation, actually, I still
24 feel sand in my eyes, but my vision is a day-
25 and-night different after surgery. But I could

1 not -- right now, it's getting a lot better. I
2 could not open my eye for a long period of time
3 because I feel the sand in my eyes, and any
4 blinking will cause hurt, irritation, and
5 tearing. So I had to close my eye for a period
6 of time. So I have not followed -- did much
7 reading. And especially I'm a pro se pleader, I
8 have not been able to read and write effectively
9 without my -- my vision fully restored.

10 And then, I can address the issue -- to
11 save time, address the issue of breach of
12 contract. All right. And that's -- yes,
13 summary judgment. Okay. Summary judgment,
14 based on Rule 56, has to be supported by
15 pleadings, evidence, and interrogatories, and
16 most importantly, affidavit. The defendant
17 claimed the plaintiff does not have affidavit
18 and did not file any memorandum. It's not
19 without trying. Because I was given a short
20 time. And during the time, I was not able to do
21 so and have a half-way finished memorandum
22 prepared. But I was preparing it until I got
23 into surgery, and then I could not do it.

24 And also the timeline was at least 10 days
25 -- not 10 days. MUSC asked for 10 days. The

1 Court first deadline granted for 10 days. And
2 after the -- although the Court changed the date
3 of hearing after -- in essence, granted the
4 motion for protection, but only give me one day
5 after protection to come to this hearing. So
6 actually I was -- if I'm protected during the
7 period of time, I'm not able to attend any legal
8 proceedings.

9 But after that period, I only get one day
10 to prepare for this hearing. I think -- that's,
11 for lack of a better word, is a violation of due
12 process, especially considering the Court
13 rulings. I should be given latitude and leeways
14 and more time to support -- to prepare for the
15 response and argument.

16 So I will not -- I do not have the -- as
17 MUSA -- MUSC said, I could not conduct the --
18 could not conduct the deposition, not because I
19 abandon it. Because I filed the motion for
20 protection and also filed the -- the motion to
21 extend the discovery. And during the motion
22 filing period, the deadline should be
23 automatically extended until ruling, even the
24 Court -- the -- the motion being denied. And in
25 those cases, it was not.

1 And also for same reason, I know MUSC is
2 not the moving party of the complaint. But once
3 MUSC filed the motion for summary judgment, this
4 summary judgment, MUSC as the moving party, has
5 the burden to support the supporting documents
6 as required as -- by Rule 56. MUSC provided
7 none. The reason is they could not provide it
8 because MUSC did not want to produce any of the
9 victim -- I'm sorry -- vic- -- witness. Because
10 they denied the witness to me, and they said
11 they could not produce the witness to provide
12 affidavits to -- to verify the documents or the
13 claims MUSC has made by -- by counsel.

14 Even if he saying my client said that, the
15 client did not testify. The client did not say
16 under oath on the record what testified by the
17 counsel. So those test -- testimony was made by
18 counsel, mostly false. Not only without
19 support, but was false. Did not actually cite
20 any evidence, even citing the deposition --
21 sorry -- the deposition taken of me. So the --
22 the -- first of all, the summary judgment has to
23 be supported by the documents as required as in
24 Rule 56. And MUSC provided none.

25 All right. Secondly, the -- the basics for

1 summary judgment is there's no genuine issue
2 that's controversy to -- for trial. And MUSC
3 failed to say there was no -- to prove with the
4 support of the documents there was no genuine
5 issue. That burden is not MUSC's.

6 Secondly, the MUSC raised two issues. One
7 is statute of limitations. Made extensive
8 statements, a significant portion of those are
9 false to claim the statute of limitation barred
10 the claim.

11 First of all, it's foregone conclusion.
12 The Court has accepted complaint. And actually,
13 the complaint was filed on the basis of the
14 agreement as a whole, not each particular item
15 was treated separately.

16 And also, the agreement is under the
17 obligation by the employer of the clause in
18 honesty and fair dealing. There's clearly, as
19 demonstrated by MUSC counsel, try to -- try to
20 provide alternative interpretations of wording,
21 which was done by a professional attorney of
22 MUSC. In -- if faced with a faculty member at
23 the time, only goal was to get back to research.
24 I'll get into the -- the agreement a little
25 time.

1 And also, the agreement should be treated
2 as a whole, as not with specific date when, for
3 example, the breach is not on the date of
4 signing. The date is when the MUSC failed to
5 honor each and every one of the agreement,
6 right? It's not barred because one of the
7 breach agreement, one of the 20 conditions may
8 or may not be breached at certain time and the
9 rest of the other -- entire agreement breach
10 will be following that schedule and also has to
11 be knowingly -- the breach has to be known to
12 the party or should have known when the MUSC
13 engaging a continued discussion working of the
14 process.

15 So the -- the -- whether or not its good
16 faith or not, maybe party believe MUSC is
17 working on it, is in the process. So that
18 breach has not been -- that agreement has not
19 been breached. Especially in the entire
20 document as a whole, the -- the -- the contract
21 has not been breached. Until the date the
22 contract expire, MUSC did not honor most of, if
23 not any, of the conditions that are in favor of
24 Dr. Dong.

25 The -- secondly, I'll -- I'll get into

1 specifics. Secondly, MUSC keep relying on --
2 the plaintiff cannot fail to not be able to
3 present sufficient evidence. I think that by
4 nature, that's a question to be determined by
5 trial. Sufficient evidence should be determined
6 by trial, not by summary judgment.

7 And with the regard to if there is
8 sufficient evidence, there -- there are. But
9 some of the lack of documents because the -the
10 plaintiff was never given any chance for
11 discovery, all because the MUSC's wishlist to
12 limit the discovery in terms of scope only to --
13 for e-mails to and from the plaintiffs that
14 complete defeat the purpose of discovery. And
15 again, discovery is assured by law under the
16 constitution as a due process right -- due
17 process rights of parties.

18 And -- and secondly is the short and rigid
19 timelines for discoveries. The timelines should
20 be changed at the request for motion -- based on
21 motion. And especially for pro se pleadings and
22 for conditions out of the control of the
23 parties. But in this case, the -- all the
24 delays was caused by MUSC.

25 The record will show they would not provide

1 response or not provide the date for discovery
2 months at a time. Sometimes the discovery
3 request was given a year later. MUSC did not
4 provide a response or provide the response by
5 law. Clearly inadequate. It's a general
6 overall denial.

7 So those are all violations of the law and
8 violations of due process. So therefore, up to
9 date, Plaintiff have not been able to conduct
10 any meaningful discovery all because the -- the
11 deadlines and the orders to limit the scope of
12 discovery without any statute authorization,
13 without any established case law, but in
14 contrary, completely against the statutes and
15 the case -- numerous case -- case laws.

16 So actually, there are plenty evidence to
17 support -- sufficient evidence to support there
18 is a violation breach of violations as well as
19 admitted by the MUSC defendant. The major one
20 is the MUSC failed to transfer any of the
21 research material essential for -- for Dr. Dong
22 to continue his research and education, his
23 career, and his income -- maintain his income at
24 MUSC.

25 I will not -- I will give two answers to

1 each of the specific terms MUSC just presented
2 -- argued about.

3 I don't have the -- sorry. I can't locate
4 the...

5 I can't -- I only can (inaudible) short --
6 I will -- I'll try to -- if you give me a
7 minute, I will -- if Your Honor give me a
8 minute, I'll locate the contract, the agreement.

9 **MR. CONLEY:** (Inaudible) the agreement is?

10 **MR. DONG:** The original agreement.

11 **MR. CONLEY:** It's attached to your complaint,
12 Dr. Dong. It's attached to our memorandum as well.
13 It's in two different locations.

14 **MR. DONG:** Right. But where is it located in
15 this stack here?

16 **MR. CONLEY:** I don't know what that stack is,
17 Dr. Dong.

18 **MR. DONG:** This is your Exhibit 2.

19 **MR. CONLEY:** If you let me see it, I'll look at
20 it. What are you wanting to -- (inaudible)
21 agreement, contract agreement?

22 **MR. DONG:** Thank you.

23 And I can argue MUSC breached nearly all the
24 terms listed in the -- in the contract. First of
25 all, actually is a matter of honesty and fair

1 dealing clause by the employer versus employee,
2 which is the individual. And there is laws, plenty
3 case laws, suggesting it's a fraud when the employer
4 abandon the principle of honesty and fair dealing
5 when dealing with the employees, especially with the
6 employment contract issues.

7 But first of all, this -- the title of
8 agreement is -- have a different meaning from what
9 MUSC tried to --

10 **THE COURT:** Let me get -- we've got two things
11 going here. We've got the agreement, and then we've
12 got the way Mr. Conley framed his argument.

13 **MR. DONG:** Right.

14 **THE COURT:** He went through 20 different
15 obligations that he contended were the essence of
16 the agreement.

17 **MR. DONG:** Yes.

18 **THE COURT:** Now, are you going -- are you
19 looking at the agreement itself or are you looking
20 at the list he gave of the 20 things?

21 **MR. DONG:** I will -- list -- basically, the two
22 are the same, but I will point out --

23 **THE COURT:** Hang on for a minute. I've got a
24 list of the 20 things. Let me see if I can get my
25 hands to the agreement. I've got it right here.

1 **MR. DONG:** Right.

2 **THE COURT:** It's attached to your complaint.

3 **MR. DONG:** Right.

4 **THE COURT:** What you are looking at is
5 something called a Final Separation Agreement
6 Between Medical University of South Carolina
7 including its College of Medicine and Dr. Jian Yun
8 Dong, Professor of Microbiology and Immunology. Is
9 that what you've been talking about? And the date
10 is May 3, 2010.

11 **MR. DONG:** Yes, Your Honor.

12 **THE COURT:** All right.

13 **MR. DONG:** I think the -- it's basically the
14 same order, but the reason I --

15 **THE COURT:** Sure. But you do -- however you
16 want to do it is fine with me. I've got what you're
17 talking about.

18 **MR. DONG:** Yes. Yes, Your Honor. The reason I
19 tried to bring the two together is because there is
20 a lot of misrepresentations in --

21 **THE COURT:** All right. Well, just go ahead and
22 go down the list of things.

23 **MR. DONG:** Right.

24 **THE COURT:** The first one is payment of faculty
25 compensation.

1 **MR. DONG:** Yeah. I want to address the title
2 first.

3 **THE COURT:** The title? Final Separation
4 Agreement?

5 **MR. DONG:** Right.

6 **THE COURT:** All right, sir. What about it?

7 **MR. DONG:** The title of Final Separation
8 Agreement was presented to me as what the discussion
9 led to the agreement. There was extensive
10 discussion. Plenty events happened what led to the
11 agreement. No tenured faculty after years
12 education, research, and career in the end give up
13 tenure. There's a --

14 **THE COURT:** What does that have to do -- this
15 -- this thing says a Final Separation Agreement
16 between MUSC and Dr. Dong. That doesn't say
17 anything about anything other than it's a final
18 separation agreement. You signed it, right?

19 **MR. DONG:** I understand.

20 **THE COURT:** Okay. So --

21 **MR. DONG:** If -- if -- if I may --

22 **THE COURT:** -- what's the problem with the
23 title?

24 **MR. DONG:** Right. There is two
25 explanations of the title. And we can read

1 through the -- what MUSC tried -- tried to
2 present is the final severance agreement, which
3 is not the wording. But that appeared to be --
4 this title was drafted by attorney did leave
5 room for misinterpretation of title. The title,
6 Final, referring to several versions of the
7 separation agreement until we reached the final
8 to be signed is not a final --

9 **THE COURT:** Okay. I -- I get what you're
10 saying. He hasn't said anything one way or
11 another about that.

12 **MR. DONG:** Let -- let me actually present
13 the way I said. The secondly is separation, a
14 separation of the two parties. Moving one party
15 out of MUSC to -- for a cool down period is not
16 separation from MUSC. Not severance. It's --
17 the way that counsel presented is interpreted as
18 a severance. It's not severance as what the
19 word say in the separation, physical separation,
20 and also illustrated in the entire agreement as
21 to transfer a faculty to off campus, you know,
22 to separate the two parties, because the other
23 party is the chairman of the department and also
24 the provost.

25 **THE COURT:** Dr. Dong, this agreement says

1 in a number of different places that it is an
2 agreement and you've got the final separation
3 agreement. Go down two -- two, three more
4 paragraphs. It says during the term of this
5 final agreement, the University will continue
6 Dr. Dong's employment, faculty appointment, and
7 make scheduled salary payments to him. In
8 consideration, Dr. Dong acknowledges that this
9 final agreement constitutes his irrevocable
10 resignation of his tenured faculty appointment
11 to be effective no later than March 31, 2012.
12 Dr. Dong will retain his faculty appointment,
13 tenure, and title until the effective date of
14 his resignation. You signed that, did you not?

15 **MR. DONG:** I understand.

16 **THE COURT:** All right.

17 **MR. DONG:** Before you -- Your Honor arguing
18 with -- with me, provide argument for MUSC, if
19 -- if you may allow me to actually -- some
20 leeway to --

21 **THE COURT:** I'm going to give you -- I'm
22 going to give you plenty of chance to do it.

23 **MR. DONG:** Right.

24 **THE COURT:** But you're saying this is not a
25 cooldown, not a severance and so forth. That's

1 not what that paragraph says, is it?

2 **MR. DONG:** That's -- well, there's the
3 under the conditions. If under the condition, I
4 have a chance to move to another university,
5 obtain the position, I will formally resign.
6 Actually, that's part of the agreement --
7 continuous -- continuous in -- in -- integral
8 part of the same agreement. So if I -- there's
9 clearly says support my continuous research and
10 I have the right to find another employment.

11 And also there was a statement they termed
12 as they have to right to rehire me, but that
13 wasn't presented to me as their right. Because
14 once it -- that goes back to another honesty and
15 fair dealings.

16 And also the reason to what lead to this
17 agreement is also critically important. We
18 can't just take it -- extract it in a vacuum and
19 say, Well, you signed this, the agreement, and
20 now you're gone. So there's all conditions
21 listed for me to honor the agreement at the same
22 time for MUSC to honor agreement.

23 So the -- the -- what's presented to me at
24 a time is a separation, physical separation.
25 Yes, there is terms for me to resign, but after

1 I was able to obtain another -- another faculty
2 employment at other universities or MUSC, based
3 on all they're saying, if you continue
4 performing as you have, we'll rehire you --
5 rehire you. So they -- that's -- the clause
6 would not -- so my resignation would not take
7 effect because MUSC (inaudible) has the right to
8 retain my employment. Even if -- if I interpret
9 it literally, MUSC have the right to reinstate
10 my employment. Even (inaudible) leave, that's
11 the right of MUSC. That's could not be -- that
12 could not be true.

13 So MUSC expressed the intent and the
14 promise to recruit me if I perform continuous as
15 what I have been at MUSC. And not in the term
16 -- in the contract say anything that I had bad
17 performance.

18 In the -- in the discovery, I request
19 specific request my record, faculty record, my
20 performance, my evaluations, all denied in a way
21 by the limiting scope, because that's not the
22 scope. (Inaudible) my performance, my -- my
23 evaluations was given to me and kept at MUSC,
24 and MUSC failed to produce it.

25 So the -- the -- the reason that -- that's

1 what I'm saying. The whole spirit of this
2 agreement presented to me as I understood at the
3 time was a temporary separation while continuing
4 my employment gave me opportunity to -- to -- to
5 perform the same or the better. And MUSC will
6 -- after the period of time, MUSC will, in a
7 way, reinstate my position or continue my
8 employment at MUSC, although it's worded as
9 MUSC's right by -- by lawyer. So I was a layman
10 at the time.

11 But regardless, that's the spirit of MUSC
12 saying with the agreement give me the
13 opportunity to continue doing my research. If I
14 improve my performance the same level or better,
15 then I will be continued employed at MUSC. I
16 will also resign as a faculty member based on
17 the clause. If I get a chance to be recruited
18 by another university, I will resign from MUSC.
19 That's also consistent with the spirit of the --
20 the temporary separation and allow me to
21 continue my research and education.

22 So actually the first clause is the, of
23 course, during the employment -- I don't even
24 see how this is -- actually, the third paragraph
25 is -- is Dr. Dong employment will continue

1 doctor's employment -- faculty employment,
2 making scheduled salary payments. In
3 consideration, Dr. Dong acknowledges that final
4 agreement constitute his -- the same paragraph
5 you just made, right? But the employment -- the
6 -- the only obligation MUSC has honored is -- in
7 a way, is the continued salary for the period of
8 time until I have a reason to resign or be
9 continued employed by MUSC.

10 In this case, I did not have a reason to
11 resign. I did not have -- MUSC did not continue
12 -- continue to employ me, and also in violation
13 many of the terms. So the first term is not
14 just a salary. It's a continued employment.
15 That comes all my activities of teaching,
16 especially research, because -- sorry --
17 teaching and education, because my research
18 would be conducted at the company established by
19 MUSC, FRD, and a group of investors from new
20 York.

21 All right. The -- so they -- they did not
22 honor as my employment because I have to have
23 all the faculty activities at MUSC. Access to
24 graduate students, teaching graduate students,
25 and teaching graduate students in published

1 articles and actually leading post-docs is one
2 person's achievement, academic achievement.
3 When you're a professor, you doctoral mentor,
4 taking way your students -- taking your teaching
5 ability, taking your access to postdoctoral
6 fellows, that's not employment -- that's a
7 violation of term.

8 Okay. I do not know the second -- MUSC
9 retained the rights -- actually, that's -- those
10 are lawyer's terms, what represent me MUSC will
11 continue my employment --

12 **THE COURT:** Where are you -- where are you
13 reading, Dr. Dong?

14 **MR. DONG:** One, two, three, four, fourth
15 paragraph on the first page.

16 **THE COURT:** Oh, okay. He hasn't numbered
17 it like that. His numbers were --

18 **MR. DONG:** Right.

19 **THE COURT:** -- his obligation --

20 **MR. DONG:** Right. So I cannot completely
21 follow his order --

22 **THE COURT:** Okay.

23 **MR. DONG:** -- because it's -- not only
24 misrepresentations and also is extracted to his
25 interests.

1 And yes, there's faculty compensations.
2 And I may have to add actually my salary was
3 reduced before by the chairman as well as by the
4 Vice President for Research, Dr. Stephen Lanier,
5 as a pressure for me to leave MUSC and while
6 taking all my research material, research
7 projects, research data, and also spending my
8 research money and taking over my records to
9 graduate students and employees.

10 But as I said, yes, the only thing they did
11 was pay me a reduced salary for the -- for the
12 duration of the -- the contract. So that part,
13 specific part item was not violated and
14 testified truthfully.

15 The retention faculty employment and
16 faculty duties, the appointment is not empty
17 title as what Mr. -- Mr. Conley stated. If we
18 named Mr. Conley a lawyer but prevented him from
19 practicing, that title is meaningless. And I --
20 when I give you a faculty appointment, I
21 actually give also faculty duties. That's the
22 part of the agreement. I have to my appointment
23 -- I have to continue my faculty activities at
24 the University in terms teaching, education,
25 leading postdoc -- training postdoc fellows and

1 access to all facilities. MUSC give me none,
2 except they did not openly say take -- take away
3 my title. And also MUSC removed my faculty
4 profile on their website, closed my homeroom,
5 and stopped me from using faculty member e-
6 mails. That stopped all my communications as a
7 faculty member with my peers, with colleagues,
8 with funding agencies. Those are violation,
9 clear violation of terms by MUSC.

10 Right. Specifically, doctor agrees to
11 carry his customary shares of teaching,
12 lecturing, intellectual responsibilities as well
13 as assigned -- communicated him in writing the
14 chairman of each department. Those are taken
15 away from me.

16 Basically, I was not allowed to come to
17 campus. My lab -- my lab was completely closed.
18 All my employees was taken away by the chairman.
19 That's a complete violation of term agreement.

20 And during this period, Dr. Dong may use
21 the title of Director of Biotherapeutics and
22 Vaccine Development, because I have a sender at
23 MUSC. It's not just using the title. I have to
24 (inaudible) the title. I have to do my duties
25 for fellow therapeutics and vaccine development.

1 That has -- that's -- it's not the title. It's
2 not -- Mr. Conley is the title of attorney but
3 not allowed to practice. Take away his -- take
4 away his office, take away his staff, not allow
5 him to practice. Surgeons need equipment;
6 researchers need all the equipment documented
7 with their materials in order to conduct
8 research.

9 The -- the type of medical research I was
10 conducting is not to study someone else data,
11 not study academic result. Has to be done to
12 test you, hands-on, all -- with all the
13 material, priority materials and also my
14 intellectual properties. You can't start --
15 advanced research start from scratch. You rely
16 on all the knowledge and materials and the
17 technologies and protocols and data you
18 accumulate through hard work over the years.
19 Not only it just hard work. Without funding,
20 it's also impossible. So those are the result
21 of tens of millions of dollars academic funding,
22 federal funding, grants, and contract I obtained
23 through competition. The funding rate in age
24 was less than 10 percent, not general
25 population, out of nationwide top scientists.

1 Did -- did -- did counsel get -- get two
2 and 30 -- two hour and 30 minutes?

3 **THE COURT:** What's that?

4 **MR. DONG:** MUSC got two hours -- two hours
5 and 30 minutes.

6 **THE COURT:** Dr. Dong, you need to
7 concentrate on what you're doing and not worry
8 where I'm looking.

9 **MR. DONG:** All right. Sorry.

10 **THE COURT:** All right, sir. But what
11 you're doing here is something that you could
12 have done by filing a document that said what
13 you're saying right now. You're going through
14 this contract and trying to say what you
15 disagree with about the contract.

16 **MR. DONG:** So is --

17 **THE COURT:** The contract is something you
18 signed.

19 **MR. DONG:** I understand. That's why --

20 **THE COURT:** Yes, sir.

21 **MR. DONG:** -- I'm going --

22 **THE COURT:** And now you're going through
23 trying to say how unfair you think all of it is
24 and how you shouldn't have been required to do
25 that. That's what -- you just got to faculty

1 duties.

2 **MR. DONG:** I --

3 **THE COURT:** So keep on going, but please
4 understand that there -- there is nothing that
5 you have filed so far that details what you're
6 now standing up doing. You could have well done
7 that before --

8 **MR. DONG:** I did not have time, because I
9 was --

10 **THE COURT:** I -- I don't -- you have said
11 that so many times, I think I understand what
12 your position is about that.

13 **MR. DONG:** All right.

14 **THE COURT:** All right, sir.

15 **MR. DONG:** May I -- may I continue,
16 Your Honor?

17 **THE COURT:** Yes, you may.

18 **MR. DONG:** And also there is -- "Dr. Dong
19 is free to seek academic research collaborations
20 including secondary employment within MUSC
21 during the remainder of the agreement." And they
22 completely blocked all my ability to conduct my
23 research, what I'm going to use for -- for
24 continuing my collaboration. I cannot even do
25 my own research. The whole purpose of the

1 agreement is for me to have a separation period
2 so I can continue -- continue my research and
3 education. That's the major part of the
4 agreement for the entire duration for me to
5 continue my research, not each specific payment,
6 not each specific time within how many days
7 they're going to start, or the attempt. So how
8 we define attempt?

9 MUSC was -- did they attempt -- that's
10 actually obviously -- obviously dishonesty and
11 in bad faith. Right. That's actually the
12 clause. MUSC is obligated when dealing with
13 employees. They have to under the clause --
14 honesty and fair dealing clause, to -- for --
15 for any agreement for them to -- to claim they
16 have honored. So actually, they did not -- of
17 course, all of these are conditions we talked --
18 we discussed prior to my separate myself
19 physically from MUSC from the fighting with the
20 department chairman about his taking over my
21 research and material, research projects and
22 employees, fundings and completely blocked me
23 from conducting my research, not because I did
24 badly, because I was (inaudible).

25 I gained -- I obtained more federal funding

1 than the chairman and I published more paper
2 than the chairman. I led more graduate students
3 and post-doc fellows than the chairman at the
4 time. That's why he took over my research
5 projects. In the end, he has to rely on the
6 research material as well because that's
7 accumulate my years of work. So he has took
8 them from me with help of Stephen Lanier, which
9 is his close friend when they both working --
10 try to compete for chairmanship during the time.
11 And that's -- that's how -- how they reach
12 agreement.

13 Breaching the agreement enabled Jim Norris,
14 the chairman of department, and Stephen Lanier
15 to take over my research projects, my ability to
16 conduct research. And not only they took -- it
17 wasn't enough for them to take over my research
18 ability and research, they actually have to
19 block me from competing with him. Because I was
20 the expert; he's not. That's why they shut me
21 off from my --

22 **THE COURT:** Mr. Dong, we're going to spend
23 a lot more time arguing about the very specific
24 nature of your disagreements with MUSC. What
25 you need to do is to talk about how they

1 breached this agreement. What you're talking
2 about is all the things that happened that led
3 to this agreement.

4 **MR. DONG:** Actually, Your Honor, that's
5 where actually I failed to make my point
6 clear --

7 **THE COURT:** I -- I -- I'm not following it.

8 **MR. DONG:** Right.

9 **THE COURT:** I can tell you that.

10 **MR. DONG:** I appreciate you asked the same
11 question as counsel. I'm -- I'm going to
12 explain. Right? The breach of the contract is
13 in the terms -- what the terms mean to me or to
14 a faculty member to assign this based on this
15 agreement different maybe to a legal profession
16 or actually to a -- to a layman. But that's not
17 the spirit of the term. If we know the spirit
18 of the term what it -- what it says by
19 maintaining employment, not by paying a salary.

20 If I'm just an ordinary hourly worker with
21 payment salary, I'd go home. I'd be happy. But
22 I'm a scientist. I'm a doctor. I have a
23 career. My career is in the trending upwards
24 path. It's -- my career, my future all depends
25 on how I perform. So it's not a surgeon, you

1 take away his ability to perform surgery and you
2 name him surgeon that --

3 **THE COURT:** Your philosophy of that is not
4 lined up with my understanding with what I'm
5 here to look at, which are the terms of this
6 agreement --

7 **MR. DONG:** Right.

8 **THE COURT:** -- and whether they were
9 violated. So I look on the language of the
10 terms, and they say --

11 **MR. DONG:** Maintain my employment.

12 **THE COURT:** -- they say you commit to
13 submitting and irrevocable letter of
14 recommendation -- of resignation effective no
15 later than March 31, 2012. It doesn't say this
16 is some kind of temporary situation. It says --

17 **MR. DONG:** I understand, but there's other
18 conditions, Your Honor. There's other
19 conditions. You --

20 **THE COURT:** Well, then let's go through
21 that without going through every argument and
22 disagreement you've got or suspicion you have
23 about Dr. Lanier or Dr. Norris and all that kind
24 of thing. That -- that doesn't help me go
25 through this agreement and figure out whether

1 there are breaches of the agreement. And that's
2 what you're suing for. You're suing for
3 breaches of this agreement.

4 **MR. DONG:** Right. But actually MUSC
5 provide their version of the interpretation --

6 **THE COURT:** No, sir.

7 **MR. DONG:** -- and you allowed them to do
8 so, while I'm saying what is the employment --
9 maintain employment means.

10 **THE COURT:** And -- and -- and --

11 **MR. DONG:** It's --

12 **THE COURT:** -- what I want you to --

13 **MR. DONG:** -- not paying salary.

14 **THE COURT:** I want you to look at this
15 agreement, Dr. Dong, and tell me how they
16 breached.

17 **MR. DONG:** Right. They denied maintain --
18 giving me the ability to continue my research as
19 part of the employment. So employment by MUSC
20 for a scientist, for a doctor, is not give him a
21 title, give him payment. They have -- they
22 allowed him to conduct research and have access
23 to the facilities and function normally as any
24 faculty members will do at MUSC.

25 **THE COURT:** Well, I thought the -- the --

1 the foundation of this agreement would be that
2 you would be at GenPhar and you would have your
3 labs there and not at MUSC. Am I wrong about
4 that?

5 **MR. DONG:** I'm also talking about academic
6 teaching and training postdoctoral fellows.
7 Actually, I cannot do at MUS- -- at GenPhar
8 because that's a commercial company, have strict
9 standards what they can operate on. They only
10 lend me laboratory space for me to perform the
11 -- the duties of MUSC. That's what the contract
12 says. They didn't ask me to -- say, "Well, go
13 work for GenPhar. Tell us bye-bye. We'll call
14 the end of it," right?

15 It clearly says I'm given the continuous
16 appointment obligations, duties, as a faculty
17 member, tenured professor at MUSC. So I will be
18 have -- have to be able to do what any regular
19 faculty members, tenured professor could do at
20 MUSC. They took that away. So with taking that
21 away, I would not be able to honor the final
22 resignation. Take that away because I could
23 not, as I said, seeking -- actually seeking
24 employment at another university, not at another
25 packing facility, butchering facility, ginger

1 facility to seek second employment. It has to
2 be universities for medical doctors for research
3 scientists to obtain grants. Without -- taking
4 away my ability, I could not conduct any -- any
5 of those. That's the violation of the contract.

6 **THE COURT:** Let me ask you this: Post
7 May 3, 2010, when you signed this --

8 **MR. DONG:** Yes.

9 **THE COURT:** -- were -- were you teaching at
10 MUSC?

11 **MR. DONG:** No. That was -- that was --
12 they taking away my ability to teach MUSC.
13 Actually, my graduate students, even during the
14 graduation, chairman took over the mentorship he
15 graduate student as one of his graduates.

16 **THE COURT:** I understand that. So your
17 contention is that they -- this agreement would
18 have allowed you to continue to teach and
19 perform normal faculty duties, right?

20 **MR. DONG:** Correct. Like -- like any
21 other --

22 **THE COURT:** You said they immediately shut
23 those off.

24 **MR. DONG:** No. They actually -- it's
25 actually a negotiation process. So they was --

1 they gave -- for the period of time of the
2 agreement, they can't start what they want --
3 they choose -- it's a complicated operation. So
4 even if they say, Well, you can do it today, how
5 -- how can I get access to the graduate
6 students? There's no new graduate students
7 coming in. I will not be able to interview
8 graduate students.

9 It's complicated more than a layman can
10 understand. But it's -- that needs to be
11 determined as a fact. What is the extent of
12 agreement? What is the appointment of --
13 faculty appointment? It's just a title or a
14 salary? Or is it lot more than that?

15 **THE COURT:** Well, you're explaining that
16 it's a lot more than that. I'm just trying to
17 figure out when they breached the agreement.

18 **MR. DONG:** They breached the agreement at
19 end of this agreement. They terminate me -- my
20 employment. Actually, they -- but they did not
21 do anything during this period of time as they
22 specified.

23 **THE COURT:** Well, you -- so you're saying
24 that from the time they signed -- y'all signed
25 this agreement in 2010, they did not allow you

1 to teach at MUSC? Are you saying that?

2 **MR. DONG:** It's in the process. They did
3 not say, well, the process, I have to restart.
4 It's not -- it's not a day one, let's do
5 research. Until I -- I realized the new coming
6 graduate student, they didn't allow me to
7 interview them. So I would not be -- I wasn't
8 assigned to the course. Maybe not the first
9 quarter, not the second quarter, maybe not the
10 third quarter. But it's the process, until they
11 completely (inaudible) -- even during this time,
12 I wasn't -- the agreement is the -- the -- is
13 not practically implemented on one day. It's a
14 negotiation process.

15 **THE COURT:** Okay. I understand what you're
16 saying now. All right. All right. I
17 understand what you're talking about now about
18 faculty duties. And you say it was something
19 that happened over time, but the bottom line
20 was, you never got any graduate -- any students
21 assigned to you or that you could interact with
22 after this agreement was signed, right?

23 **MR. DONG:** That's limited. If you want an
24 example of what's the faculty duties. Faculty
25 appointment embodies a huge amount of

1 responsibility activities academically that's
2 closely associated with any faculty members --

3 **THE COURT:** Okay. I get all that. But
4 what you're saying is that after you signed this
5 agreement with them, they didn't allow you to
6 have those normal kinds of interactions of
7 faculty duties including --

8 **MR. DONG:** I understand what Your Honor
9 wants me to give a specific date, I could not
10 but it's a continuing process.

11 **THE COURT:** Right. But it -- obviously, if
12 you look back on it now, it started when you
13 signed this agreement, right?

14 **MR. DONG:** No, it started before --

15 **THE COURT:** Or even before it?

16 **MR. DONG:** Right. Because that's -- the
17 contract has not -- for example, they took my
18 material, the contract is within the period of
19 time give me a set period of time to
20 transitional in -- in the research, restart my
21 research until actually they continue my
22 employment or I find another employment and
23 permanently resign from MUSC. That's the spirit
24 of the --

25 **THE COURT:** So even before this agreement

1 was signed, they --

2 **MR. DONG:** I'm not saying --

3 **THE COURT:** -- they were blocking your
4 ability to --

5 **MR. DONG:** Part of it was the blocking.
6 That's why I settled with the agreement. And I
7 give them the process, a time period --

8 **THE COURT:** Okay.

9 **MR. DONG:** -- to resolve the issue, to allow
10 me to (inaudible). That's the purpose of the
11 contract.

12 **THE COURT:** I understand. I got it now. And
13 then by -- as it turned out, you were never able
14 to -- you were never allowed to go back and
15 start interacting with students or do things
16 that a normal faculty member would do, am I
17 right?

18 **MR. DONG:** That's correct.

19 **THE COURT:** Okay. All right. Keep on
20 going. This -- we're going to take forever on
21 this thing if we need at this snail's pace. I
22 understand the teaching thing now. Keep on
23 going.

24 **MR. DONG:** Right.

25 **THE COURT:** The next --

1 **MR. DONG:** Also -- also not only teaching.
2 It says research obligations -- collaborations.

3 **THE COURT:** I understand all that.

4 **MR. DONG:** And to take away my equipment, I
5 can't do research.

6 **THE COURT:** Okay. I understand that.

7 **MR. DONG:** But this is what was supposedly
8 a process. During this time, they allow me to
9 reestablish my research. And those are the --
10 there was bad faith negotiations. One, there is
11 none. I contact MUSC and I was negotiating when
12 they start. So it become a stonewalling. They
13 say, Well, we'll do this, talk to this, talk to
14 so-and-so until it back circle.

15 We didn't get the order. It didn't tell me
16 what to do. So actually it's a delay tactic, a
17 stonewalling, and a delay tactic by MUSC because
18 I was given the bad -- bad faith negotiation.
19 That's go back again they violate the honesty
20 and fair dealing clause when dealing with the
21 employees.

22 And actually, the faculty have a faculty
23 contract, there are faculty books. And tenure
24 has tenure. (Inaudible) tenure. Tenure has
25 rights. Everybody was competing for tenure.

1 Right? You can't terminate a person, even new
2 regulations, within seven years.

3 So actually, that's all part of the breach.
4 If you allow me to -- to explain what is the
5 breach, not what MUSC just saying that could be
6 interpreted, "You have the title. You have the
7 payment. That's all." That's not all.

8 And also, there is clearly -- there is --
9 it says there was -- the Vector Core equipment
10 will be moved. So -- will have -- before the
11 equipment moved as opposed to operating Vector
12 Core as part of the Center of Biotherapeutics.
13 So actually, the language for layman is hard to
14 understand. And I'll have to -- that's why I
15 need to explain what it is based on my
16 understanding and the parties signing.

17 So what is the -- MUSC can testify what is
18 the Vector Core and what's the Vector equipment
19 for? And why the Vector Core equipment has to
20 be transferred. And that has to be -- I
21 explained my understanding, unless they find
22 somebody else to explain otherwise, because I'm
23 a party --

24 **THE COURT:** Well, what's preventing you
25 from doing that or having filed something?

1 That's Exhibit B.

2 **MR. DONG:** Because the timing. Because the
3 timing.

4 **THE COURT:** No, no, no, no. This suit has
5 been going on since 2014. There could have been
6 plenty of time since 2014 for you to sit down
7 and explain what your position is about this
8 contract.

9 **MR. DONG:** Without discovery?

10 **THE COURT:** What's that?

11 **MR. DONG:** Without deposition? I was
12 trying -- trying to file the process to do
13 deposition. I was trying to file -- file the
14 process to get the documents from -- through
15 discovery, and it was all denied by the Court
16 limiting the scope of discovery to the only
17 information I had. And then they did not
18 provide all the information.

19 **THE COURT:** Well, Dr. Dong, by the time I
20 got in this case, the Craig Brown orders, the
21 Ferrell Cothran orders, and a whole bunch of
22 other orders had already been issued in this
23 case about discovery that were not something I
24 asked -- was asked to change, nor would I --

25 **MR. DONG:** I did file motions.

1 **THE COURT:** No, sir. Not on all the
2 discovery that had been done beforehand. All I
3 was asked to do was take this case as it was
4 then presented to me and deal with moving it
5 forward for trial, which is what I did.

6 Now, I don't know what went on in the
7 background about discovery. But I asked you a
8 very simple question about this contract when
9 you began to talk about Vector Core, and that
10 is, a lot of the contract related to, in terms
11 of your ability to keep up with that contract --

12 **MR. DONG:** Right.

13 **THE COURT:** -- the material in Exhibit B.
14 Why was Exhibit B never made a part of this
15 contract to facilitate the transfer of that
16 material to you at your new location?

17 **MR. DONG:** No, that's -- that's a clerical
18 error. (Inaudible). Exhibit B was transferring
19 the research materials. That's actually in the
20 Exhibit -- Exhibit A. There was specific
21 material things -- Exhibit B is the listing
22 material to be transferred. Research material
23 document and everything else.

24 So you allowed MUSC counsel testify to
25 explain their version of the agreement.

1 Actually, that's why --

2 **THE COURT:** Dr. Dong, please quit doing
3 that.

4 **MR. DONG:** Sorry.

5 **THE COURT:** All right. Your approach this
6 case has so many times been when you're asked a
7 question, to turn around and attack the
8 questioner, whether it be the lawyer, whether it
9 be the judge involved or something like that.
10 Please don't do that.

11 We're here to go through this contract and
12 I'm allowing you as much time as you need to go
13 through this contract and give your impression
14 of it. What I don't need is this constant
15 interjection of complaints about the other
16 lawyer and about the other judges and about me
17 as a judge. Just explain what your position is
18 about this contract, and we'll do fine.

19 **MR. DONG:** All right. Thank you,
20 Your Honor.

21 So actually, each one of -- has significant
22 implications in the -- in my performance, for
23 example, the Vector Core equipment, because --

24 **THE COURT:** All right. Just a second.

25 **THE COURT REPORTER:** He has paper covering

1 my microphone. If he could move that, please.

2 **THE COURT:** All right.

3 Dr. Dong, please take the paper off from
4 covering her microphone. Otherwise, it won't
5 pick up what she's trying to pick up.

6 **MR. DONG:** Thank you.

7 **THE COURT:** All right.

8 **MR. DONG:** Sorry.

9 **THE COURT:** All right.

10 **MR. DONG:** And the additional Vector Core
11 equipment, actually, that was the -- asked me to
12 submit to be attached in Exhibit B, which I did
13 not submit additional Vector Core equipment.
14 That means they did not violate whatever the
15 additional list I'm supposed to provide. But my
16 understanding, this -- this Vector Core list is
17 part of my equipment as well.

18 This actually equipment is not MUSC's
19 equipment while I'm an employment -- employee at
20 MUSC. Those -- yes, those are MUSC equipment.
21 When I'm not longer employee at MUSC, those are
22 my equipment. Because --

23 **THE COURT:** Well, I -- I got the impression
24 with the listing on Exhibit A that a lot of it
25 was equipment that you bought with you, was your

1 equipment, not them. They were agreeing to move
2 all of it to GenPhar.

3 **MR. DONG:** Yes, Your Honor.

4 **THE COURT:** And I assume that would mean
5 what you're talking about right now. Their --
6 their agreement wasn't limited to just what was
7 their equipment. They were going to move
8 everything in your lab to this new location;
9 isn't that right?

10 **MR. DONG:** That's correct.

11 **THE COURT:** Okay.

12 **MR. DONG:** Any -- any equipment, my
13 equipment.

14 **THE COURT:** That's right. Anything that
15 you used, anything that was either your
16 equipment or their equipment which you were
17 using, it was all going to your new location as
18 I understand it.

19 **MR. DONG:** There is no "their" equipment
20 for me to use and belongs to me. The equipment
21 has to be purchased under my grants.

22 **THE COURT:** Well, that's fine. But
23 everything that you were using equipment-wise
24 was supposed to be moved to your new location,
25 right?

1 **MR. DONG:** Correct. They did not do, as --
2 as they admit it. But that also is not a
3 one-day thing. It's continued --

4 **THE COURT:** And they -- they say they
5 didn't do it because the location was never able
6 to receive it for the lack of government
7 permits, occupation certificates, and this kind
8 of thing. Was that so or not so?

9 **MR. DONG:** Not so. Actually, the -- the
10 company has all the certificate and documents in
11 order to receive federal contract. The company
12 did receive tens of millions federal contract.
13 So those are already in place, and they knew it.
14 That was to say, as a formality matter, we have
15 to -- we could only transfer the material
16 research equipment, some of the biological
17 material, to a location that you have to show us
18 there is a permit to do so. Otherwise, they
19 violate the law -- law by transfer the material,
20 the biological material, to a site was not
21 approved. They know -- they knew it, and it
22 wasn't presented to them. GenPhar had all the
23 federal approvals and certificates.

24 **THE COURT:** Okay. The -- there are federal
25 approvals, and then in addition to that, there

1 are certificates of occupancy. That's
2 construction certificates that are issued by a
3 local government. There are --

4 **MR. DONG:** I understand that.

5 **THE COURT REPORTER:** -- insurance things.
6 GenPhar, did they have all of that?

7 **MR. DONG:** Of course, they had. How they
8 -- how they have that many employees in the room
9 operating without actually --

10 **THE COURT:** All right.

11 **MR. DONG:** -- completing the contract.

12 **THE COURT:** (Inaudible) the same. You
13 could have done that much sooner by filing some
14 sort of affidavit saying that that was --

15 **MR. DONG:** I was working on it until
16 actually --

17 **THE COURT:** Continue.

18 **MR. DONG:** MUSC still haven't filed any
19 affidavits, Your Honor.

20 **THE COURT:** I asked you please don't phrase
21 it that way again. They took your deposition
22 and filed that sworn document as part of their
23 factual filing. That's what they did.

24 **MR. DONG:** But I wasn't allowed to.

25 **THE COURT:** No, sir. I'm not going to get

1 into that argument right now. You stay on this
2 agreement and what your position is about it.

3 **MR. DONG:** And here -- here is this --
4 there's no argument. MUSC agreed to relocate
5 the equipment as listed in Exhibit B -- Exhibit
6 A. So actually --

7 **THE COURT:** Yeah. We know that. And they
8 say that they couldn't relocate it because the
9 -- no certificate of occupancy was ever given to
10 them. You say that you had the certificate of
11 occupancy. You haven't said yet whether they
12 were ever presented to MUSC. I don't know.

13 **MR. DONG:** Actually were. Actually, the
14 information come to Your Honor. Actually, I did
15 not know.

16 **THE COURT:** Sir --

17 **MR. DONG:** MUSC did not actually even say
18 that. I didn't say that.

19 **THE COURT:** This is exasperating, Dr. Dong.
20 Whenever you disagree with something, you just
21 try to turn it on somebody else.

22 **MR. DONG:** No, actually you --

23 **THE COURT:** This contract --

24 **MR. DONG:** -- made the statement --

25 **THE COURT:** This contract -- wait a minute.

1 Just one minute.

2 This contract specifies that certificates
3 of occupancy, insurance coverage, and the like,
4 will be given to MUSC. And in that event, they
5 will transfer your equipment to GenPhar. They
6 say they were never given those certificates of
7 occupancy and insurance and the like. And now
8 your -- I don't know what you're saying. But
9 it's mostly attacking them because you say may
10 be it's not in the contract. I don't know. But
11 the contract says that specifically, and all I'm
12 asking you is, Was MUSC given those
13 certificates?

14 **MR. DONG:** Yes. They actually -- the --
15 the fact -- they want to reassure they have
16 those certificates. Those certificates is
17 access of the company. So actually, the company
18 operates -- as I said --

19 **THE COURT:** They're just asking for a
20 photocopy of the certificate, Dr. Dong. And
21 they are asking for them from whoever has them,
22 certificates of occupancy, governmental permits,
23 and insurance coverage. And they are in the
24 place of that site. That's what this contract
25 says is to be provided to MUSC. And when it's

1 provided to them, they will then move the Vector
2 Core equipment in addition to all the stuff in
3 Exhibit A.

4 And all I'm asking is, you know, what's --
5 how are they (inaudible), were they supplying,
6 that is MUSC, supply those things I read out of
7 the contract?

8 **MR. DONG:** Yes. Actually, they did not
9 specifically what form. Actually, I destroyed
10 (inaudible) they knew it, how the company can
11 operate without those certificates, how the
12 company being awarded federal contract without
13 the certificate. Those are given. There's
14 actually not only -- there's documents to show
15 that. Actually, there is public information to
16 say -- how they have the Office of Science
17 Research conducting this vaccine development
18 against Ebola and Marburg for the military
19 personnel under a facility. There is no
20 certificate. How the government will issue a
21 contract to -- to a company without any
22 certificate? Those actually was given. You
23 prevent me from discovering, prevent me to --

24 **THE COURT:** I did not prevent you from any
25 discovery. No, sir. Please do not say that to

1 me again. Orders were in effect about this
2 thing long before I came in the case. I set up
3 a scheduling order. You noticed the taking of
4 depositions, and then you withdrew those
5 notices. Why? I don't know. But I did not
6 interpose one order whatsoever to prevented you
7 from engaging in discovery.

8 **MR. DONG:** The schedule limitation --

9 **THE COURT:** No, sir. No, sir.

10 **MR. DONG:** Yes, there is.

11 **THE COURT:** No, sir. The limitations on
12 other discovery by the way of interrogatories
13 and everything else has been put in place long
14 before I came into this case. I have an order
15 that said scheduling discovery, depositions
16 only. That's all I had to deal with.

17 **MR. DONG:** Right. But, and also I actually
18 thought because the circumstances were out of my
19 control --

20 **THE COURT:** I'm not going to get into that
21 argument again. Go on and finish what you've
22 got to say about the contract please, sir.

23 **MR. DONG:** I would respectfully --
24 respectfully ask to have the opportunity to be
25 heard when you addressing I did not file this --

1 file those documents, I can say why I did not
2 file the document. So that's actually -- I'm
3 entitled to -- now you are -- Your Honor is
4 saying I did not file this. You have -- you had
5 the time to file this. You didn't file this, so
6 it's all yours.

7 **THE COURT:** That's exactly what I'm saying.

8 **MR. DONG:** Right. But that's not fair.

9 **THE COURT:** It is fair. It's true.

10 **MR. DONG:** Because actually what I'm
11 saying, that's why I'm -- I'm -- I'm entitled to
12 be heard --

13 **THE COURT:** You're -- you're -- you're
14 being heard at great length here. And that's
15 what I'm asking you to do is to get back on this
16 contract that you said you wanted to do and go
17 through the provisions of it.

18 **MR. DONG:** Right. Actually, you asked me
19 why I did not file it. Because I -- the reason
20 stated. I could not file because my motion been
21 denied. So they -- they -- during this time,
22 actually is the spirit of the agreement. It's
23 not a one-day thing. So they -- (inaudible) my
24 material. The significance is not transferring
25 my material. It is taking away my ability to

1 conduct my research, taking away my -- taking
2 away my ability to advance my career, which also
3 (inaudible) my income. But they did terminate
4 my income without -- without giving me the
5 opportunity to find new employment, without
6 actually giving me opportunity to -- I did
7 obtain \$4 million contract for MUSC, Stephen
8 Lanier specifically rejected, because that will
9 actually bring me back to MUSC.

10 Without any -- that's a complete violation
11 of faculty rights as specified at MUSC and also
12 against MUSC interests. Those are federal
13 grants awarded to -- to me under the application
14 at MUSC by the National Institute of Health.
15 That's the vast majority of university grants
16 coming from. Actually, I don't know if I have
17 anything to do with its departure, but that's
18 against MUSC interests as well.

19 So -- and there's specific e-mail
20 communications he stop me using after date,
21 because the awarding date is after the contract.
22 Although the comfort was submitted during the --
23 is taken over a year, year and a half to obtain
24 federal contract. So I obtained the federal
25 contract for four and half million dollars for

1 MUSC and awarding time is after the agreement
2 terminate. And he sent me an e-mail telling me
3 stop using the faculty, appointment title, can't
4 use MUSC, as MUSC declined receiving any grants
5 awarded to you. To that effect. I'm not
6 quoting exactly.

7 And I'm supposed to have campus facility --
8 access to campus facilities. When I'm a faculty
9 member, I should have faculty access to
10 facilities. But at the same time, it's not as
11 simple as say, Well, you can walk in. Because I
12 have to have a research project to use the
13 facilities, actually give another notice.
14 Actually, Stephen Lanier specifically denied a
15 federal grant of mine and had a concept contract
16 with a director for animal facility to use
17 animal facilities. So that has come out from
18 discovery. That's actually -- that's also a
19 violation of the access to the facility. That's
20 one example.

21 And also --

22 **THE COURT REPORTER:** Excuse me, Doctor --

23 **MR. DONG:** Also, as specified -- specified
24 on page 2, second paragraph, doctor "will
25 transfer any... material including genetic

1 material, DNA constructs, viral and plasmid
2 vectors, antibodies, enzymes... doctors new
3 research location from his continued research,
4 including the materials which were provided by
5 Dr. Dong to Vector Core for services while
6 Dr. Dong was the director. Any vectors provided
7 to the faculty members during the period --
8 operation of Vector Core will remain with the
9 respective faculty members who acquire the
10 products."

11 So those are all very specific terms, but
12 without laboring through, I can say all the
13 terms were violated. If Your Honor want me to
14 name the date, I cannot.

15 And even the third paragraph from the top.
16 "In recognition of his offer to perform Vector
17 Core services for his off-campus location for
18 the proximity -- approximately 23 month inter-
19 -- interval above, so it's 23 months, University
20 will pay Dr. Dong sum of \$30 -- \$30,000 directly
21 to -- from chairman's budget in the Department
22 of Microbiology to pay no later than 50
23 following the signing -- day 50 following the
24 signing of the agreement."

25 The only thing they honored is to pay me

1 \$30,000, which I used on graduate students. And
2 -- but didn't honor the rest of the terms, the
3 \$30 -- the \$30,000 was for me to operate the
4 Vector Core facility off-campus. So that's also
5 breach. But they -- they did not breach the 30
6 -- 50 days to pay it. They did pay it. But
7 they breached the agreement for me to operate
8 the Vector Core facility off-campus.

9 This actually at the direction of Dr. Yusuf
10 Hannun, who is the Chairman of the Department of
11 Biochemistry, which also would be the chairman
12 of my second appointment. And those material
13 would be transferred -- again, they insert
14 attempt. So "attempt," that nullify all the
15 other -- all the other terms, because they just
16 attempt. They have no obligation. They just
17 make attempt. Who define attempt? That's
18 create bad faith and dishonest dealings. And
19 any additional will be provided by Dr. Dong was
20 never provided.

21 They also provide active grant service.
22 They did not. They actually declined. So
23 actually, honestly, I had to use the company
24 resources for submission to grant on behalf of
25 MUSC to NIH grant. The company has different --

1 research projects has to be clearly separated
2 from the -- by MUSC activities. So they did not
3 provide any financial services in the grant and
4 management offices. Those grant have to be
5 submitted through using resources, which
6 honestly, it was not appropriate from the
7 company. And eventually, when I obtained the
8 grants, that take up to a year and a half
9 (inaudible) worded because the contract was
10 terminated. Stephen Lanier declined receiving
11 the four-and-a-half-million-dollar NIH grant.

12 **THE COURT:** This -- this grant was -- was
13 this affected by the events that took place on
14 September 29, 2011, when the revision letter was
15 sent to you from MUSC.

16 **MR. DONG:** Actually, there is a question
17 about the revision letter.

18 **THE COURT:** Well, I'm asking a pretty
19 direct question. You're talking about a grant.
20 And in this revision letter, it says in part we
21 understand that you have received positive
22 feedback regarding a pending grant application
23 that you submitted to NIH. Is that what you're
24 talking about, this four-million-dollar grant?

25 **MR. DONG:** Could be. Because I had

1 received --

2 **THE COURT:** Because apparently interrupted
3 that, at least from what this letter says is the
4 notification of your indictment by the United
5 States Government.

6 **MR. DONG:** First of all, there is no test
7 -- witness to testify that that letter is true.

8 Secondly, actually I will say --

9 **THE COURT:** You put this letter in your --

10 **MR. DONG:** I was provided --

11 **THE COURT:** You -- you put this letter in
12 your complaint.

13 **MR. DONG:** Wait -- wait a minute. Let me
14 actually present my case first if you --

15 **THE COURT:** Well, did you not put this very
16 letter with that --

17 **MR. DONG:** That was included by the counsel
18 at the time who was competing for the General
19 Counsel at MUSC.

20 **THE COURT:** All right. Dr. Dong --
21 Dr. Dong --

22 **MR. DONG:** What I'm saying --

23 **THE COURT:** Your complaint was filed with
24 this letter attached to it and your answer is
25 not addressing that. Your answer is attacking

1 the bona fides of your counsel.

2 **MR. DONG:** No, no, no.

3 **THE COURT:** This case is not about that.

4 **MR. DONG:** Let me finish -- let me finish,
5 Your Honor, please.

6 **THE COURT:** Well, just answer my question.

7 **MR. DONG:** Right. The letter was included
8 to show the bad faith from MUSC because that
9 letter was generated at the time we actually
10 filed the complaint. That's three years before
11 the indicted the company misuse of the contract.
12 If I wasn't pushed -- pushed to the company, I
13 would not be indicted with the co-conspirator.

14 But the -- the thing is the indictment is
15 within -- first of all, happened in 2013 by a
16 grand jury within a month, although -- the third
17 indictment was within a month. After the
18 indictment, there is a sealed order by a federal
19 judge for a year and a half because they -- once
20 they release the indictment, there is speedy
21 trial.

22 So this is all beyond this case. But that
23 was -- the timeline doesn't match. The timeline
24 clearly indicate that letter was generated by
25 Stephen Lanier to cover up his mis -- misdoing

1 -- wrongdoing and put excuse whether you let --
2 Your Honor believe or not. And Your Honor is
3 shaking your head. But that has to be based on
4 fact.

5 The indictment is released in 2014. The
6 trial was 2015. So there is a speedy trial
7 clause under the constitution. So it is a
8 federal crime, felony crime, for anybody who
9 disclose the indictment before it actually was
10 publicly released. And anybody accusing a
11 federal prosecutor, actually violate the law --
12 actually violates the direct federal judge's
13 order, maybe they do -- did it. But the -- the
14 -- the people who signed the letter testify.
15 They said on oath that letter was not generated
16 -- generated after the fact. Who informed them
17 of the indictment?

18 I disclose indictment. All it says is
19 contract -- the company misused the contract
20 funding for an improper purpose, including build
21 new facility. That's all. I wasn't taking any
22 money, doing any conspiracy to get -- get rich
23 myself. I would not have any interest for the
24 -- for the company to build facility for the
25 DOD. I would be indicted for -- for -- for

1 crime. If we want to introduce this evidence,
2 actually that has to be in trial.

3 **THE COURT:** In 20- -- September 2, 2014,
4 you placed that letter as an exhibit to your
5 complaint filed September 2, 2014.

6 **MR. DONG:** Right. Because --

7 **THE COURT:** I don't know this other
8 background you're talking about. But I do know
9 --

10 **MR. DONG:** Right. But -- but --

11 **THE COURT:** -- you filed that in a
12 complaint. You authorize the filing.

13 **MR. DONG:** There other things in the
14 contract to allege --

15 **THE COURT:** I'm not alleging anything. I'm
16 just reading --

17 **MR. DONG:** No. I'm saying the complaint
18 allege. There is actually a bad faith and also
19 wrongdoing in the contract -- bad faith and
20 unfair dealings. Actually, there's -- there's
21 other things.

22 **THE COURT:** You know this old -- good faith
23 and fair dealing is one of the oldest maxims
24 there is from Meinhard versus Salmon. I'm very
25 aware of that. It doesn't explain each and

1 everything that's involved in this case. But
2 let's go on forward and get to the end of this
3 contract please, sir.

4 **MR. DONG:** Right.

5 **THE COURT:** I think you're just about
6 there. You just finished with access to campus
7 research laboratory --

8 **MR. DONG:** Right. Actually, that's what
9 actually --

10 **THE COURT:** And now, you're at active
11 grants at the time of resignation.

12 **MR. DONG:** Right. Actually, they -- they
13 did not actually transfer any money to me. They
14 did not do any -- transfer any -- (inaudible)
15 that I need to have is to continue the grants.
16 So they did not relinquish the -- the grants.
17 Basically, the chairman, Jim Norris, kept them
18 all. So actually (inaudible) didn't mean
19 anything to was the genetic material, was the
20 DNA, was the plasmid, was the vector not
21 transferred. It means a lot for me to offer it.
22 We don't have to understand what's the scaffold,
23 what's the hemostat. But actually to -- to
24 understand, if you take away the surgeon's
25 ability to perform surgery, he can't advance his

1 career.

2 And this the 20,000-dollar legal fee, all
3 the money I obtained from MUSC was used on the
4 graduate students. Because at the time, I was
5 obligated to pay them, even my money was taken
6 away by the chairman. I have no access to the
7 money I got from the grants, so they did not
8 relinquish the grant or financials. So
9 actually, that -- I'm not alleging they did not
10 pay me \$20,000. That was not a violation.

11 The violation is the spirit of the contract
12 to allow me to reestablish my research ability
13 at a different location. That's the spirit of
14 separation so I will continue to have full
15 employment at MUSC to function as any normal
16 faculty member would do and advance my career
17 and also I have the opportunity to obtain
18 employment from other universities and then I
19 will find -- find -- (inaudible) resign, because
20 that's a condition. It does not say out the
21 blue, "We didn't -- we don't want to do anything
22 for you. You go ahead and resign, and I will
23 pay your, whatever, 18 months." That's not what
24 the contract said.

25 The contract spirit was said a separation

1 period allow me to conduct research at different
2 location and continued to advance my career and
3 obtain federal contract. And if I especially
4 obtained federal grants, if I obtained the
5 grants, MUSC will continue my -- my employment.
6 And in the event I find another location --
7 sorry -- employment, I will resign and terminate
8 my employ -- employ -- employ -- employment at
9 MUSC, so MUSC won't no longer have any
10 obligation to finish the remainder of the -- the
11 agreement.

12 But MUSC has to -- obligated to do what
13 MUSC did, which is satisfy my requirement to
14 allow me to continue my research and -- and
15 education to advance my career. In that sense,
16 the MUSC completely breached the contract at the
17 end of the contract. And also there was also
18 through the continued negotiation leading the
19 pathway after certain time -- timelines. But
20 that's not material. None of this -- they have
21 to transfer it within 50 days. They can't
22 transfer it on the same day of the materials.
23 They have to locate it, do everything.

24 To be honest, the vice president himself
25 would not be able to transfer. Certain

1 equipment requires installation, requires
2 improvement function at the location in order to
3 generate reliable data for vaccines, for
4 therapeutics that potentially used in clinical
5 trial for patients is more complicated than what
6 -- just provide title and provide payment.

7 So there is -- there has to be the same
8 function, same access to education, to
9 performance by a regular faculty member and
10 tenured professor with multiple federal grants
11 and with a large number of graduate students
12 still under my obligation and the postdoctoral
13 fellows.

14 And my -- my conclusion is, I cannot find
15 -- I'm sorry. My conclusion is MUSC violated
16 the majority part of the contract, caused
17 extensive damage, and there is a -- truly
18 genuine issues to be determined by a jury. I
19 bring the list in just a second. (Pause.)

20 I cannot find my list. But I will say
21 there's -- basically, there is no dispute --
22 there's no dispute MUSC has violated the
23 contract, breached the contract. As they
24 admitted, they did not transfer all the genetic
25 research materials and equipment in -- in -- in

1 the agreement.

2 Also, they try to nail it down a single
3 day, especially tried to nail on certain days
4 that they signed the contract. That's not --
5 that's not the case. The equipment has to be
6 moved through a process. And also during this
7 process, MUSC engaged in negotiation -- bad
8 faith negotiation and dragged out the entire
9 contract. Because the equipment not only just
10 transferred, it has to be installed and
11 certified and become operational and accurate
12 enough to generate research data that's reliable
13 to publish. Otherwise, those would be wasted
14 data, wasted time, wasted money.

15 So it's a continuous process. Also during
16 this time, I was led into continuous negotiation
17 until the time period they said, Well, you're
18 gone. The -- the time -- the contract take
19 time.

20 So there's no dispute. As MUSC already
21 admitted, they did not transfer material. They
22 tried to say they -- they provided -- actually,
23 there's a clause -- clause to transfer -- to
24 give me the money. They did give me the money.
25 But they give me the money to duplicate the --

1 some of the vectors -- the research materials
2 and copy notebooks. But they have to give me
3 the notebooks to copy. They have to give me
4 materials to duplicate. I can't create the note
5 from the beginning. That put me back 30 years.
6 I don't have 30 years to -- to continue my
7 research.

8 So there is no question the breach --
9 there's other issues, mostly, the continued
10 employment that lasts until -- until they say,
11 well, we don't want to employ you anymore. And
12 that's our right. That's (inaudible) our right
13 to employ you. And you -- you already signed
14 the irrevocable resignation. But that's a
15 condition to find new employment at another
16 university, not a sanitation facility somewhere,
17 also not McDonald. So that I require my -- my
18 ability to conduct my research, publish
19 scientific articles and contribute to science
20 and carry on my existing funding projects. They
21 stopped all of that.

22 And also, I would like to say, my -- they
23 reached their agreement is not because of my
24 poor performance. That's -- I wanted to show my
25 performance. How was -- how I was a rising

1 star. I was leading scientist in the research
2 -- research field of gene therapy for cancer and
3 genetic disease and developing biological
4 factors to transfer therapeutic genes to
5 patients for the purpose of therapy. And the
6 extension of that and also has the ability to
7 have a number of patents, patent disclosures for
8 commercial -- commercially-viable therapeutic
9 approaches. And that has been testified by FRD,
10 which I was not able to. So they took -- so
11 genetic material including those technologies,
12 (inaudible) technologies I developed at MUSC.
13 They took them all.

14 So they breached the contract. It was not
15 for the facilities which was \$5 million at that
16 time. But what they take is all my research
17 inventions, the patents, everything generated
18 during -- during my time of faculty at the
19 University. I had the most graduate students,
20 most postdoctoral fellows, more grants, and more
21 publications than the chairman and most of the
22 faculty members at MUSC. That is why he
23 gradually took over my research facilities. And
24 in the end, complete with help of Stephen
25 Lanier, shut me off, prevent me from competing

1 with him.

2 And he was in a decline curve as the
3 research. He was conducting chemical oncology
4 at the time. So all of this will mean something
5 to expert, but to legal profession, to a laymen
6 say what -- what is that the contract violated.
7 The contract basically violated to the degree --
8 complete -- continued black in my career
9 development, my ability to do research at MUSC,
10 not because I did something wrong, because my
11 performance was excellent as rated -- evaluated
12 by the chairman himself. He had no other ways
13 to really evaluate my research.

14 And that was accommodated by Dean -- Dean
15 Reves for my contribution to the University
16 under the state mandate to developing
17 high-paying jobs, create biotech company --
18 biotech companies for the state to create jobs
19 for trained doctors, scientists, so they don't
20 have to graduate and move on to another state.
21 And I believe I did as to every bit in the best
22 interest of the University. I did my best to
23 contribute to the science, to the -- to the --
24 to the community, to the faculty member and also
25 brought my expertise and know-hows, the

1 biotechnology companies development in
2 subsequent area because I was recruited from the
3 medical university -- I'm sorry -- from the
4 University of California in San Francisco to the
5 medical university of South Carolina. I wasn't
6 somebody they picked me up off the street and
7 kicked me out the door.

8 So my career was completely destroyed by
9 his -- by his illegal activity against me as a
10 faculty member. And I will not be able to
11 provide -- again, I will -- give me some time.
12 I would like to provide response and also based
13 on the rule when I could not provide affidavit,
14 provide -- the remedies continues, allow me to
15 have discovery under Rule 56(f).

16 **THE COURT:** Yes, sir. All right.

17 **MR. DONG:** So I will plead to the Court to
18 allow me time to submit supplements.

19 (Inaudible) already submitted the motion in
20 time. And also I would plead to the Court to
21 give me some leeways in actually in dealing with
22 this timeline and deadlines for me to actually
23 do something. I have not had an opportunity --

24 **THE COURT:** I understand your position
25 about that, Dr. Dong.

1 **MR. DONG:** And I would also like to submit
2 when Your Honor is in charge of whole case,
3 Your Honor is responsible for all the events
4 that happened in this case.

5 **THE COURT:** I'm responsible for what now?

6 **MR. DONG:** All the events happened, present
7 -- the rulings, previous rulings of the other
8 judges. Actually, that's --

9 **THE COURT:** I'm responsible for all of
10 those other rulings?

11 **MR. DONG:** You have the discretion to
12 correct --

13 **THE COURT:** I was not asked to correct
14 anything in that regard, Dr. Dong. When we sat
15 right here in this courtroom in October of last
16 year and -- or in September of last year, all I
17 was asked to do was to schedule from that time
18 forward. I was not -- I had to read a whole lot
19 of stuff about this case on the backside. I --
20 I -- I got that hearing done within a very short
21 time. I was appointed on this case just to get
22 it moving with discovery.

23 There had been a whole lot of water under
24 the bridge before. And neither you nor
25 Mr. Conley asked me to get back into

1 interrogatories or anything else. My order
2 because you-all -- that's what you asked me to
3 do was to schedule depositions, and that's what
4 I did. So please don't go there with me.

5 **MR. DONG:** Your Honor, actually, I --

6 **THE COURT:** Don't go there with me,
7 Dr. Dong.

8 **MR. DONG:** I think --

9 **THE COURT:** This business of -- your whole
10 approach to this case is to attack other people
11 --

12 **MR. DONG:** No. Your Honor --

13 **THE COURT:** -- rather than to talk about
14 what you've done.

15 **MR. DONG:** I'm just --

16 **THE COURT:** I'm not going -- I'm not going
17 to (inaudible) that anymore.

18 **MR. DONG:** I'm not attacking anybody.

19 **THE COURT:** Yes, you are.

20 **MR. DONG:** I'm stating a fact. I did raise
21 the issue of the order to limit the time --
22 limit the scope of discovery and due process. I
23 -- I think I did order the transcript.
24 Your Honor said, That's done by other judge.
25 I'm not going to --

1 **THE COURT:** That's correct. That's exactly
2 what I said.

3 **MR. DONG:** Right. That's all I'm saying.

4 **THE COURT:** We have an agreement about
5 that.

6 **MR. DONG:** Yes.

7 **THE COURT:** I said I would not go where
8 other judges have gone with the length of time
9 this case has been pending. I absolutely did
10 say that.

11 **MR. DONG:** Yes. My -- my proposition is
12 when -- once Your Honor take over the case, I
13 think Your Honor is in charge of the whole case.

14 **THE COURT:** All right.

15 **MR. DONG:** Thank you.

16 **THE COURT:** All right, sir.

17 **MR. DONG:** Thank you.

18 **THE COURT:** Mr. Conley, any reply?

19 **MR. CONLEY:** Your Honor, I'm going to be --
20 I'm going to be very brief, Judge.

21 **THE COURT:** Yes, sir.

22 **MR. CONLEY:** I want to harken back to what
23 I said and I think what some of your questions
24 were directed at. Despite Dr. Dong's two hours
25 -- just short of two hours of standing up here,

1 most of what he represented to the Court does
2 not appear in the record at this point.

3 His argument today cannot stand in the
4 place of him submitting evidence and by way of
5 affidavits or otherwise under Rule 56. Him
6 standing here and making factual
7 representations, etc., today to the Court is
8 just not sufficient under Rule 56.

9 The cases Dr. Dong cited -- and again, I'm
10 sorry if I jump around. I just made my notes.
11 I'm just going to quickly go through them,
12 Judge. Dr. Dong cited several federal cases to
13 you, a Ninth Circuit case --

14 **THE COURT:** Those cases are about
15 pleadings. The first line of cases he cited say
16 that we have to be flexible about the pleadings
17 of a pro se litigant. Nobody has been anything
18 -- no request has been made of me to deal with
19 any defects in the pleadings. The pleadings
20 were drawn by an attorney, and it's -- that's
21 not the problem here.

22 **MR. CONLEY:** Correct.

23 **THE COURT:** The problem here is whether or
24 not the statute of limitations has run because
25 of when the breaches occurred. But the -- the

1 cases he cited, that original line of federal
2 cases, Erickson and the like, are about
3 pleadings.

4 **MR. CONLEY:** Correct. In the Ninth Circuit
5 case, Judge, I actually pulled it up while I was
6 sitting there, that deals with pleadings of
7 prisoner litigants.

8 **THE COURT:** That's correct.

9 **MR. CONLEY:** Dr. Dong talk -- talked about
10 a lack of honesty and fair dealing. I only want
11 to point out something that I mentioned during
12 my rendition of those obligations that MUSC had.
13 And within that agreement itself was a 45-day
14 period for Dr. Dong to revoke the agreement. In
15 other words, he had 45 days -- 45 days after
16 May 10 to revoke the agreement.

17 Just bear with me, Judge. I've got a lot
18 of notes. But I'm going to -- I'm not going to
19 touch on all of them.

20 Judge, Dr. Dong, by way of his argument
21 today, appears to me to -- this is just my
22 perception obviously. He's trying to create an
23 ambiguity of certain provisions of the contract
24 by way of his argument. It's simply our
25 position that he just cannot do that. This goes

1 back to the lack of affidavits, the lack of
2 evidence that would create the ambiguity.

3 In regard to the statute of limitations
4 issue, it appears to me, Judge, that Dr. Dong's
5 position is that his ability to do many of the
6 things he did as a professor, as a tenured
7 professor, as a researcher, were taken away
8 immediately in May 3, 2010, or immediately after
9 May 3, 2010. I even heard him in -- I even
10 heard him in response to some of your questions
11 or at least one of them, indicate that perhaps
12 some had occurred even prior to entering into
13 the agreement May 3, 2010.

14 Dr. Dong mentioned several times during his
15 argument the fact that he is not a lawyer, that
16 he is a layman, that he is representing himself.
17 I only want to mention to the Court something I
18 didn't mention during my initial presentation
19 because I don't think it was germane to the
20 contract issues in terms of whether they were
21 breached or not, but Dr. Dong made very clear at
22 his deposition, and I note this in a footnote
23 actually in my memorandum, but Dr. Dong admitted
24 before signing the agreement he did not read it.
25 According to Dr. Dong, he only scanned it

1 briefly.

2 I want to touch on the GenPhar
3 certification for a moment, Judge. You had --
4 you asked Dr. Dong about those. I talked about
5 them. The bottom line as we stand here today
6 is, there is no evidence Dr. Dong has given to
7 this Court other than his representation during
8 argument today that somehow he ever provide MUSC
9 with any certificates of occupancy, any
10 insurance policies or -- I'm trying to think of
11 the other. There's a -- there's a third
12 component of that. I don't have --

13 **THE COURT:** Governmental permit.

14 **MR. CONLEY:** Governmental permits. There's
15 no evidence in the record before the Court that
16 Dr. Dong ever provided those things to MUSC. He
17 certainly made that representation during
18 argument today, but that's not sufficient under
19 Rule 56.

20 **THE COURT:** I understood his argument to
21 really be that these were a matter of public
22 record and could be researched as public
23 knowledge and things of that nature. Your
24 argument is the contract provides that those
25 certificates should be provided to MUSC.

1 **MR. CONLEY:** Correct.

2 **THE COURT:** And that's what you say did not
3 happen.

4 **MR. CONLEY:** Exactly. And -- and the other
5 component of that, Judge, is -- is on some
6 level, it doesn't matter. And the reason it
7 doesn't matter is that part of the contract,
8 that part of the agreement, MUSC was required to
9 do that explicitly within 45 days of the signing
10 of the agreement. Taking that into account, the
11 statute of limitations as to that component of
12 the agreement, and Dr. Dong's knowing they
13 didn't do it within 45 days, would have expired
14 in June 2013, Judge, 15 months -- 16 months
15 before Dr. Dong filed his complaint.

16 Those are the main topics I wanted to
17 mention just in -- in reply, Judge. Otherwise,
18 I would just stand upon our initial presentation
19 to the Court -- unless the Court has particular
20 inquiry.

21 **THE COURT:** I do not.

22 **MR. CONLEY:** Thank you, Judge.

23 **MR. DONG:** Brief rebuttal?

24 **THE COURT:** There is no such thing as that
25 understand.

1 **MR. DONG:** I understand. But you give him
2 the opportunity --

3 **THE COURT:** Dr. Dong, there is no such
4 thing as a rebuttal to his argument. We are now
5 -- I am trying very hard to get this thing done
6 without having to take any kind of break.

7 Elizabeth, how are you feeling?

8 **THE COURT REPORTER:** I'm okay.

9 **THE COURT:** You're okay?

10 All right. It is 1:30. I will give you
11 five minutes in rebuttal. That's it.

12 **MR. DONG:** Thank you, Your Honor.

13 Actually, the counsel was saying 45 days to
14 revoke. I was -- I wasn't revoke. That does
15 not mean the contract was not -- I wasn't revoke
16 the contract -- the agreement, because I gave
17 the impression that MUSC was (inaudible) to
18 honor it. That's No. 1.

19 So No. 2, I was not able to provide the
20 document I provide to MUSC because those
21 documents was under the exclusion order.
22 Because other than direct e-mails I sent
23 (inaudible) to MUSC and everything is outside
24 the scope of the discovery.

25 Secondly, that document has to be provided

1 by MUSC. So MUSC asked for the document. I
2 failed to provide it. Those actually -- that's
3 -- that's the -- the document was provided. And
4 during the negotiation, I was leading to
5 continuous negotiate -- negotiate --
6 negotiation. As I said, it's unrealistic say --
7 someone say, well, transfer started no later
8 than 45 days. You can't transfer all the
9 equipment, can't certify, can't do everything.
10 You just can't dump in somebody's parking lot
11 and be done with it.

12 So it is a process. You start 45 days.
13 You still have to -- to -- to do the process.
14 It may take longer; it may take shorter. But
15 the process, transfer biological equipment and
16 material -- research equipment has -- has to
17 so-called -- has to be calculated to the point
18 not accurate enough. And that has to be
19 document and verified. So it's a process that
20 only scientists can understand. So it's a
21 continuous process until the -- they're clear
22 they're not going to do it, but they're going to
23 do otherwise all the things they're going to do
24 against you. That is where the contract was
25 breached.

1 And also, during the process, I could not
2 know they had no intention to honor the contract
3 because they were continually engaging in
4 discussion, continuous effort, they're going to
5 do this, do that, to -- to establish the
6 contract.

7 And also -- actually, I lost track of what
8 the counsel said.

9 You remember what the -- the other two
10 points?

11 **MR. CONLEY:** I don't remember.

12 **MR. DONG:** All right. So what they -- I
13 cannot provide the affidavit because I could not
14 do the -- the contract. I'm not attack anybody.
15 I'm just saying I -- I was incapable to answer
16 the timeline to file -- to conduct discovery
17 when they refused to give me dates talking about
18 they have to discuss with their clients. Right?
19 They have to get dates, coordinate with their
20 clients because it involved too many people. I
21 have e-mails to show that. That's not beyond my
22 control when the -- the owner says when they are
23 available. The owners to me to give deposition
24 is the date. I have to give the date, the
25 deposition on that date. But the order for MUSC

1 to give deposition is when they able and
2 available.

3 So -- and that contract, MUSC was not
4 giving me sufficient time to conduct the
5 deposition until events happened that I would
6 not be able to conduct deposition, because I
7 have more important things to do. I did file
8 show cause -- good cause motion. I was
9 expecting when the motion been filed the process
10 would be continued until the motion had been
11 ruled. So I will have time until the motion
12 denied and actually in the -- the standard is to
13 show good cause.

14 I do believe my cause is better than MUSC's
15 cause, career -- counselors take vacations. My
16 cause is essential surgeries and also, more
17 important, appeal under the order of the US
18 Court of Appeals. So I provide those documents
19 and also my causes of illness with lung
20 infection. I have provided the letter for -- to
21 -- to the Court, the referral letters to refer
22 me to a nonspecialist. So I was not -- not able
23 to conduct the deposition, not I canceled it,
24 not I recalled it, but because I was not able
25 under the circumstances. That's all I have.

1 Thank you.

2 **THE COURT:** All right.

3 Ruling of the Court is as follows: I will
4 grant a motion for summary judgment on the basis
5 that the lawsuit pursuing this matter was bought
6 on September 2, 2014, after the statute of
7 limitations had expired on the continued
8 breaches of the agreement between the parties
9 dated May 3, 2010.

10 I will direct Mr. Conley to prepare a
11 proposed order granting summary judgment of this
12 matter on the basis of the basic outline as
13 contained in MUSC's memorandum accompanying its
14 March 31 motion for summary judgment. That --
15 that proposed order should be filed with the
16 Court by June 6 -- the proposed order shall be
17 sent to me, copied to Dr. Dong, filed by June 9.
18 Dr. Dong will have until June 23, which is two
19 weeks from -- which is a week from the ninth --
20 excuse me, two weeks from the ninth to serve and
21 file his objections.

22 **MR. CONLEY:** The 23rd? Your Honor, the
23 23rd?

24 **THE COURT:** This is June 23. This matter
25 is scheduled for trial on July 24. I will keep

1 this date, in effect, because my final decision
2 and my final order would not be effective until
3 filed. And I reserve the right to change this
4 ruling if a filing from Dr. Dong persuades me
5 otherwise.

6 Dr. Dong is also, from the very beginning
7 of this matter, in the setting of the initial
8 deadlines in the scheduling order in this
9 matter, filed a notice of civil appeal of a
10 nonappealable order which was remitted to the
11 Court of Appeals about a month and a half, to
12 his -- motions, so-called motions for protective
13 order, which were really motions for scheduling,
14 changes, delays or continuances. There has not
15 been one deadline I have set that has not
16 resulted in a motion or other form of filing by
17 Dr. Dong attempting to delay the requirements
18 that I have set forth.

19 I was appointed in this very old case to
20 try to move it along in an expeditious way.
21 I've tried to do that. I'm going to continue to
22 try to do that, because that's what I've been
23 assigned to do. I think that has been done with
24 due regard for everyone's rights to be fully
25 heard, and I will continue to do that.

1 But cases must have a beginning and end.
2 This is a very old case. Things that Dr. Dong
3 had recited on the record today could very
4 easily have been developed long ago and reduced
5 to some sort of affidavit or filing, but they
6 had not been.

7 This motion for summary judgment was filed
8 in March of this year. There's been plenty of
9 time since then to do what was done today in
10 filing some sort of response. The contention
11 that somehow or another Dr. Dong is
12 disadvantaged because of his status pro se is
13 not so. He is very much (inaudible) by the
14 record in this matter.

15 I did grant Dr. Dong a stay with regard to
16 his cataract surgery, even though that surgery
17 was not scheduled until after this matter was
18 scheduled. I myself had my first cataract
19 removed two days ago and I am sitting here in
20 this hearing with the ability to participate.
21 I'm 79. Dr. Dong is about 66.

22 The constant assertion of medical issues
23 and the like, in my view, is an attempt to delay
24 these proceedings, and I'm not quite sure I
25 understand that. I don't know whether Dr. Dong

1 thinks that there is some other activity that's
2 going to take place in his other litigation that
3 will affect this litigation. But as I look at
4 the filings from the Fourth Circuit about his
5 litigation there that is related to the
6 conviction and sentencing and service of the
7 seven-year sentence in connection with his
8 federal criminal matters, I don't know exactly
9 what that Fourth Circuit filing now is about,
10 but I observe with interest that despite
11 discussion of that since early this year, he is
12 still requesting and receiving delays from
13 having to respond and deal with his obligations
14 to his other filings. I -- I -- if you've got
15 litigation you're trying to proceed with in good
16 faith, then you've got some obligation to attend
17 to your business in good faith.

18 I think I've dealt with everything that's
19 outstanding. I will say to you that I
20 considered carefully what I regard as
21 unreasonable delay by Dr. Dong in these
22 proceedings. And that's what I meant in my
23 communication of Friday, May 5, in the e-mail
24 where I discussed this hearing and reset it and
25 said I would consider whether I should take any

1 further action regarding the violation of my
2 order setting this hearing at an earlier time.
3 I will not take any further action in that
4 regard. But the deadlines that I set on a going
5 forward basis need to be observed and move this
6 case along. I think that completes what I need
7 to place upon the record.

8 Anything further, Mr. Conley?

9 **MR. CONLEY:** I have one quick question,
10 Judge, in regards to the proposed order you
11 desire that I provide you. Do I understand the
12 Court that you want that proposed order to be
13 based upon, in general, the things outlining
14 MUSC's memorandum?

15 **THE COURT:** Yes.

16 **MR. CONLEY:** And the corollary to that,
17 because I probably misheard, that -- that
18 proposed order shouldn't solely be listed --
19 solely be limited -- excuse me, to the statute
20 of limitations, it should encompass the other
21 issues?

22 **THE COURT:** That is correct.

23 **MR. CONLEY:** Thank you, Judge.

24 **THE COURT:** That is correct. That is
25 correct.

1 **MR. CONLEY:** Thank you.

2 **THE COURT:** With regard to I -- what I
3 tried to make clear is that with regard to the
4 matter of the statute of limitations issue, that
5 is in part a review of the contract provision by
6 provision. And that's what I say should be a
7 part of the order. Of course, there are
8 encompassing issues as well. Those should be
9 covered as well.

10 **MR. CONLEY:** Thank you, Judge. That's what
11 I wanted to know.

12 **THE COURT:** Okay. All right.
13 Anything further, Dr. Dong?

14 **MR. DONG:** I would just like to make a
15 comment and ask a question of MUSC counsel.

16 **THE COURT:** Come -- stand up and come to
17 the podium. Yes, sir.

18 **MR. DONG:** I would like to make a comment
19 that MUSC counsel just made. I think the
20 question was a suggestion of indication and that
21 was not in the -- Your Honor's order declaring
22 the Court --

23 **THE COURT:** Dr. Dong, don't go there. I
24 asked him to prepare a proposed order for me.
25 And all he's trying to do is get straight

1 whether it should be a broad encompassing order
2 with all the issues we've talked about, and I
3 said yes to that. I want to be sure that as
4 part of that, he tick down the provisions of the
5 contract as he did.

6 That's not my order. I will make my own
7 order. I will look at that, and I will look
8 very carefully at what you file as well. This
9 is a means of getting in front of me. I am one
10 judge with one law clerk whom I share with other
11 judges. This facilitates my ability to get this
12 order out within about a month, which is what
13 I'm trying to do now.

14 **MR. DONG:** I understand.

15 **THE COURT:** Any suggestion that Mr. Conley
16 is somehow trying to do something that's
17 improper by his question is something I will
18 reject.

19 **MR. DONG:** Yes, Your Honor. I also would
20 like to explain myself. I wasn't have any
21 intention to so-called delay due process.
22 Doesn't --

23 **THE COURT:** What that is -- that is
24 certainly not in keeping with what's happened so
25 far, Dr. Dong. I hope you live up to that --

1 **MR. DONG:** Would you, Your Honor, let me
2 finish? Because the delay -- any delay does not
3 actually to my benefit. So I -- I -- I have the
4 right to file motions. I did not have the
5 intention -- I did not have any intention to
6 violate your judge order. I was only asking
7 Your Honor to consider the timeline, the short
8 timeline to pro se litigant not as hard to
9 follow.

10 Under the circumstances, I've controlled
11 myself and I have stated the reasons of myself
12 in my motions. So I will say I was not
13 intending to violate Your Honor's rules, because
14 I followed every -- every order -- schedule
15 order, I filed a motion. But the same -- it's
16 true, every motion, every request filed by MUSC
17 was 100 percent granted by the Court.

18 **THE COURT:** Dr. Dong, let me tell you
19 something: Half the time you sent things
20 saying, "I didn't get this" or "I didn't see
21 that" or something wasn't filed or something. I
22 don't know whether somebody else was helping you
23 that develops those arguments for you or whether
24 you develop those yourself. But I'm going to
25 tell you, I send those things every time in

1 accordance with the way they're supposed to be
2 done. My law clerk, when there are orders,
3 files them also in the filing system.

4 You get -- you reply to the e-mails you
5 want to reply to. But when you don't want to
6 reply, you take the position you haven't
7 received them. That's not borne out by my
8 records about the thing, and that's what I want
9 to stop now. That's trifling with the court.

10 You may have your good faith reasons why
11 you think you want a delay. I don't really
12 understand myself why you continue to delay
13 every single deadline. And I particularly don't
14 understand why you would notice 13 depositions
15 and then not take so much as one of them. But
16 that's a --

17 **MR. DONG:** For the reason I --

18 **THE COURT:** But that's --

19 **MR. DONG:** -- the reason I filed --

20 **THE COURT:** Wait a minute. That's your
21 decision. No one's forcing down on you. That's
22 your decision as to how you want to handle this.

23 **MR. DONG:** I do not have time -- with the
24 delays by the counsel, I will not have the time
25 to take the deposition. And also I was ordered

1 to take deposition only in his office. And --

2 **THE COURT:** Yes, sir. I did not allow you
3 to take depositions in your home. I think that
4 is --

5 **MR. DONG:** It can be anywhere else. It
6 could be --

7 **THE COURT:** No, sir. That's not what you
8 proposed. You proposed --

9 **MR. DONG:** I did not propose.

10 **THE COURT:** -- to take depositions in your
11 home.

12 **MR. DONG:** That was the presentation,
13 again, by MUSC counsel, not by me. Thank you,
14 Your Honor.

15 **THE COURT:** Well, all right, sir. All
16 right.

17 Okay. Court -- court will be adjourned.

18 - END OF TRANSCRIPT -
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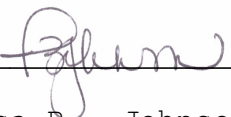
CERTIFICATE

99

I, the undersigned, Teresa B. Johnson, Official Court Reporter, do hereby certify that I transcribed the electronic recording of the remote hearing in this matter; and that the foregoing is a true transcript of said electronic recording.

I do further certify that I am not a relative, employee, attorney, or counsel of any of the parties connected with the action, nor am I financially interested in the action.

Dated: June 20, 2023



Teresa B. Johnson, CVR-M-CM, RVR, RVR-M
Official Court Reporter

1 STATE OF SOUTH CAROLINA

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

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

5 Plaintiff,

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

7 THE MEDICAL UNIVERSITY OF SOUTH CAROLINA,

8 Defendant.

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

13 DATE: October 18, 2022

14 TIME: 10:00 a.m.

15 LOCATION: 171 Church Street
16 Charleston, SC

17
18 TAKEN BY: Counsel for the Defendant

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

Page 2 1 APPEARANCES OF COUNSEL: 2 3 PRO SE PLAINTIFF 4 JIAN-YUN (JOHN) DONG, M.D., Ph.D.: 5 71 Delahow Street 6 Charleston, SC 29492 7 843-991-2332 8 johny.dong@me.com 9 10 ATTORNEYS FOR DEFENDANT 11 THE MEDICAL UNIVERSITY OF SOUTH 12 CAROLINA: 13 Cleveland & Conley, LLC 14 By: Bob Conley 15 171 Church Street, Suite 310 16 Charleston, SC 29401 17 bconley@clevelandlaborlaw.com 18 843-577-9626 19 20 21 22 23 24 25 (INDEX AT REAR OF TRANSCRIPT)	Page 4 1 and, maybe more importantly, the answers you give. 2 She can only do that if you and I do a few things 3 that I'll talk to you about that are meant to help 4 to do that, okay? 5 A. All right. 6 Q. The first one is if I ask you a 7 question today that you don't understand, don't 8 hesitate to ask me to -- say, Bob, Mr. Conley, can 9 you restate that? Can you ask it again? I'm not 10 sure I understand what you were saying. Okay? 11 A. All right. 12 Q. If you will do that, I'm happy to 13 rephrase the question, break it into small parts, 14 whatever I need to do so that I don't confuse you 15 with the question, because it's not meant to 16 confuse you. That doesn't do you or I any good to 17 confuse you, all right? 18 A. All right. 19 Q. So just make sure, if you don't 20 understand something -- and I know you will 21 anyway. I just tell people, don't be bashful 22 about saying I don't understand what you're asking 23 me, and I'll try to rephrase it, okay? 24 A. Okay. 25 Q. The second one is people, when they
Page 3 1 PROCEEDINGS 2 * * * * * 3 JIAN-YUN (JOHN) DONG, M.D., Ph.D. 4 being first duly sworn, testified as follows: 5 EXAMINATION 6 BY MR. CONLEY: 7 Q. Good morning, Dr. Dong. 8 A. Good morning. 9 Q. Nice to see you today. You and I have 10 met on a number of occasions, so we're familiar 11 with each other. 12 A. Yes. 13 Q. Have you ever been deposed before? 14 Have you ever sat in a room with a lawyer and a 15 court reporter and had questions asked? 16 A. No. No. 17 Q. I'm going to go over a few things with 18 you that you need to know about about the process, 19 since you've never done it before. Most of these 20 things are really meant to help this lady at the 21 end of the table. 22 A. I understand. 23 Q. The reason is, Dr. Dong, is we want to 24 make sure, both you and I, that she is able to 25 make an accurate transcript of the questions I ask	Page 5 1 ask and answer questions, have a tendency 2 sometimes to speak over one another. Usually 3 that's because we all start to think with our 4 brains about our answer before someone is finished 5 asking the question. So what I generally tell 6 witnesses is if you can agree to let me ask my 7 entire question before you begin to speak with an 8 answer, I will, likewise, agree I'm not going to 9 ask you another question until I'm sure you're 10 done with your answer. 11 It becomes very hard for her, if you 12 and I start to talk over one another, to get an 13 accurate record. So if from time to time I might 14 ask you, Hey, wait, let me finish asking my 15 question, I'm not doing that to be rude. It just 16 means you have done what we all tend to do, and 17 that is sometimes start to give an answer before 18 somebody is finished asking a question; is that 19 fair enough? 20 A. That's fair. 21 Q. The other item is, is that -- I don't 22 have a tendency to do this. I think, if anything, 23 I probably speak too slow, not too fast. But it 24 is important that you do talk at a sort of a 25 measured pace. Again, for the convenience of the

Page 6 1 court reporter, to make sure she gets your answers 2 correctly. It's generally helpful, too, if, you 3 know, you're in a good posture. Right now she can 4 sort of see your face. That's fine. That helps 5 her make sure she's getting correct testimony on 6 the record as well. If we can do all of those 7 things, that will really help do this efficiently; 8 is that fair enough? 9 A. All right. 10 Q. If you have any questions as we go 11 along today, don't hesitate to ask them. Meaning, 12 you're a pro se party; you have never been through 13 a deposition in this posture before, so if you 14 have a question, you're free to ask me a question 15 at any point. 16 A. All right. 17 Q. Whether I can answer it or not, I'd 18 have to know what the question is, but if you do 19 have a question, just ask. The process isn't 20 designed or meant to confuse you. It's solely a 21 discovery tool so that I can get your testimony 22 about your claims in this case, all right? 23 A. All right. 24 Q. A couple other items. One, I 25 generally take a break every hour because I get	Page 8 1 ask you now -- I generally save this to the end of 2 the deposition to ask the witness, but I'll go 3 ahead and do this with you now because I think 4 it's more efficient to do it this way. 5 You, as the witness in the case, have 6 the option to do under the rules what's called 7 "reading and signing your deposition transcript." 8 A. Right. 9 Q. In its most simplistic terms, what 10 that means is after the deposition is concluded 11 today and the court reporter prepares a transcript 12 of it, you can elect to tell the court reporter "I 13 want to read and sign my transcript." If you do 14 that, what she will do is once it's prepared, she 15 will email it or mail it to you -- you can work 16 out with her how you want to get it -- and she 17 will provide you with a copy of it. At that point 18 in time you have 30 days to review it under the 19 rules, okay? 20 A. All right. 21 Q. I presume you probably want to read 22 and sign your transcript; is that right? 23 A. Yes, I do. 24 Q. So that's good. Once the transcript 25 is prepared, the court reporter will take care of
Page 7 1 tired of asking questions, and I presume the 2 witness is probably, likewise, tired of answering 3 my questions. So I try to take a ten-minute break 4 or so every hour. However, with that said, you're 5 welcome to take a break at any time. You can look 6 at me at any moment and say, You know, can I take 7 ten minutes? That's fine, we'll take ten minutes. 8 The only thing I would ask is that if I have a 9 question I have asked you, that you go ahead and 10 finish answering before we take the break. 11 Otherwise, you can take a break whenever you want, 12 all right? 13 A. All right. 14 Q. One of the things you have to agree to 15 abide by, since you're the witness that's being 16 deposed, is until the deposition is over, you're 17 not allowed to speak to anybody about your 18 testimony. Meaning, you know, if we take a break, 19 you can't call somebody on the phone and talk to 20 them about your testimony. You can't text 21 somebody about your testimony until the deposition 22 is concluded. Obviously, once it's concluded, 23 talk to whoever you want about it, okay? 24 A. I understand. 25 Q. The other thing I want to go ahead and	Page 9 1 getting that to you, and you can look at the 2 rules. The rule lays out what your obligations 3 are once you receive it, okay? 4 A. All right. 5 Q. Any questions about any of those 6 things? 7 A. No. 8 Q. Any questions before we sort of get 9 started about sort of the general methodology of 10 doing this? 11 A. No. Just remind me to silence my 12 phone. 13 Q. Yes, I have to remember to do that as 14 well. 15 Can you give me your full name for the 16 record? 17 A. It's J-i-a-n - Y-u-n. I go by John. 18 Last name, Dong, D-o-n-g. 19 Q. Can you give us your current 20 residential address? 21 A. 71 Delahow Street, D-e-l-a-h-o-w. 22 Q. I'm not looking for exact dates, 23 Dr. Dong, but approximately how long have you 24 lived at that address, generally? 25 A. 2014 or '15.

Page 10

1 Q. Do you need to finish something on
2 your phone?
3 A. I'm trying to silence it.
4 Q. So you have lived at the Delahow
5 address since 2014 or '15?
6 A. Yes.
7 Q. Just prior to your address on Delahow
8 Street, where did you reside? What was your
9 residential address?
10 A. I lived there briefly -- well,
11 actually, let me give you the 441 Lake Moultrie
12 Drive. That's Bonneau, B-o-n-n -- no, B-o-e --
13 Q. I think it's B-o-n-n-e-a-u.
14 A. Yes, exactly right, 29431.
15 Q. That is the address you were residing
16 at before you started living on Delahow Street?
17 A. Right. I also lived briefly in
18 RiverTowne. I could not remember the address.
19 Q. RiverTowne being RiverTowne Country
20 Club?
21 A. Right.
22 Q. Over in Mount Pleasant on North 17th?
23 A. Right.
24 Q. The address or the residence you lived
25 in in RiverTowne, did you live there alone, or did

Page 11

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

Page 12

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

Page 13

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

Page 14

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

Page 15

1 That's 4201 Victory Point Drive, Mount Pleasant,
2 South Carolina 29466.
3 Q. Is that the house in RiverTowne?
4 A. No.
5 Q. No, it's not?
6 A. No. It's at Patriots Point.
7 Q. You describe that as the marital home.
8 Is that a residence where you lived at one time?
9 A. Yes.
10 Q. The address you gave at Patriots
11 Point?
12 A. Yes, during the marriage.
13 Q. We have to be careful about talking
14 over one another.
15 A. Sorry, about that.
16 Q. That's okay. You've given me a couple
17 of addresses: the Delahow address, the Bonneau
18 address, the address in RiverTowne that you don't
19 remember the exact address, and then you also gave
20 us a fourth address where you've resided, which is
21 the Patriots Point address; is that right?
22 A. Right. Correct.
23 Q. Your ex-spouse, do you know if she's
24 employed anywhere? Do you know if she works?
25 A. She should be retired, too.

Page 16

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

Page 17

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

Page 18

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

Page 19

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

Page 20

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

Page 21

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

Page 22

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

Page 23

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

Page 24

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

Page 25

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

Page 26 1 she was claiming there was a criminal 2 investigation because somebody stole my genetic 3 material. 4 That was the excuse at the time to 5 block me entering my lab, tell me there was an 6 auditing ongoing. So, therefore, I could not 7 enter my lab. That's the first event I find that, 8 really, Dr. Norris basically just stop from 9 hiding, basically wanted to take away my genetic 10 material, my money and equipment for his own use. 11 Q. Thank you for telling me that. Do you 12 remember Ms. Gladden ever being involved in 13 discussions about the written agreement that you 14 signed with MUSC? 15 A. No, she wasn't. 16 Q. That's all I'm asking. You don't 17 remember her being involved in that agreement? 18 A. No, I do not. But she is behind all 19 the events that's transpired to the agreement 20 which compromised between the administration and 21 me regarding to -- to prevent me from actually 22 reporting to what James Norris did. 23 What he did was he -- actually what 24 I've been accused of and charged with, because he 25 misusing contract grant fund of another person for	Page 28 1 many, many of the biosafety committee auditing 2 examination and filing reports, and in the end I 3 did not violate anything. 4 Q. Was Dr. Schmidt involved, to your 5 recollection, in any way in the agreement that you 6 reached -- entered into with MUSC? 7 A. It's not agreement per se, but it was 8 the old events transpired the agreement. The 9 agreement is, retrospect, is in bad faith, just 10 try me get off MUSC. So that's why the 11 agreement -- actually, the discussion and 12 background of the agreement was way beyond the 13 agreement, which at the time I was just 14 desperately trying to get my research projects 15 going, because in my career if you stop doing 16 research, and your career will be severely 17 damaged. 18 Q. Do you recall ever having any 19 discussions with Dr. Schmidt about that written 20 agreement? 21 A. No. 22 Q. Dr. Stephen -- Stephen, with a P-h, 23 Tomlinson, he was someone else. You indicated you 24 wanted to take Dr. Tomlinson's deposition. Can 25 you tell me why it is you want to take
Page 27 1 his own use. That can trigger the auditing in all 2 of the MUSC grants, as well as disqualify MUSC 3 from applying for federal grants if that's 4 actually be proven. 5 That's why I have intention not to 6 harm MUSC, not to harm all my colleagues. So 7 that's a compromise position to reach the 8 agreement so I can get my research material and 9 lab equipment back quickly, because I have a 10 career to follow, instead of fighting with MUSC at 11 the time and also causing severe damage to MUSC. 12 Q. What about Michael G. Schmidt? He's 13 someone you indicated you wanted to take his 14 deposition. What does he know, or what is it you 15 believe he knows that has some connection to your 16 claims in this lawsuit? 17 A. Of course, he knows the actual events. 18 At least he knows some of the actual events. He 19 was vice president -- no, no -- vice chairman of 20 the department, and I believe he let James Norris 21 did what he did, but he wasn't helping me in any 22 way. But he knows a lot of details. 23 Also, he was on the biosafety 24 committee and being used against me to auditing me 25 for biosafety violations. So I was put through	Page 29 1 Dr. Tomlinson's deposition, including what it is 2 you think he knows that relates to your lawsuit? 3 A. He knows -- well, he was one of the 4 collaborators of mine. He definitely knows the 5 event and also all the activities transpired to 6 the agreement. 7 Q. Do you recall ever having any 8 conversations with Dr. Tomlinson about the actual 9 written agreement you entered into with MUSC? 10 A. No. He doesn't have the -- any part 11 in the written agreement, but it was -- he have 12 significant knowledge of the events that have 13 transpired to the agreement, and also he was one 14 of my scientific collaborators when I was the 15 professor at the department, and he was actually 16 -- I was on his recruitment committee when I was 17 at the department. 18 And his career was not impacted, 19 because I do not believe Dr. Norris was interested 20 in his research. And he also very experienced. 21 He will protect his money from being abused by Dr. 22 James Norris. 23 Q. What about Christina Voelkel-Johnson, 24 Dr. Voelkel-Johnson? Can you give me some idea of 25 what it is you believe she may know that pertains

Page 30

1 to your lawsuit, Dr. Dong?
2 A. Also involved in the activities, and
3 she used to be a trainee of Dr. James Norris.
4 Actually, Dr. James Norris take my material and
5 giving to one of the person in his laboratory,
6 Christy or Christina, sorry, and she will get the
7 benefit of obtaining my material, conducting her
8 research, advance her career while -- without
9 giving me credit.
10 So she was the one in a way indirectly
11 benefitted from Dr. James Norris taking my genetic
12 material and research resources and for her to
13 advance her career, which will be under James
14 Norris. So when she had publication, James Norris
15 will be the correspondent author, who will be the
16 ultimate person in charge on the research projects
17 and obtain federal funding based on those
18 research.
19 And she was one of them took my
20 research material and my research projects for her
21 benefit as the beneficiary or recipient of
22 Dr. Norris illegally and immorally taking my
23 genetic material and lab research, as well as
24 equipment for his own use.
25 Q. Do you know of any involvement that

Page 31

1 Dr. Johnson directly had in the agreement that you
2 entered into with at MUSC?
3 A. This is not only agreement. This is
4 the event taking my genetic material and research
5 projects and research funding from me and research
6 equipment from me and block my research advantage,
7 block my career in order to advance James Norris's
8 career, funding. So that's -- actually, the
9 agreement is one small part of the equation.
10 Q. I understand that's your position.
11 I'm just asking if Dr. Johnson, to your knowledge,
12 had any involvement in the written agreement.
13 That's all I'm asking.
14 A. She does not.
15 Q. You also indicated you wanted to
16 depose Lisa Saladin. That's S-a-l-a-d-i-n. Can
17 you give me a general idea of what you believe
18 Dr. Saladin may know about your lawsuit and the
19 claims you make?
20 A. She's current provost, if I'm correct,
21 and she will have to -- I assume, because I never
22 met her before -- assume she will know the general
23 policy of MUSC.
24 The administration policy of MUSC, the
25 faculty handbooks was governed -- governed the

Page 32

1 relationship between the Medical University and
2 all of the faculty members. And she will also
3 have knowledge, direct knowledge, of how a
4 tenureship worked at MUSC.
5 Q. Have you ever met Dr. Saladin?
6 A. No, I have not.
7 Q. I don't believe she was the provost
8 when your time at MUSC ended; is that right? She
9 wasn't the provost then, was she?
10 A. No, she wasn't. She is now. The
11 provost at the time was John Raymond.
12 Q. To your knowledge, did Dr. Saladin
13 have any involvement in the written agreement you
14 reached with MUSC?
15 A. She represented MUSC, now. She
16 actually should be able to testify about the --
17 how the -- as I said, how the MUSC system works as
18 a continuous process between a faculty member and
19 MUSC.
20 Q. Do you recall ever having any
21 communications with Dr. Saladin prior to entering
22 into the --
23 A. No.
24 Q. -- agreement with MUSC?
25 A. No.

Page 33

1 Q. You have to let me finish my question,
2 Dr. Dong.
3 A. All right.
4 Q. David J Cole, current president at
5 MUSC, can you give me some idea of why you
6 identified Dr. Cole as someone who you want to
7 depose?
8 A. He was one of my close collaborator on
9 assignment of projects, and we have joined the
10 research projects. I also trained his graduate
11 student as post-doc fellows, and he intimately
12 knows my -- the value of my research and, in
13 general, how research and medical practice was
14 conducted as a professor, as a faculty member, and
15 he has certain knowledge of the importance of the
16 biomedical research materials and projects taken
17 away from me.
18 And so actually, he was one of my
19 close -- closest collaborators and one of the
20 close collaborators at MUSC, and so he will be
21 able to shed some lights on how the events
22 transpired.
23 Q. To my knowledge, Dr. Cole was not the
24 president of MUSC when your time there ended; is
25 that right?

Page 34

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

Page 35

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

Page 36

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

Page 37

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

Page 38	Page 40
1 A. No, I did not. 2 Q. You did not? 3 A. No. I understand there was a sentence 4 slipped into the agreement before I signed it, but 5 at the time I was more anxious to -- I believed 6 Dr. -- Dean Reves or -- because I have tendency to 7 believe every -- my colleagues, because they are 8 doctors, they are all highly ethical 9 professions -- professionals, with the exception 10 of James Norris and Steven Lanier. 11 I can't remember if I also noticed Dr. 12 Rosen. 13 Q. Can you spell the last name? I'm not 14 sure I caught that. 15 A. Rosen, R-o-s-e-n. Ken Rosen. 16 Q. Dr. Rosen? 17 A. Right. He is the director of FRD, 18 Foundation For Research and Development, of MUSC. 19 Q. What is it Dr. Rosen knows about your 20 lawsuit or the claims you made? 21 A. He was involved actually, as well as 22 Dr. John Raymond, involved in setting up the 23 company, GenPhar, with New York investors, and he 24 was also involved -- played a part recruiting me 25 from UCSF to specifically help MUSC to develop	1 was involved in my complaint and also tried to 2 follow the process before he actually transferred 3 to become the president or vice president of 4 another university. 5 Q. Do you have any recollection of 6 Dr. Raymond being involved with the written 7 agreement you entered into in this -- 8 A. He was not. 9 Q. You have to let me finish. 10 Do you have any recollection of 11 Dr. Raymond being involved in the written 12 agreement that you entered with MUSC? 13 A. He was not directly involved in the 14 written agreement. Only person directly involved 15 in written agreement was Joe Goodman, was the 16 general counsel of MUSC, and Dean Reves and Steven 17 Lanier, but Steven Lanier is kind of in the shadow 18 because he knows he was -- he is the one that was 19 the dirty work. 20 Q. You mentioned the name at the hearing 21 two weeks ago of Samyon Rubinchick. Samyon is 22 S-a-m-y-o-n, and Rubinchick is 23 R-u-b-i-n-c-h-i-c-k. 24 Can you tell me what Dr. Rubinchick 25 knows or you believe he knows about the claims
Page 39	Page 41
1 biotech industries for MUSC under the mandate of 2 State of South Carolina. 3 So he will know how the interplay 4 works between the company which lend me the lab 5 space and also the -- how I actually got involved 6 with the biotech company on behalf of MUSC. 7 Q. Is Rosen R-o-s-e-n? 8 A. R-o-s-e-n, or I think R-o-s-o-n. But 9 he was director FRD for a long time, and anybody 10 will know his... 11 Q. There are some other people you listed 12 in responses to our interrogatories. I want to 13 ask you about a few of these people. You listed 14 Dr. John Raymond -- 15 A. He was the provost, sorry. 16 Q. That's all right. So Dr. Raymond was 17 the provost at the time you entered into the 18 agreement -- the signed agreement? 19 A. That's where the -- because that's my 20 report to administration started that -- when John 21 was the provost, and -- but I had a good 22 collaboration relationship with Dr. Raymond. But 23 once I started the complaint, that potentially can 24 cause serious problem for MUSC, and so he -- and 25 we did not have any communications, but I think he	1 you're making? 2 A. He knows all of the actual events. He 3 was the assistant professor, work under me in my 4 laboratory. But because Dr. Norris hold the 5 bacon, in a way, to promote him any further, so he 6 was basically using Dr. Rubinchick to do his work 7 while Dr. Rubinchick was on my payroll and 8 using -- have access to all my research materials. 9 And also the words that Dr. Norris 10 once said, "I like this because I can take money 11 out of one pocket, put into the other; I got all 12 the work done." 13 Guess who was the one being taken 14 advantage of? That was me. 15 So actually, Dr. Rubinchick did all, 16 everything, including doing the auditing, transfer 17 my genetic material, and he was involved at the 18 time. 19 Q. Do you know if Dr. Rubinchick had any 20 involvement in the agreement you reached with 21 MUSC, the written agreement? 22 A. He does not have the agreement. The 23 agreement only small part of it. It's not the 24 whole thing. The agreement covers a lot, which is 25 because that's the compromise for what Dr. Norris

Page 42

1 did to me so I can start my research at a
2 different -- continue my research at a different
3 location, while the breach of the agreement
4 completely stop me from conducting my research,
5 stopped my career cold because I have no genetic
6 material, no research equipment, no personnel and
7 no documents.
8 Because research is not done by one
9 person. It's all of the lab notes and everything,
10 everything done by the people working for you. So
11 I will not enter lab notes. So without lab notes
12 I will not know what happen, and I will not know
13 how to repeat some of the experiments. So I'm the
14 scientific engineer in a way, but I do not do the
15 construction. I do not do the work.
16 Q. To go back to my question: Do you
17 know of any involvement Dr. Rubinchick had in the
18 written agreement? That's all I'm asking.
19 A. That's -- the answer is no.
20 Q. What about Dr. Brian Hole, H-o-l-e?
21 You listed him. Can you tell me who Dr. Hole is
22 and what you believe he may know about your claims
23 in this lawsuit?
24 A. He does not. He's one of the graduate
25 students sent to my lab by Dr. Norris as a

Page 43

1 condition for my promotion, and basically that --
2 so legitimize he using my research material to
3 Dr. Hole's research project, graduation project,
4 which become Dr. Norris project. So that's the
5 setup.
6 Q. You have a Dr. Kenneth Roozen,
7 R-o-o-z-e-n. Who is that?
8 A. I think that's what I'm saying.
9 Q. That must have been the "Rosen" or
10 "Roson" we were talking about earlier?
11 A. Roozen.
12 Q. I don't know how you spell it either,
13 but we know who we're taking about.
14 Then you have Mr. Chip Hood listed in
15 your interrogatories, too. Can you tell me what
16 Mr. Hood knows about your claims in this lawsuit?
17 A. He was the director of our FRD
18 following Dr. Roozen left. He has intimate
19 knowledge of my research project and technologies,
20 and he was trying to ask me to file patent
21 disclosures so he will know the value of the
22 technologies and the importance of the technology
23 I had that was being taken by Dr. Norris.
24 Q. Do you know if Mr. Hood was involved
25 at all in the written agreement that you entered

Page 44

1 into with MUSC?
2 A. No.
3 Q. You also listed a Dr. Jennifer
4 Schepps, S-c-h-e-p-p-s.
5 A. Yes.
6 Q. Do you know what she may know about
7 your lawsuit and the claims in it?
8 A. She does not know lawsuit, but she was
9 my graduate student. She will know what events
10 transpired before the agreement was signed, why
11 actually I signed the agreement, and what's the
12 agreement for.
13 Q. I'm not going to be able to pronounce
14 this last name. I'll do the best I can. Dr.
15 Woraratanadharm?
16 A. Woraratanadharm.
17 Q. It's spelled
18 W-o-r-a-r-a-t-a-n-a-d-h-a-r-m. Do you know who
19 I'm speaking about?
20 A. She involved with --
21 Q. Can you tell me what you believe she
22 may know about the claims in the lawsuit,
23 Dr. Dong?
24 A. She was also one of my graduate
25 students. So she knew what I went through.

Page 45

1 Q. You also listed a Dr. Stephanie
2 Smith-Johnson. Do you know, or can you tell me
3 what you believe she knows about your lawsuit and
4 the claims in it?
5 A. Stephanie.
6 Q. It says "Stephanie Smith-Johnson."
7 A. I think that's a misspelling. I think
8 that's Christy Johnson.
9 Q. The same person we talked about
10 earlier?
11 A. Yes.
12 Q. Very good.
13 A. Sorry.
14 Q. That's fine. Dr. Steve London is
15 someone you listed in your interrogatories. Can
16 you tell me, in general, what it is you believe
17 that Dr. London may know about the claims in your
18 lawsuit?
19 A. He was one of my colleagues. He
20 actually had a dispute with Dr. Norris on the same
21 or similar issues, and, basically, I think the
22 university covered it up and promoted him to, I
23 think, even the vice president. So put him away
24 from the department.
25 I think for the same issue that what

Page 46

1 James Norris did, could have a major impact on the
2 overall funding of MUSC, but I wasn't ready to be
3 a whistleblower. I wasn't going to do anything to
4 harm the university or harm any of my colleagues,
5 opposite from what they did to me.
6 Q. Did Dr. London, to your knowledge,
7 have any involvement with the written agreement
8 you entered into with MUSC?
9 A. No. No.
10 Q. Looks like the last person I have here
11 is a Dr. Lucile "Landon," L-u-c-i-l-e,
12 "L-a-n-d-o-n."
13 A. That's the husband, sorry.
14 Q. Can you tell me, in general, what
15 Dr. Landon may know about your lawsuit and the
16 claims in it?
17 A. Lucile, actually, is Dr. London's
18 wife, and she also -- I think she went to
19 professor.
20 Q. So this should be Lucile London, not
21 Landon?
22 A. Right. Same person.
23 Q. So that's Dr. Steve London's spouse?
24 A. Wife, right.
25 Q. Tell me what you believe she may know

Page 47

1 about your lawsuit and the claims in it.
2 A. She actually work next door with me in
3 the laboratory position, and actually, she --
4 Dr. Norris actually tried to start some dispute
5 over equipment, over sharing facilities between me
6 and Dr. Lucile London and to distract me from
7 actually reporting what he did.
8 So Dr. London will have knowledge what
9 transpired during the process, what the problem
10 had with Dr. James Norris, which he eventually
11 transpired to or lead to me to signing the
12 agreement.
13 Q. Was Dr. Norris directly involved, to
14 your knowledge, in the written agreement that you
15 entered into with MUSC?
16 A. He didn't actually -- he cannot sign
17 agreement with me because he is the target of my
18 complaint, and I think he was taken off the
19 picture, but he worked closely with Steve London
20 -- Steve Lanier. Actually, the two conspired to
21 took my material, research material, equipment,
22 everything for his own use.
23 And Dr. Steve Lanier actually came to
24 GenPhar, talk to me, wanted me to give him
25 something. I did not know what. I thought what

Page 48

1 he meant was on behalf MUSC, but now I think back,
2 that may not be true.
3 Q. Did you and Dr. Norris ever have any
4 conversations about the written agreement you
5 entered into at MUSC?
6 A. He was the target. He was the
7 transpirer(sic). That's how the -- that agreement
8 was reached.
9 Q. I understand that. My question was
10 did you ever have any conversations with
11 Dr. Norris about the written agreement?
12 A. I have all the conversations regarding
13 to the problems I had, and that was transpired to
14 the agreement. So how -- he was the -- intimately
15 involved with the agreement was about.
16 That's actually -- he probably set up
17 the -- he would be the one provide the list of
18 equipment, and there is many pieces missing from
19 the list. And also actually, he took some of the
20 equipment and my contract, but -- and over -- so
21 for center grant, and he considered that was his.
22 Yet he wasn't signing any part of it.
23 He was intimately involved, because
24 Dr. Reeves doesn't know anything directly. He was
25 just the representative MUSC to do the -- also was

Page 49

1 the dean of medical school. So he was the one
2 actually presented as white hats, being good
3 person, and try to calm down the situation and so
4 I can quickly continue my research instead of go
5 through the process at the time which will be --
6 end up with serious damage to my career.
7 Because research is a competition,
8 that 100-meter dash. If you stop in the middle
9 working on the logistics, you will -- for sure
10 will be losing.
11 Q. You also listed -- the last person is
12 Joe Good. Obviously, I know Mr. Good. He was the
13 former in-house counsel at MUSC.
14 Did you have conversations with
15 Mr. Good about the written agreement before it was
16 entered into?
17 A. I do not have direct conversation, but
18 I had some emails copying him. I believe he was
19 the one drafted the agreement, and he also had a
20 close communication with James Norris. So there
21 are a lot of things sort of sneaked into the
22 agreement before I sign it, and that is -- all the
23 legal languages, that is all from Dr. Joe Good --
24 Mr. Good.
25 Q. But you understand what I'm asking?

Page 50

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

Page 51

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

Page 52

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

Page 53

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

Page 54 1 it. Is that your signature? 2 A. Yes. 3 Q. Do you recall if May 3rd, 2010, is the 4 date you signed it? 5 A. I can't recall, but this is -- 6 clearly, that's the date, 2010, yes. 7 Q. The rest of my questioning, to make it 8 simple for the record, I'm going to refer to this 9 five-page document as the agreement, all right? 10 A. Okay. 11 Q. So if I reference the agreement, I'm 12 talking about this five-page document, all right? 13 A. All right. 14 Q. And you can use the same label for it. 15 If you would also look at each page of 16 the five-page document, Dr. Dong. Other than the 17 last page where your signature appears, in the 18 other preceding four pages there are some initials 19 down in the bottom right-hand corner of each page. 20 Can you tell me if any of those initials on each 21 page are yours? 22 A. Yes. 23 Q. Is that your initials that appear on 24 each page? 25 A. Yes.	Page 56 1 A. I believe so, yes. 2 Q. Do you remember if anybody else was 3 there, Dr. Dong, or just the two of you? 4 A. Of course, his secretary. 5 Q. Other than his -- what I might call 6 his administrative staff, anyone else who was 7 there, other than you and Dr. Reves, that you 8 remember? 9 A. No, I don't believe there was anybody 10 else. 11 Q. Do you remember if Dr. Reves signed it 12 during the same meeting? 13 A. I could not remember. Must be 14 actually, this -- it was quite formal. 15 Q. Let me ask a follow-up to that that 16 might help. When you left Dr. Reves's office that 17 day, do you remember leaving with a fully-signed 18 copy of it just as it appears in front of you 19 today? 20 A. I could not remember. What I can 21 remember was print out two copies. I think I 22 might have an original copy. I believe I give to 23 Mr. Holmes, and then he could not find it anymore 24 and give me a scanned copy. I remember that all 25 the papers then was MUSC official paper.
Page 55 1 Q. Do you recall how this agreement was 2 given to you to sign? What I'm asking in that 3 regard, for clarity, Dr. Dong, so I don't confuse 4 you, is I'm really asking how did you physically 5 get it? Was it emailed to you? Was it given to 6 you in hard copy by somebody to sign? Do you 7 remember how you got the copy that you actually 8 signed? 9 A. I could not remember, but likely to be 10 email. 11 Q. If it was emailed, I presume you would 12 have then printed it out in order to sign it? 13 A. I could not remember I printed out or 14 Dr. Reves printed out. I think I was asked to 15 sign, so I went to Dr. Reves's office. I believe 16 I signed -- was on the -- was print out, official 17 print out by Dr. Reves. I believe there was two 18 copies on the MUSC paper, not the white paper. 19 Q. Did I understand you correctly, 20 correct me if I'm wrong, that your recollection is 21 you actually signed it in Dr. Reves's office? 22 A. I believe so, yes. I was specifically 23 went to Dr. Reves's office. 24 Q. Was Dr. Reves there when you signed 25 it?	Page 57 1 Q. Before you signed this agreement in 2 Dr. Reves's office on that day, did you read it 3 before you signed it? 4 A. I probably scanned through. I was 5 more interested looking to the equipment. I find 6 a few missing. Actually, I did talk to Scott 7 Reid, and he eventually located those equipment 8 that was not on list and still after signing. So 9 the equipment, he find them. He said he was going 10 to work on it, and never got anything back from 11 Reid -- Reid, Scott. 12 At the time my focus, everything is 13 how to -- because I was extremely anxious to get 14 my research started, and that completely block my 15 ability to do research. So I wasn't paying much 16 of interest -- attention to the formality or even 17 reading documents because I was not an order. I 18 was a faculty member, a professor, and I was more 19 interested to research, and I believe Dr. Dean 20 Reves, and I believe all my colleagues, except 21 James Norris and Steve Lanier. 22 Q. Do you remember, do you have any 23 substantive memory of any conversation you and 24 Dr. Reves had that day in his office before you 25 signed the agreement?

Page 58

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

Page 59

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

Page 60

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

Page 61

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

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

Page 66	Page 68
1 Q. In May 2010? 2 A. Right. I do not know when. I could 3 not remember the time. All of the executives 4 resigned, and then I was given the -- so-called, 5 the titles. They have to actually have somebody 6 to... 7 Q. Were you on the board in May 2010 at 8 GenPhar? 9 A. I could not remember. I could not 10 remember when, but I will also say so. Mostly 11 they question me about the technologies and what 12 is the potentials and everything by the board 13 members, because they are the one actually own the 14 company and invested over \$13 million their own 15 money, not institution money, to own the company. 16 Q. In May 2010, were you an employee of 17 GenPhar? 18 A. No. I was a consultant. 19 Q. So in May of 2010, it's your 20 recollection you didn't hold any particular title 21 or position with GenPhar, you weren't employed by 22 GenPhar, and you weren't on the GenPhar board; is 23 that right? 24 A. That's my best recollection, but I was 25 also asked by the board to answer questions, and I	1 A. Yes. 2 Q. What you just told me? 3 A. Yes. 4 Q. Did you testify at either criminal 5 trial you were involved in? Did you testify at 6 those trials? 7 A. Yes. 8 Q. You testified at both of them? 9 A. No. One. 10 Q. Which one, the first one or the second 11 one? 12 A. The second one, the bench trial. 13 Q. The bench trial with Judge Norton? 14 A. Yes. 15 Q. You actually testified at that trial? 16 A. Yes, but they -- well, hopefully, this 17 is irrelevant. But I was convicted because Judge 18 Norton's law clerk was negotiating U.S. attorney's 19 position in the U.S. Attorney's Office during the 20 time while she was doing everything for Judge 21 Norton, and Judge Norton recuse himself 22 afterwards, and they transferred to another judge. 23 And the judge basically wasn't involved in the 24 trial and everything else. 25 Q. If you turn over to the third page of
Page 67	Page 69
1 did attend some of the board meetings. But mostly 2 I do not have a say-so about financials in-house, 3 other than they ask me about the technology. So I 4 basically -- I was basically -- I still a 5 scientist, not for the company -- to the company. 6 Q. Were you ever on the GenPhar board? 7 A. Later. As I said, later. I could not 8 remember when. There was a board split, and the 9 company -- I think there is a agreement 10 settlement, actually, both sides, there is -- 11 basically the investors divide into two, and both 12 sides basically make the executive resign, so 13 basically make the company to only exclusively 14 operate -- provide contract service to the 15 Department of Defense. 16 So there's no more investment money 17 coming in. So they can't be paid with DoD 18 contract funds, and also their share disagreement 19 of who was in control of the company with one of 20 the now deceased local billionaire, Jerry Zucker. 21 That's all above my involvement how 22 the company run, how the investor runs. So I 23 don't know. 24 Q. That's the full extent of your 25 involvement with GenPhar?	1 the five-page agreement, please. 2 A. Sorry? 3 Q. Turn to the third page of the 4 five-page agreement, please, Dr. Dong. So we're 5 on Page 2. I'm asking you to turn over to the 6 third page of it. The next page, Dr. Dong. 7 A. All right. 8 Q. Let's take a look at the first 9 paragraph. If you can read that first paragraph, 10 and I'll ask you some questions about it. 11 (The witness reviews the document, as 12 requested.) 13 THE WITNESS: Yeah, but that's already 14 taken away from me. 15 BY MR. CONLEY: 16 Q. The agreement says: "Dr. Dong agrees 17 to relinquish his future use of approximately 700 18 square foot of laboratory space." 19 What 700 square feet is this talking 20 about? Is that a specific place down at MUSC? 21 A. That's my -- 22 Q. Your lab? 23 A. -- lab and the -- 24 Q. Where was that? Do you remember the 25 building?

Page 70

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

Page 71

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

Page 72

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

Page 73

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

Page 74

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

Page 75

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

Page 76

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

Page 77

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

Page 78

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

Page 79

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

Page 80

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

Page 81

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

Page 82

1 (The witness reviews the document, as
2 requested.)
3 THE WITNESS: Yes. Actually, MUSC --
4 MR. CONLEY: Let me ask you --
5 Dr. Dong, part of the deposition is I'm going to
6 ask you questions, and you can give me answers.
7 It's not an opportunity for you just to go on
8 narratives. I'll ask you a question, and you can
9 then give me as lengthy of an answer as you want,
10 but --
11 THE WITNESS: Ask a question.
12 MR. CONLEY: -- there needs to be a
13 question before we just go with some narrative.
14 THE WITNESS: You ask me if I see the
15 paragraph. I'm telling you I see the paragraph,
16 what it means.
17 MR. CONLEY: I haven't asked you what
18 it means. I've just asked you to take a look at
19 --
20 THE WITNESS: Strike my answer.
21 MR. CONLEY: -- look at it, and then
22 I'll ask you some questions.
23 THE WITNESS: Please do.
24 BY MR. CONLEY:
25 Q. Did you have any grants, active

Page 83

1 grants, on May 3rd, 2010, when you signed this
2 agreement?
3 A. Yes, the Vector Core grants. And also
4 I actually start a fund as reserve. I never had
5 to need to dip into it.
6 Q. So what active grants did you have at
7 the time you signed this on May 3rd?
8 A. The Vector Core grants.
9 Q. Any others?
10 A. I could not remember, but also I had
11 my start-up fund.
12 Q. The Vector Core grants, where are
13 those grants provided by? Are those provided by
14 the federal government somehow? NIH?
15 A. Correct.
16 Q. Was there more than one Vector Core
17 grant, or was there just one? You used plural.
18 I'm just trying to find out. I don't know. Was
19 there, like, one Vector Core grant, or were there
20 multiple Vector Core grants?
21 A. I could not remember, but actually,
22 Vector Core can be used in multiple grants, but I
23 was the -- I think there was a center grant or
24 program project grants.
25 Q. Do Vector Core grants have a PI?

Page 84

1 A. I was the PI. I was the director.
2 Q. I'm no expert on grants, but my
3 presumption is on -- to your recollection, on
4 May 3rd, 2010, there was still existing funding to
5 be spent under this Vector Core grant or grants,
6 right?
7 A. Yes.
8 Q. Because you were the -- I'm just
9 trying to understand. Because you were the PI on
10 the Vector Core grants, in my mind that would
11 indicate you were also the person who applied for
12 those grants?
13 A. Yes.
14 Q. Is that right?
15 A. Correct.
16 Q. It wasn't somebody else at MUSC who
17 applied for them and they just got assigned to
18 you? You actually applied for and were awarded
19 those grants?
20 A. Correct. No one else can assign
21 someone else's grants to you, or you can't use
22 anyone else's grants.
23 Q. Was anybody else a co-PI on those
24 grants, or was it just you as the sole PI, if you
25 remember? I don't know. I'm just asking you.

Page 85

1 A. I don't remember, because I'm the
2 person.
3 Q. Turn over to the fourth page,
4 Dr. Dong. We'll skip around on this page. Not to
5 confuse you, but --
6 A. Here is --
7 Q. -- if you can go down to the bottom of
8 Page 4, the next-to-last paragraph, where it
9 starts off with: "MUSC will cover." Do you see
10 that paragraph?
11 A. Last paragraph?
12 Q. Next-to-last paragraph, Dr. Dong.
13 Excuse me. Take a look at that for me for a
14 minute.
15 (The witness reviews the document, as
16 requested.)
17 THE WITNESS: Yes.
18 BY MR. CONLEY:
19 Q. Did MUSC ever make this one-time
20 \$20,000 payment?
21 A. I could not remember.
22 Q. Then if you look up at the third
23 paragraph on the page, Dr. Dong. So if you count
24 three down.
25 A. Right.

Page 86

1 Q. Take a minute and read that paragraph.
2 I have a couple of quick questions.
3 (The witness reviews the document, as
4 requested.)
5 THE WITNESS: Yes.
6 BY MR. CONLEY:
7 Q. Do you have any recollection of
8 whether that \$30,000 payment was ever made?
9 A. I think so. Actually, but that's less
10 than my salary portion in Vector Core, which is
11 funded by NIH, not the department.
12 Q. My question is was the \$30,000 payment
13 made?
14 A. I believe so, yes.
15 Q. Just to go back to make clear, you
16 don't know, sitting here today, if the \$20,000
17 payment was made in that -- towards attorneys'
18 fees or legal fees in that paragraph down towards
19 the bottom of Page 4?
20 A. Correct, because I did not believe I
21 claimed it. I didn't have attorney involved.
22 Q. That was going to be my next question
23 about that. You had earlier told me that you
24 wouldn't have had any legal fees at this point in
25 time because you never obtained --

Page 87

1 A. That's what I'm saying.
2 Q. -- never obtained a lawyer?
3 A. That's what they write in -- written
4 in. So actually, I have no involvement. I did
5 not claim legal fees from them.
6 Q. That's because you didn't incur any
7 legal fees, right, because you didn't take it to a
8 lawyer before you signed it?
9 A. No, I didn't. Correct.
10 Q. And you didn't take it to a lawyer --
11 we've already talked about you didn't take it to a
12 lawyer for much, much later after you had signed
13 it, which would have been when you took it to
14 Mr. Holmes?
15 A. Right. Correct.
16 Q. You didn't take it to a lawyer within
17 50 days of signing this agreement, did you, to
18 review the agreement with you?
19 A. I'm sorry?
20 Q. We've already talked about that.
21 You --
22 A. I think you already asked me the
23 question.
24 Q. I mean, you indicated earlier that you
25 don't have recollection of taking it to a lawyer

Page 88

1 within 45 days of signing it.
2 Do you have any recollection of taking
3 it to a lawyer within 50 days of signing it?
4 A. No. I never took it to any lawyer or
5 anything for almost a year later or over a year
6 later.
7 Q. That would have been when you took it
8 to Mr. Holmes?
9 A. Correct. He's the first lawyer I
10 talked to.
11 Q. If you can go up to the paragraph
12 above the next paragraph, directly above that,
13 that says: "Enduring grant materials." Take a
14 minute to read that, Dr. Dong.
15 (The witness reviews the document, as
16 requested.)
17 THE WITNESS: Right.
18 BY MR. CONLEY:
19 Q. Did you ever -- have you ever -- well,
20 before you brought the lawsuit, did you ever ask
21 the office of general counsel, the legal office at
22 MUSC, if you could see or make copies of, you
23 know, lab books and things like that?
24 A. Actually, that is verbally presented
25 to me, they will provide all the document --

Page 89

1 copies of the documents. Didn't say I have to go
2 to copy myself. So that would be too cumbersome
3 for me to make copies, because, actually, it says
4 by law. Actually, there's no law suggest that
5 general counsel keep my scientific notebooks.
6 Q. My question is simply this --
7 A. No law, no regulation to allow general
8 counsel to keep my scientific notebooks, and they
9 should provide me the copy, based on my reading
10 this paragraph. So if there was a law, there was
11 regulations, yes, they can keep it. But if
12 there's no law, no regulations to allow MUSC to
13 keep my notebooks, that is especially after
14 repeated requests, did not provide my copies.
15 So without the scientific documents,
16 without notebooks, I will not be able to continue
17 my research.
18 Q. Did you ever ask MUSC if you could
19 make copies?
20 A. I asked MUSC provide me the copies.
21 Actually, they did not say I have -- they give me
22 the notebook, I made copy myself. They said copy
23 will be provided to me. I agreed, but at least
24 that allow me to continue my research.
25 And I did not think the legal office

Page 90	1 have any use of the document, and if there -- and 2 I didn't have no -- I did not believe -- I still 3 don't believe there was any law or regulations to 4 allow general office to keep my scientific 5 documents. 6 Q. Did you read that document on Page 4 7 before you signed the agreement? 8 A. I signed the agreement with 9 understanding there has to be law and regulation. 10 They have law and regulation to keep it. When 11 there is no law, no regulation, they should not 12 keep my scientific notebooks, and they should also 13 at least provide me copies of my scientific 14 notebooks. 15 Q. My question is simply this: Did you 16 read that paragraph on Page 4 of the agreement 17 before you signed the agreement? 18 A. I cannot remember whether I read the 19 agreement. It was a long time ago. But as I 20 said, I scanned through the entire document. 21 Q. What does scanned mean when you use 22 the word "scan"? 23 A. I just read superficially, not each 24 words, like what you did as a lawyer. So I 25 basically, general understanding, the spirit of	Page 92	1 received will be relinquished back to the federal 2 agencies as obligated in the award agreements." 3 A. That should not be the language, 4 because -- and also, I do not believe they were 5 ever relinquished back to the funding agencies, 6 but they spent them themselves -- not themselves, 7 but James Norris. 8 Q. Did you read that paragraph before you 9 signed the document? 10 A. As I said, I only read the spirit of 11 the entire agreement. I did not split hair on any 12 phrases. Also, I do not believe they relinquish a 13 penny back to funding agencies, but spent the 14 money by James Norris. If you want to split hair, 15 those are just plain lies. 16 Q. Go up to the paragraph above that one, 17 Dr. Dong. 18 A. Above? 19 Q. Yes, the next paragraph up. It says: 20 "At the direction of." 21 A. Dr. Yusuf Hannun. 22 Q. Correct. 23 THE WITNESS: Mr. Scott Reid, that's 24 another person we were talking about, and Mr. 25 Ronald Bycroft. I don't even -- they didn't do
Page 91	1 the agreement. So I don't want to split hairs 2 with one phrase, one terminology. You probably do 3 as a professional, but that's not my profession. 4 Q. If you look up at the next paragraph 5 above that, where it says: "The university agrees 6 to relinquish," next paragraph right above the one 7 we were just speaking about, Dr. Dong. 8 (The witness reviews the document, as 9 requested.) 10 THE WITNESS: Right. 11 BY MR. CONLEY: 12 Q. At the time you -- so I asked you 13 about grants you had at the time you signed the 14 agreement. Did you have any commercially-funded 15 research awards at the time you signed this 16 agreement, if you recall? 17 A. I believe there was some funding from 18 GenPhar to MUSC and FRD. Actually, those funding 19 I never see a penny. Those GenPhar agreed to 20 funding my research in the laboratory in exchange 21 for me being the consultant at the GenPhar. I 22 think either FRD, I believe is mostly Steve -- 23 sorry, James Norris spent all the money. 24 Q. The second sentence in that paragraph 25 says: "Actively federally-funded research awards	Page 93	1 any of those. Also Yusuf Hannun was-- -- 2 MR. CONLEY: Again, Dr. Dong, I need 3 to ask you a question. This isn't an opportunity 4 for you just to sit in a deposition and tell me 5 everything you want to say. I haven't even asked 6 you a question yet. 7 THE WITNESS: You asked me if I see 8 this. I tell you what I see. 9 MR. CONLEY: I asked you to review the 10 paragraph, and then -- 11 THE WITNESS: Yes, I did. I told you 12 what my impression was. 13 MR. CONLEY: I didn't ask you your 14 impression. I haven't asked you your impression. 15 I haven't asked you a single question. 16 THE WITNESS: Ask me a question. 17 MR. CONLEY: The way the deposition 18 works, Dr. Dong -- 19 THE WITNESS: Don't give me lessons. 20 MR. CONLEY: I'm not giving you 21 lessons. There is a set of rules that apply, and 22 it requires that I ask you a question. I'll ask 23 you a question, and you can give an answer. 24 THE WITNESS: Go ahead. 25 THE REPORTER: I can only get one

Page 94

1 person at a time, please.
2 THE WITNESS: So he speak too fast.
3 BY MR. CONLEY:
4 Q. Dr. Dong, this paragraph says: "At
5 the direction of Yusuf and Mr. Scott Reid and
6 Mr. Ronald Bycroft will attempt to locate any
7 vectors or similar materials shared with other
8 investigators for repropagation by Dr. Dong, and
9 will attempt to locate written enduring hardcopy
10 records which have been lost?"
11 Did you read that sentence before you
12 signed the agreement?
13 A. As I said, you are splitting hair
14 again. I do not know other than the spirit of the
15 agreement is they're going to locate the vectors
16 and give me back for propagation.
17 Q. Does that paragraph say they're going
18 to locate or they're going to attempt to locate?
19 A. As I said, it's not my profession to
20 split the hairs. I think that means they going to
21 locate it.
22 Q. That paragraph goes on to say:
23 "This" -- meaning the attempt to locate this
24 information -- "will occur within the 45-day" --
25 "within the 45-day window above."

Page 95

1 A. They didn't do it.
2 Q. It would be one of your contentions in
3 this lawsuit that that is another -- that is one
4 of another -- of other breaches of the agreement,
5 right?
6 A. Anything in the agreement they
7 breached will be point of complaint.
8 Q. Correct. But that's one of them,
9 correct? They didn't do this within this 45-day
10 window, right?
11 A. They didn't do any of those.
12 Q. And then it says: "Any additional
13 items located after that time and search will also
14 be provided to Dr. Dong."
15 Do you know if any of those three
16 gentlemen ever located any information after the
17 45-day period ran?
18 A. I don't know if they did or didn't do.
19 Actually, I did contact Scott Reid a number of
20 times. He was the chairman, so he would be very
21 busy. I didn't think it would be proper to bother
22 him for the details. But Scott Reid is very
23 capable person, and he is also the base manager.
24 He was a good person. He used to be the business
25 manager at the department of biochemistry until

Page 96

1 they had fallout with James Norris.
2 I do not know who is Ronald Bycroft.
3 Q. If you go up to what would be,
4 Dr. Dong, the second paragraph on that page, so
5 the second paragraph from the top. It starts
6 with: "Dr. Dong." If you could read that, and
7 then I'll have some questions for you about it.
8 (The witness reviews the document, as
9 requested.)
10 THE WITNESS: Right.
11 BY MR. CONLEY:
12 Q. Have you read it, sir?
13 A. Yes.
14 Q. That paragraph says: "You will
15 transfer any research material, including genetic
16 materials, DNA constructions, viral and plasma
17 vectors, antibodies, and enzymes to Dr. Dong's new
18 research location for his continued research,
19 including the materials which were provided by
20 Dr. Dong to the Vector Core for services while
21 Dr. Dong was the director."
22 Did you do that? Did you make -- did
23 you transfer those material?
24 A. They took the material from me. They
25 locked me from the lab. Are you going to split

Page 97

1 words again? How do I transfer when they took the
2 position, lock me out of my lab? Those my
3 materials should be transferred.
4 Q. So, again, I wasn't there when any of
5 this happened, so I'm just asking you. Do I
6 understand you correctly that you couldn't
7 transfer it yourself because they locked you?
8 A. Out of my office.
9 Q. They locked it in a fashion that you
10 couldn't access it, right?
11 A. Correct. They changed the lock. They
12 never done nothing in the history of United States
13 in any universities, certainly not in the history
14 of MUSC. That's completely illegal. Actually, I
15 was funded by NIH. That's complete violation of
16 NIH rules. If I was any administrator, I was part
17 of NIH.
18 Q. As I understand what you're telling me
19 is you couldn't transfer it yourself because you
20 couldn't even access it; is that correct?
21 A. Yes.
22 Q. Did you ask for access to it?
23 A. Of course. That's the whole thing
24 I've been asking for. That's whole agreement. It
25 was in order for me to get access to my research

Page 98	Page 100
1 materials to continue my career. 2 Q. What were you told when you asked for 3 access to it so you could move it? What were you 4 told? 5 A. After I signed this agreement, 6 everything will be available, everybody will 7 cooperate with me to make the transfer. Once this 8 signed, it become a stonewall. I could not 9 contact anybody. Nobody respond to me. 10 And I talk to Scott Reid. He is going 11 to ask for my permissions, and then there is no 12 response. 13 Q. If you go up to the top paragraph, 14 first paragraph, you can read it, and I'll have a 15 few questions for you about it. 16 (The witness reviews the document, as 17 requested.) 18 THE WITNESS: Correct. 19 BY MR. CONLEY: 20 Q. Again, same question: Did you read 21 that paragraph before you signed the agreement? 22 A. I as -- again, I did not -- I read in 23 the context of the agreement. I did not try to 24 split the meaning of each specific words. 25 Q. That paragraph says: "Equipment	1 those equipment as well as my equipment never been 2 transferred. 3 Q. If you can look at what is Exhibit A 4 to the agreement, which is the list of equipment. 5 A. Right. 6 Q. I have a couple of questions about the 7 middle column, Dr. Dong. I don't know if you can 8 shed some light on this or not. But the middle 9 column is titled "Funding." Do you see that? 10 A. Right. 11 Q. Then it's got various labels, as I 12 read under here. So I see one says "Startup." Do 13 you know what that references? Why it says 14 "Startup"? What does that mean, if you know? 15 A. It's the startup funds. 16 Q. I don't know what those are. Maybe 17 you can explain? 18 A. As a condition to recruit me from 19 MUSC, I think MUSC offer me -- I could be wrong -- 20 \$65,000 startup funds. That means the money for 21 me to spend. 22 Q. On equipment? 23 A. On equipment, set up lab, everything 24 else, and also the expenses of transfer my 25 equipment, laboratory, personnel, and everything
Page 99	Page 101
1 relocated to GenPhar under this agreement," which 2 would, apparently, be everything listed in Exhibit 3 A or Exhibit -- 4 A. No, actually -- 5 Q. Let me finish my question. 6 A. Sure. 7 Q. -- which, apparently, would be 8 everything listed in Exhibit 1 to the agreement -- 9 or A to the agreement, excuse me, and presuming 10 there were or was an Exhibit B, would be returned 11 to MUSC at its expense at the end of your 12 appointment in March 2012, right? 13 A. That's not right. My understanding 14 is, based on otherwise permitted by existing 15 university policy or extra -- sorry, external 16 sponsor policies and approvals. 17 So actually, there is no university 18 policy or external sponsor policy, especially NIH, 19 they will not allow to take my equipment back to 20 university. However, there is a narrow gap; if 21 the Vector Core continues and function at MUSC, 22 those equipment should be returned to MUSC to 23 continue any funded research. I will not be able 24 to take them away from MUSC, which is consistent 25 with external policies, which I agreed. However,	1 for you to start a new location. 2 Q. Then there is another label under that 3 same "Funding" column. Some of them say "No 4 Tags." Do you know what that means? 5 A. It's because those are my equipment, 6 and it's already lost track where the funding come 7 from, but those are my equipment. 8 Q. Everything that says "No Tags"? 9 A. Correct. It's just that no longer 10 have track where it -- the initial funding was 11 from. 12 Q. Then there is another label under that 13 column that says "UCSF." I assume that's 14 equipment you brought from the University of 15 California, San Francisco when you moved to MUSC? 16 A. I think all of the equipment, 17 including no tag, was transferred from -- either 18 from MUSC or the university before that. 19 Q. I'm asking -- we have talked about no 20 tag. I'm asking you about the UCSF tag now. Is 21 that tag -- where it says "UCSF" under that 22 "Funding" column, Dr. Dong, does that mean that 23 that's a piece of equipment that came from UCSF 24 when you moved to MUSC? 25 A. That means, actually, that tag was not

Page 102

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

Page 103

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

Page 104

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

Page 105

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

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

Page 110

1 they say they would not do that?

2 A. They agreed to support and provide.

3 And actually, it was one of the conditions

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

5 they will definitely support.

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

7 you mentioned, was that an NIH grant?

8 A. Yes.

9 Q. Were you actually awarded the grant?

10 A. Yes.

11 Q. Do you remember what year and month it

12 was, Dr. Dong?

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

14 wanted the more material, discovery material.

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

16 Q. I presume it was after you entered

17 into the agreement, you were awarded this NIH

18 grant, correct?

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

20 will provide -- basically, not only accept the

21 grants, but they provide administrative management

22 of grants. That's part of the essential

23 components for anybody, professor, to receive NIH

24 grants.

25 Q. Go to the bottom paragraph on the same

Page 111

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

2 campus facilities and their use shall not be

3 limited during his remaining years of employment."

4 I think you've already told me earlier

5 they did limit your access to campus facilities

6 and such, right?

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

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

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

10 your access off immediately upon you signing this

11 agreement, or was it sometime after --

12 A. They -- they --

13 Q. Let me finish. You will get to

14 answer.

15 -- or was it sometime after -- weeks

16 or months after you signed the agreement that they

17 cut off all your access to facilities and email?

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

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

20 to my personnel basically by locking me out and

21 changing the locks. Never done to any faculty

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

23 any university, especially funded by -- faculty

24 member is funded by NIH.

25 They are obligated to support me, to

Page 112

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

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

3 only violation of all faculty rules; they also

4 violate the regulations with NIH, the admission.

5 If I was mean-spirited, I would file

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

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

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

9 was only interested to continue my research.

10 Q. My question was when did they cut off

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

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

13 immediately upon you signing the agreement, or was

14 it weeks or months after that they cut off your

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

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

17 when.

18 A. That was before we sign agreement.

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

20 to reinitiate my research.

21 Q. Maybe this will help me. Before you

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

23 use the word "locked out" --

24 A. Yes.

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

Page 113

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

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

3 questions.

4 A. Go ahead.

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

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

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

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

9 Just don't interrupt me.

10 Was it before you signed the agreement

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

12 your lab?

13 A. Yes.

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

15 been locked out of your laboratory?

16 A. Correct.

17 Q. After you signed the agreement, they

18 never gave you renewed access to your laboratory?

19 A. Correct.

20 Q. It continued? In other words, the

21 lack of access continued?

22 A. Right. Part of the agreement is to

23 give me back my research ability, give me access

24 to my equipment, personnel, funding, but they

25 actually continued the lockout. Once the signed

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

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

Page 122	Page 124
1 members started companies. 2 There was a university policy and 3 formulation, how the benefit derived from 4 commercial companies divided within university, 5 including the person who actually contribute the 6 technology computation. There was a formulation 7 how much share, how much percentage the person 8 get. 9 Q. What I hear you saying is there is a 10 percentage of whatever shares MUSC gave to this 11 German national that actually under MUSC's rules 12 should have belonged to you, not MUSC? 13 A. Not only damages done to me, 14 because -- 15 Q. I'm just asking you if my 16 understanding is correct. I'm not asking if you 17 were damaged by it. Is that correct? Are you 18 claiming that a piece of these shares moved -- 19 given back to this German national actually belong 20 to you and not MUSC? Is that what I hear you 21 saying? 22 A. If you will let me make my statement, 23 and I think we'll be better off in many ways. 24 Q. Go ahead. 25 A. Based on -- that's what I said, based	1 research at GenPhar. 2 Q. Did GenPhar eventually kick you out? 3 A. During that period of time, GenPhar 4 was kick -- did kick me out. 5 Q. What period of time are we talking 6 about? 7 A. I don't remember. That's why, 8 actually, I need to get the documents from MUSC to 9 document what kind of agreement it made or 10 actually the timeframe they made. 11 Q. Did you continue to do work for 12 GenPhar after you signed this agreement 2010? 13 A. I was on a consulting role. They 14 allowed me to do the research, but I have nothing 15 else to do but to continue my consulting with 16 GenPhar so I can have a position. 17 Q. Was there ever a time when you were 18 the CEO of GenPhar? 19 A. No. Actually, at the end when 20 everybody left, so they have to be a person 21 carrying the name, but during this entire process 22 the company was run by chairman of the board, 23 which is Steve Hutchinson, also who was the CEO, 24 and once after the -- they started fighting, 25 actually installed the guy. It was Kevin Die
Page 123	Page 125
1 on MUSC formulation, the benefit to faculties, 2 there is a percentage share owned by MUSC will be 3 awarded to the person who will be responsible for 4 the income by MUSC. 5 So based on that formulation and that 6 policy of MUSC, I wasn't the only faculty members 7 to benefit the shares of the financial income from 8 a company that I consulting with, helped to start. 9 So that share should be mine, awarded 10 from MUSC. Just like salary I awarded from MUSC 11 or bonus I awarded from MUSC, that will be mine. 12 Q. How many shares were supposed to be 13 yours? Do you know? 14 A. I don't know. So I never got it. But 15 the damage to me was not only the value of the 16 shares, but actually they use my share, the 17 percentage of share I brought to MUSC, to 18 participate a conspiracy for one of the investors 19 to fire the other investors and then in order to 20 seek control of the company. 21 Of course, I was on the side of the 22 company as well, so they can kick me out of the 23 company as well. So basically, I left not only 24 not be able to continue my research at MUSC, but 25 also actually block me from continuing my job, my	1 (sic), who was the CEO. 2 Once, after the fight, everybody is 3 gone, there is no CEO -- no official CEO. I was 4 only functioning as the principle investor, but 5 one -- actually, there was somebody even sign, for 6 example, lease agreement, anything else. Because 7 I was the sole principal investigator, I signed 8 it, but I was never officially named by the board 9 CEO or otherwise. 10 I was the chief scientific officer as 11 a consultant, and also at the time GenPhar insists 12 on me being the president, which is only title, 13 and that was rejected by FRD. So they didn't want 14 me to have any non-scientific function because I 15 could not function as non-scientist. I do not do 16 any -- even at MUSC, I am treated role is through 17 business management. I never manage money. I 18 never manage role in regulatory affairs. Only 19 science. 20 Q. You never managed money at GenPhar? 21 A. No. I don't sign checks. I don't 22 review grants. I don't review accounts. It's all 23 so-called insulated from me. 24 Q. Did you ever send letters to investors 25 about the finance status of GenPhar?

Page 126

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

Page 127

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

Page 128

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

Page 129

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

Page 130 1 around the world. So he wanted me to answer the 2 question. I said could you -- to make a long 3 story short, could you wait until I come back, 4 because this lifetime event and cost \$90,000. He 5 said, Don't worry about it; I'll pay for it. 6 He's a billionaire himself, all right. 7 So once the dispute come about, he said he would 8 not pay for it. He only pay 40 percent, 9 50 percent of cost, which equivalent to \$35,000, 10 and he did not want to reimburse the company. He 11 said, That's reimbursement for you to take the 12 time around-the-world travel since he said so. 13 But I did not think that the auditing 14 was for the company regardless who wanted to do 15 it, so I did not think it was appropriate for me 16 to take \$35,000. At the same time, the consultant 17 for government relationship set up by Jerry 18 Zucker, which also multibillionaire locally, as a 19 requirement, we have to hire this law firm, the 20 consulting firm to so-called establish government 21 relationship. I was signed it. I never wanted 22 to. 23 The consultant form asked me to 24 contribute to Lyndsey Graham's contribution. I 25 said, Why don't you do it? He said, We can't do Page 131 1 it anymore because we're going to -- because April 2 month of the event. So there is overzealous 3 looking for the law firms who make a contribution 4 on behalf of the others. So he can't do it. 5 So I would say, Okay, I will write a 6 check, because that's was given to me personally 7 by this German investors. So I had to say, Well, 8 okay, I'll just donate this for Lyndsey Graham, 9 because I was asked to donate Lyndsey Graham. I 10 did not think was a profit for me personally take 11 the money, because the auditing is behalf of 12 company. 13 And that money was returned from my, 14 saying demand -- exceed the limits, your limit. 15 So I thought there was -- each person out of 16 communist China, I thought because you buy me 17 flowers there is quantant (sic), and everybody live 18 by quantant. I thought I reached my quantant. And 19 I said, We have a company. I said, Everybody else 20 has contributes to Lyndsey Graham. They said, No. 21 I say, Okay, if you support Lyndsey Graham because 22 he support our contract about defense program, he 23 support Department of Defense, support our defense 24 grant, if he agree, you can take the money, talk 25 to Katie and make contribution.	Page 132 1 I didn't know that was over the limit, 2 was so-called legal limit, and then the -- by 3 giving the money to the other people, that's 4 called straw-whatever donation. So I was 5 convicted for contribution using strawman. I have 6 no -- I think the criminal has to be mens rea. 7 You have to have intention to break the -- no -- 8 the violation of the low. I did not. I wasn't a 9 political person. 10 So I just -- money was given to me by 11 the German investor that actually tried to -- I 12 was the conduit for foreign invest contribution, 13 and there is clear agreement he is giving the 14 money to me personally to compensate me 15 personally, but that's just how the conviction 16 occurred. 17 It had nothing to do with -- that also 18 happened years, years after the breach of 19 contract. Have nothing to do with anything. If I 20 didn't sign agreement, go to GenPhar, nothing like 21 this would happen to me because I wasn't manager 22 at any time. I have no experience in managing a 23 company, political contribution, I have none. 24 Q. It looks like the political 25 contributions were all made years before the Page 133 1 agreement was signed. 2 A. No, it could not be. 3 Q. I'm seeing lobbying fees going all the 4 way back to 2007 as part of your charges. 5 A. That's not my -- lobbying fee is 6 not -- actually, it's the political agreement was 7 as set up by Jerry Zucker. I have nothing to do 8 with the company. They call it lobbying fee, but 9 that's the government relation consultant company. 10 That's what presented. The company called 11 American Defense. So I am no knowledge whatsoever 12 about what's at the time. And I only learn new 13 word, lobbyist, why they called lobbyist. 14 When I receiving the company that, 15 actually, is the word in place. It was set up by 16 Jerry Zucker through one of his friends, I think, 17 Ben Sasse. He was deputy secretary for Reagan. 18 I'm talking about beyond my knowledge. 19 That's just -- to me, that's rumor. All I know is 20 the company called American Defense. It 21 supposedly have the business as to how to breach 22 the gap between defense companies and the 23 Department of Defense. 24 Q. Is Vaxima, Inc. still in operation, 25 Dr. Dong?
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Page 134

1 A. No. It was just a paper company.
2 When I was kicked out from GenPhar, I was -- I
3 thought I failed MUSC because the -- there was
4 no -- I was charged to start a biotech company and
5 bring high-paid jobs to South Carolina. And Ray
6 Greenberg specifically had a conversation with me,
7 who was the president of the university. So I
8 thought I failed, and I tried to start another
9 one, but basically I could not raise a single
10 dollar in terms of funding.
11 But then the -- after the two parts
12 are fighting, we -- actually, they brought me back
13 to in charge of the assignment. They know they
14 could not -- neither party could do it. So they
15 brought me back.
16 So that was -- Vaxima was basically
17 incorporated, become a subsidiary of GenPhar, only
18 they call it service division, which only using
19 GenPhar's technology to serve other companies, and
20 the companies never exist as individual company or
21 actually have a single dollar investment, but just
22 become a name under GenPhar to provide a service
23 to other companies.
24 Because GenPhar is a product
25 development company, and when you have product

Page 135

1 development, you can't do service for the other
2 clients because they afraid you may use their
3 technology to help your products. So you have to
4 have a separate entity and agreement that
5 technologies never transfer.
6 There is also no relevance whatsoever
7 to the current case. The only relevance is if I
8 wasn't pushed to GenPhar with the -- they take my
9 research and material and push to GenPhar, I would
10 never be in trouble.
11 Q. What do you mean push you to GenPhar?
12 A. Of course, this agreement, because
13 they took away all my research. The only
14 opportunity for me to -- and being enticed to a
15 cool-down period. At the time my only concern is
16 my academic career.
17 I agreed on everything in order for me
18 to continue my research. That's my livelihood.
19 That's my career. Everything depend on it. So I
20 agree to everything in rush in order for me to
21 continue my research. Not only threw away my
22 research, actually they try to block me from doing
23 my research at GenPhar and also actually as a
24 result and I'm being the only person in charge,
25 because everybody officially resign.

Page 136

1 Q. Your relationship to GenPhar goes all
2 the way back to 2002, right?
3 A. That's under the contract of FRD and
4 GenPhar. It was on behalf of MUSC. So I always
5 been full-time professor. That's -- actually, all
6 the other faculty members doing the same.
7 University encourage faculty members
8 to sponsor biotechnology. It's not only MUSC.
9 It's all over the country, exemplified by MIT,
10 Hopkins, UCSF. Of course, Massachusetts is the
11 hotspot biotech companies. And of course,
12 California is hotspot biotech companies. So
13 that's all national trend, and they actually tried
14 to mimic UCSF.
15 UCSF got more than \$300 million a year
16 from industry support, a lot more than
17 \$300 million. At the time it was \$300 million
18 from NIH. And the common saying is there's almost
19 same or twice the amount from industry. So many
20 universities try to mimic, and also it was the
21 initiative of high-tech university under the
22 government. That's actually the single purpose I
23 was recruited to MUSC, and I think Ken Roozen can
24 testify to it.
25 (Exhibit 2, 3/14/11 Letter to Dr. Dong

Page 137

1 from MUSC, marked for identification.)
2 BY MR. CONLEY:
3 Q. Dr. Dong, I'll hand you what I've
4 marked as Exhibit 2 and ask you to take a look at
5 it, please.
6 A. This letter is fake in a way because
7 this person actually was regarded one of the
8 worst, whatever, the vice president of affairs at
9 MUSC. She didn't last long. She had no
10 involvement from the beginning to the end, but she
11 took responsibility. Inventory was done by her.
12 No, it was done by Steven Lanier, long before this
13 agreement was signed. This is a false statement.
14 Q. Did you receive this letter, which is
15 Defendant's Exhibit 2?
16 A. I believe I might. I might. I can't
17 remember.
18 Q. Did you attend this inventory that
19 occurred March 24th and 25th?
20 A. Which year is this?
21 Q. It says "March 14, 2011," Dr. Dong.
22 A. No, I was never asked.
23 Q. My question is simply this: Did you
24 attend in any shape, form, or fashion an inventory
25 on either March 24th or March 25th, 2011?

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

Page 142 1 This is absolutely false. Actually, I 2 would not be -- I would not know I was indicted by 3 2011. The indictment was -- actually, there is 4 sequential indictment within the months by the 5 same grand jury. Actually, each -- I was told 6 each indictment was only narrowed down. Instead 7 of superseding or adding more, they narrowed down 8 from broadly indictment from paying illegal aliens 9 to whatever. So no one actually saw the first and 10 second, except the third. 11 The only legally effective third 12 indictment should be 2013, all right. And there 13 was not unsealed until 20- -- late 2014 or early 14 2015. So there's nine-months period, based on 15 law, for speedy trial. Otherwise, they violate -- 16 that's a constitutional violation. So there's no 17 way they knew it. 18 It is a felony violation by anybody if 19 disclose information, and there's no way they 20 would know 2011 there was indictment. I don't 21 believe this email -- this information is real or 22 just a coverup act. 23 BY MR. CONLEY: 24 Q. Did you receive Defendant's Exhibit 4? 25 A. I don't remember how they sent to me.	Page 144 1 A. Sorry? 2 Q. That same document is Exhibit 2 to 3 your lawsuit. You have, obviously, seen it 4 before. You must have seen it back in at least 5 2014, when you filed your lawsuit. 6 A. It was attached to my lawsuit? 7 Q. Yes, sir, it is. If you look at the 8 complaint, it's attached to it as Exhibit 2. 9 A. That's already after the agreement 10 been breached. What's the benefit? What's the 11 fact they put it on -- 12 Q. I'm only asking if you recall 13 receiving the document, Dr. Dong. You either do 14 or you don't. 15 A. I do not, actually. 16 Q. Would you at least look at your 17 complaint and agree with me that that's Exhibit 2 18 to your complaint? It looks like the same 19 document to me. 20 (The witness reviews the document, as 21 requested.) 22 THE WITNESS: Yes, I see it. 23 BY MR. CONLEY: 24 Q. You filed your lawsuit September 2014, 25 right?
Page 143 1 Q. They mailed it to your address on 2 Victory Point Drive. In September 2011, were you 3 living at 4211 Victory Point Drive in Mount 4 Pleasant? 5 A. I think I was separated long before 6 that. I live in Moultrie Drive. 7 Q. Is that your testimony, you weren't 8 living at that address then? 9 A. I believe so, because I was separated 10 three years before my divorce. 11 (Exhibit 5, 9/29/11 Letter to Dr. Dong 12 from MUSC, marked for identification.) 13 BY MR. CONLEY: 14 Q. This is Defendant's Exhibit 5, 15 Dr. Dong. Take a look this Exhibit 5, Dr. Dong. 16 A. Whatever they are, revision is not 17 without my signature and is not -- is violating, 18 but if they say revised, but I wouldn't even read 19 -- I have not seen it, but I don't even need to 20 read it. 21 Q. You have never seen Defendant's 22 Exhibit 5? 23 A. No. 24 Q. Well, it's attached to your lawsuit, 25 Dr. Dong.	Page 145 1 A. That late? 2 Q. Yes, sir. Look at the filing date on 3 it. 4 A. I think I don't -- I can't remember 5 how exactly. I don't remember seeing it. But 6 actually, I do -- I know Allan Holmes got some 7 documents from MUSC as well. 8 MR. CONLEY: Let's take a short break. 9 (A recess was taken.) 10 MR. CONLEY: I don't have anything 11 further. 12 (The deposition was concluded at 2:23 13 p.m.) 14 (The witness, after having been advised 15 of the right to read and sign this transcript, 16 does not waive that right.) 17 18 19 20 21 22 23 24 25

Page 148

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

2 johny.dong@me.com

3 October 27, 2022

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

5 10/18/2022, Jian-Yun John Dong (#5516370)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 cs-southeast@veritext.com.

16
17 Return completed errata within 30 days from
18 receipt of testimony.

19 If the witness fails to do so within the time
20 allotted, the transcript may be used as if signed.

Yours,

Veritext Legal Solutions



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

Page 149

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

2 Jian-Yun John Dong (#5516370)

3 ERRATA SHEET

4 PAGE _____ LINE _____ CHANGE _____

5 _____

6 REASON_____

7 PAGE _____ LINE _____ CHANGE _____

9 REASON_____

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15 REASON _____

16 PAGE _____ LINE _____ CHANGE _____

18. REASON

24 Jian-Yun John Dong Date

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

October 18, 2022

Page 150

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

2 Jian-Yun John Dong (#5516370)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Jian-Yun John Dong, do hereby declare that I
5 have read the foregoing transcript, I have made any
6 corrections, additions, or changes I deemed necessary as
7 noted above to be appended hereto, and that the same is
8 a true, correct and complete transcript of the testimony
9 given by me.

10

11 _____

12 Jian-Yun John Dong Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 _____ DAY OF _____, 20____.

16

17

18 _____

19 NOTARY PUBLIC

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39 (Page 150)
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[& - a.m.]

Page 1

&	2/3 119:18	27 148:3	45 59:20,25 88:1
& 2:9	20 142:13 150:15	29401 2:10	94:24,25 95:9,17
1	20,000 85:20	29431 10:14	106:18
1 50:12,16 53:5,6	86:16	29466 15:2	5
53:7,8,15,15	2002 136:2	29492 2:4	5 77:7 143:11,14
63:7 99:8 107:2	2007 133:4	3	143:15,22 147:5
146:24 147:7,14	2010 54:3,6 64:7	3 72:15,17 79:15	147:23
1/3 119:17 120:5	64:14,16,20	79:22 105:20	50 87:17 88:3
120:12 121:14	65:15,21 66:1,7	109:12,13,14	130:9 147:14
121:16	66:16,19 73:22	139:4,9 147:3,3	5516370 148:5
10-06683 1:6	75:2 77:3 79:15	147:5,18	149:2 150:2
10/18/2022	79:22 80:9,19	3/14/11 136:25	6
148:5	81:9 83:1 84:4	147:16	65 17:17,18
100 49:8	113:14 114:23	30 8:18 79:9,15	65,000 100:20
10:00 1:15	124:12	79:22 80:9,18	66 17:17
11 147:23	2011 137:21,25	81:8 148:17	7
12 147:14	138:12 141:23	30,000 86:8,12	700 69:17,19
13 66:14 77:6	142:3,20 143:2	300 136:15,17,17	70:4 79:5
136 147:16	2012 13:6 63:1,4	31 63:1,4 109:6	71 2:4 9:21
139 147:18	99:12	310 2:10	8
14 137:21	2013 142:12	35,000 130:9,16	8 147:21
141 147:21	2014 9:25 10:5	3rd 54:3 73:22	843-577-9626
143 147:23	51:6,12 142:13	75:2 80:9,19	2:11
146 147:7	144:5,24	81:8 83:1,7 84:4	843-991-2332
15 9:25 10:5	2015 11:19 128:3	113:14 114:23	2:5
16 11:19	128:10 142:14	4	9
171 1:16 2:10	2016 1:6 11:19	4 85:8 86:19	9/20/11 141:8
17th 10:22	2018 64:18	90:6,16 105:20	147:21
18 1:14	2021 109:6	141:8,11 142:24	9/29/11 143:11
18th 146:12	2022 1:14 146:13	147:18,21	147:23
2	148:3	4.5 108:21	90,000 129:24
2 51:12 63:6	2025 146:24	109:23 110:6	130:4
69:5 107:6	21897 146:22	40 130:8	a
109:14 136:25	24th 137:19,25	4201 15:1	a.m. 1:15
137:4,15 144:2,8	138:12 140:19	4211 143:3	
144:17 147:16	25 138:12 147:16	441 10:11	
	25th 137:19,25		
	140:19		

abide 7:15 ability 23:23 57:15 109:10 113:23 115:12 115:12 able 3:24 32:16 33:21 44:13 89:16 99:23 123:24 141:3 abruptly 61:9 109:11 absolutely 142:1 abused 29:21 academic 21:11 21:11,12 22:4,6 22:18 23:6,16,18 23:18 63:18 105:4 135:16 academics 35:9 accept 110:20 access 41:8 97:10,20,22,25 98:3 107:22 111:1,5,7,9,10 111:17,18 112:11,15 113:18,21,23 114:8,12,14,24 115:4,6,6,19 116:12,20,21 117:20 139:22 141:3 accounting 127:5,5,6,14 accounts 125:22 accrued 19:3 accuracy 148:9	accurate 3:25 5:13 146:7 accurately 71:13 accused 26:24 acknowledge... 150:3 acknowledges 63:16 acknowledgm... 148:12 act 142:22 acting 61:17 action 50:12 147:14 actions 139:3 activated 19:1 active 21:18,25 60:23 82:25 83:6 actively 21:7 91:25 119:8 activities 29:5 30:2 37:4 actual 27:17,18 29:8 41:2 116:8 129:22 adding 142:7 addition 104:15 129:13 additional 73:18 95:12 129:14 additions 150:6 address 9:20,24 10:5,7,9,15,18 10:24 11:3,7 15:10,17,18,18 15:19,20,21 19:12 115:16	143:1,8 addresses 15:17 adjust 105:3 administration 26:20 31:24 37:11 39:20 61:25 62:7,15 administrative 36:6 56:6 72:3 110:21 administratively 71:17 administrator 25:8 97:16 admission 112:4 advance 30:8,13 31:7 advantage 31:6 41:14 advice 59:12 64:3 advised 145:14 affairs 58:19 125:18 137:8 affirm 127:16,20 affixed 146:12 afraid 135:2 age 17:15 agencies 92:2,5 92:13 ago 11:21 40:21 90:19 agree 5:6,8 7:14 80:8 109:7 129:17,19 131:24 135:20 144:17	agreed 14:12 89:23 91:19 99:25 109:24 110:2 129:20 135:17 agreement 24:21 25:1,16,20 26:13 26:17,19 27:8 28:5,7,8,9,11,12 28:13,20 29:6,9 29:11,13 31:1,3 31:9,12 32:13,24 34:18 37:18,19 37:24 38:4 39:18,18 40:7,12 40:14,15 41:20 41:21,22,23,24 42:3,18 43:25 44:10,11,12 46:7 47:12,14,17 48:4 48:7,11,14,15 49:15,19,22 51:1 51:24 52:2,13,14 53:18 54:9,11 55:1 57:1,25 58:1,5 59:21 60:1,16 61:5,11 61:22 62:11 63:24 64:6,19 67:9 69:1,4,16 70:24 71:11,25 72:15,18 73:7 76:7 77:25 78:9 79:25 80:10,15 80:20,21 81:6 83:2 87:17,18 90:7,8,16,17,19 91:1,14,16 92:11
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[agreement - assume]

Page 3

94:12,15 95:4,6 97:24 98:5,21,23 99:1,8,9 100:4 107:2,7,14,18 108:9,12,19 110:17,19 111:11,16 112:1 112:13,18,19,22 113:10,17,22 114:1,11,15,16 114:23 115:20 116:4,13 117:6 118:20 119:12 119:17,21 120:2 120:6,25 121:1,2 121:10 124:9,12 125:6 126:6 128:11 132:13 132:20 133:1,6 135:4,12 137:13 140:15,21 144:9 agreements 62:1 92:2 agrees 69:16 70:2 91:5 107:8 109:2,4 ahead 7:9,25 8:3 75:12 93:24 113:4 122:24 airbnb 19:16 aliens 142:8 allan 145:6 allegation 118:22 allen 51:15 allison 11:15 allotted 148:20	allow 89:7,12,24 90:4 99:19 114:17 115:2 119:10 allowed 7:17 74:3 78:4 114:24 117:7 124:14 allowing 115:4 american 133:11 133:20 amount 108:21 121:7 136:19 answer 5:1,4,8 5:10,17 6:17 22:8,13,16,17,21 22:22 23:25 42:19 66:25 82:9,20 93:23 111:14 113:6 130:1 answering 7:2 7:10 12:7 answers 4:1 6:1 82:6 antibodies 96:17 anxious 38:5 57:13 anybody 7:17 17:3 39:9 56:2,9 81:17 84:23 98:9 110:23 115:16 126:9 128:4 142:18 anymore 21:13 56:23 131:1 140:6	anyway 4:21 apparently 99:2 99:7 appeals 127:16 appear 54:23 appearances 2:1 appears 54:17 56:18 118:19 appended 150:7 applicable 148:8 applied 21:5 22:18 23:7,13,24 84:11,17,18 104:13 apply 22:6 23:17 93:21 104:15 109:9 117:25 applying 23:19 23:19 27:3 appointed 37:14 71:16 appointment 35:23 53:22 60:22 99:12 appreciate 119:7 appropriate 130:15 approval 126:4 approvals 99:16 approved 73:9 75:7 approximately 9:23 69:17 70:3 april 131:1 area 14:23 16:11 16:21 63:18 108:13,15	arrigo 103:15,20 103:23,25 aside 23:6 asked 3:15 7:9 14:13 24:2 50:24 55:14 66:25 82:17,18 87:22 89:20 91:12 93:5,7,9 93:14,15 98:2 109:15 114:2 130:23 131:9 137:22 139:25 141:4 asking 4:22 5:5 5:14,18 7:1 26:16 31:11,13 42:18 49:25 55:2,4 61:6 69:5 73:25 74:16 76:10 77:15,16 84:25 97:5,24 101:19,20 102:16 104:24 117:17,18 122:15,16 144:12 assign 84:20 assigned 65:17 84:17 107:10 assignment 33:9 134:13 assistant 41:3 association 18:23 assume 31:21,22 101:13 103:16
--	--	---	--

[attached - beyond]

Page 4

attached 50:19 70:6,22,24 73:7 73:7 143:24 144:6,8 148:11	123:10,11 awarding 120:5 awards 91:15,25 109:19	89:9 99:14 120:6 122:25,25 123:5 138:10 142:14	58:9,12 59:18 72:3,22 77:8 86:14,20 90:2,3 91:17,22 92:4,12 137:16 142:21 143:9
attempt 94:6,9 94:18,23	b	bashful 4:21 basic 109:20	believed 38:5 58:17
attend 67:1 137:18,24 138:3 138:12	b 10:12,12,13 40:23 73:9 74:16,17 79:24 80:6 99:10 147:12	basically 14:12 24:8 25:10 26:8 26:9 35:1 41:6 43:1 45:21 65:12 67:4,4,11 67:12,13 68:23 73:13,16 75:9 81:16 90:25 110:20 111:20 114:7 123:23 127:22 134:9,16	belong 121:17 122:19
attended 138:4 attending 107:24 attention 57:16 59:14	back 13:23 27:9 35:6 36:25 42:16 48:1 50:11 53:6,23 57:10 62:23 70:19,21 81:21 86:15 92:1,5,13 94:16 99:19 106:18,21 107:1 108:24 109:15 113:23 117:8 118:3,6 122:19 130:3 133:4 134:12,15 136:2 144:4	basis 18:2 bates 141:22 bconley 2:11 becoming 113:7 beginning 74:10 137:10	belonged 121:18 122:12
attorney 52:17 59:15 86:21 118:25 128:5 148:13		behalf 39:6 48:1 64:3,23 76:2 104:14 105:2 127:14 131:4,11 136:4	belongs 103:14 139:20
attorney's 68:18 68:19		beijing 16:19	ben 133:17
attorneys 2:7 86:17	backed 37:4 background 21:12 23:11,16 23:18 28:12	believe 20:3,13 25:5 27:15,20 29:19,25 31:17 32:7 36:12 38:7 40:25 42:22 44:21 45:3,16 46:25 49:18 55:15,17,22 56:1 56:9,22 57:19,20	bench 68:12,13
audited 127:6 auditing 26:6 27:1,24 28:1 41:16 127:13 129:13,14,16,20 130:13 131:11	bacon 41:5 bad 13:4 28:9 115:3 base 95:23 based 16:25 30:17 58:9 64:24 71:13 72:25 74:5 78:3		beneficiary 30:21
author 30:15 authority 36:3 37:9			benefit 22:14 30:7,21 64:2 108:14 113:1 122:3 123:1,7 128:24 141:13 144:10
authorized 73:15			benefits 17:24 17:25 18:14,23 19:3
available 98:6 148:6			benefitted 30:11 37:19
award 92:2 awarded 72:12 84:18 102:14 110:9,17 123:3,9			best 20:6 44:14 66:24
			beth 25:4 35:20
			better 34:19 81:3 120:14 122:23
			beyond 28:12 133:18

[bhs - center]

Page 5

bhs 70:1 billionaire 67:20 130:6 biochemistry 35:21 36:18,19 60:24 95:25 biology 35:21 biomedical 33:16 biosafety 27:23 27:25 28:1 biotech 39:1,6 65:13 121:21 134:4 136:11,12 biotechnology 136:8 biotherapeutics 108:7 bit 114:21 block 26:5 31:6 31:7 37:7 57:14 74:20 119:9 123:25 135:22 blocked 25:24 107:17,24 108:1 108:2 board 65:6,14,16 65:17 66:7,12,22 66:25 67:1,6,8 124:22 125:8 127:7 bob 2:9 4:8 bonneau 10:12 11:4 15:17 bonus 123:11 books 88:23 117:12	borst 127:2,3 bother 95:21 bottom 54:19 71:3 85:7 86:19 110:25 bought 102:23 103:8 106:1,4 box 72:6 brains 5:4 breach 42:3 70:18 73:12 81:16 108:3 128:14 132:18 133:21 breached 37:18 95:7 128:15 139:11 140:21 144:10 breaches 81:6,13 95:4 break 4:13 6:25 7:3,5,10,11,18 106:19 132:7 139:16 140:1 145:8 brian 42:20 brief 24:10 briefly 10:10,17 bright 58:13 bring 35:6 134:5 139:14,15,18,25 140:17 141:4 broadly 142:8 broke 141:7 broken 140:8 brought 58:8 88:20 101:14 102:2,4,12	123:17 134:12 134:15 building 61:2 69:25 75:20,24 76:6,15,16,17,21 76:25 77:2,3,11 126:12,13 128:22 business 25:8 35:19 95:24 125:17 126:3 133:21 busy 95:21 buy 105:5,7 131:16 bycroft 92:25 94:6 96:2	campus 36:7 111:2,5 cancer 61:1,1 candidates 107:23 capable 95:23 care 8:25 20:12 52:9 cared 78:7 career 27:10 28:15,16 29:18 30:8,13 31:7,8 42:5 49:6 52:8 58:13 98:1 107:20 109:11 135:16,19 careful 15:13 carefully 78:1 carolina 1:1,7 2:8 15:2 16:8 17:3 18:11,14,22 39:2 53:19 134:5 146:5,14 148:4 149:1 150:1 carry 107:8 carrying 124:21 case 1:6 6:22 8:5 24:3,7 25:6 34:10 118:21 129:3 135:7 cataracts 53:12 caught 38:14 cause 39:24 52:6 146:9 causing 27:11 center 48:21 83:23
		c	
		c 3:1 40:23,23 44:4 46:11 california 20:6,9 65:9 101:15 136:12 call 7:19 34:24 56:5 107:15 133:8 134:18 called 8:6 18:22 34:13 36:7 61:15 66:4 71:15 78:2 116:18 121:4 125:23 130:20 132:2,4 133:10 133:13,20 calm 49:3 campaign 129:4 129:6	

[ceo - company]

Page 6

ceo 65:5 124:18 124:23 125:1,3,3 125:9 certain 33:15 certainly 97:13 certificate 146:1 147:7 certify 146:6,8 chairman 25:9 27:19 36:16,17 65:6 95:20 107:11 124:22 chairmanship 36:19 change 149:4,7 149:10,13,16,19 changed 97:11 changes 148:10 150:6 changing 111:21 charge 30:16 35:18 37:3,15 71:17 80:25 134:13 135:24 charged 26:24 106:12 114:4 134:4 charges 133:4 charging 76:3 charleston 1:2 1:16 2:4,10 13:8 14:23 63:18 146:13,13 charter 129:25 chasing 114:2,3 check 18:24 131:6	checks 125:21 chief 125:10 children 14:16 14:20 china 131:16 chip 43:14 choose 141:16 christina 29:23 30:6 christy 30:6 45:8 church 1:16 2:10 circle 109:15 circuit 1:2 127:15 citizen 16:23 civil 50:12 147:14 claim 72:10 81:7 87:5 118:20 claimed 86:21 claiming 25:25 26:1 122:18 claims 6:22 24:6 25:6 27:16 31:19 35:17 36:13 38:20 40:25 42:22 43:16 44:7,22 45:4,17 46:16 47:1 clarification 117:7 clarity 55:3 clean 126:20 clear 20:2 58:6 86:15 132:13 clearly 54:6 115:21 140:9	clerk 68:18 cleveland 2:9 clevelandlabor... 2:11 clients 135:2 close 33:8,19,20 34:3,3 36:15 49:20 64:1 closed 64:18 closely 47:19 closest 33:19 club 10:20 coast 64:9 70:15 75:24 76:16,25 77:9,22 coffee 50:9 cold 42:5 cole 33:4,6,23 collaboration 39:22 collaborations 115:11 collaborator 33:8 collaborators 29:4,14 33:19,20 colleagues 27:6 34:3 38:7 45:19 46:4 52:7 57:20 115:14 college 16:18 53:19 colleges 21:6 column 100:7,9 101:3,13,22 103:20 104:19 104:20	combined 20:14 come 13:23 101:6 106:18 130:3,7 coming 67:17 105:24 106:5 comments 128:1 commercial 63:19 120:7,8 122:4 commercially 91:14 commission 146:24 commits 109:3,4 committee 27:24 28:1 29:16 common 1:1 136:18 communicate 61:8 communicated 62:7 107:10 communication 49:20 61:16 74:5,22 communications 32:21 39:25 62:12 115:13 communist 12:25 131:16 companies 65:12 65:13,20 121:21 122:1,4 133:22 134:19,20,23 136:11,12 company 38:23 39:4,6 63:25
---	--	---	--

[company - contract]

Page 7

64:2,4,4 65:5,8 65:10 66:14,15 67:5,5,9,13,19 67:22 102:25 120:1,8,16 121:5 121:6,24 123:8 123:20,22,23 124:22 126:9,9 127:1 128:21 129:13,15,15,19 130:10,14 131:12,19 132:23 133:8,9 133:10,14,20 134:1,4,20,25 compensate 132:14 compensation 63:1 competing 36:18 competition 49:7 53:3 complaint 39:23 40:1 47:18 61:24 73:8 95:7 118:9,10 144:8 144:17,18 complete 81:16 97:15 120:14 146:7 150:8 completed 148:17 completely 14:11 42:4 57:14 74:20 97:14 108:2 129:3 138:10	components 110:23 compromise 27:7 41:25 129:17 compromised 26:20 34:13 computation 122:6 computer 105:3 105:7,8 computers 105:5 concern 135:15 concluded 7:22 7:22 8:10 145:12 condition 43:1 100:18 102:14 108:12 conditions 108:23 110:3 128:22,25 conduct 22:4,5 conducted 33:14 conducting 30:7 42:4 conduit 132:12 confidential 138:20 confirmation 138:20 confuse 4:14,16 4:17 6:20 55:3 85:5 congenial 58:24 conley 2:9,9 3:6 4:8 22:23 23:2 50:8,11,14 59:16	60:13 63:14 69:15 73:4 75:18 78:24 82:4,12,17,21,24 85:18 86:6 88:18 91:11 93:2,9,13,17,20 94:3 96:11 98:19 106:17,21 106:22 118:18 137:2 139:7 141:10,15,20 142:23 143:13 144:23 145:8,10 147:6 connection 24:5 24:8 27:15 consent 141:5 considered 48:21 62:8 72:8 consistent 78:15 99:24 conspiracy 123:18 conspired 47:20 constitutional 142:16 construction 42:15 76:17,18 76:20,21 77:12 126:13,22,23 constructions 96:16 consultant 64:23 65:25 66:18 91:21 119:12 125:11 130:16 130:23 133:9	consulting 64:25 121:5 123:8 124:13,15 130:20 contact 73:14 95:19 98:9 115:14,16 contacted 71:19 contains 53:15 contentions 95:2 context 78:14 98:23 continue 35:3,7 42:2 49:4 58:12 58:13 60:4 61:11 74:3,11 78:6 89:16,24 98:1 99:23 107:19 109:18 112:9 117:23,24 123:24 124:11 124:15 135:18 135:21 continued 96:18 113:20,21,25 117:22 continues 99:21 continuing 119:10 123:25 continuous 32:18 contract 26:25 48:20 67:14,18 73:13 76:3,7 77:14 80:1 106:9 120:7,7 128:14,14,22,25 131:22 132:19
---	--	---	--

[contract - d]

Page 8

136:3 139:11 contractor 126:17 contracts 64:24 128:20 contribute 122:5 130:24 contributes 131:20 contribution 130:24 131:3,25 132:5,12,23 contributions 129:5,7 132:25 control 67:19 119:25 120:13 120:15,19 123:20 129:19 convenience 5:25 conversation 49:17 50:4 57:23 71:20 134:6 conversations 25:15,19 29:8 48:4,10,12 49:14 50:1 convicted 68:17 132:5 conviction 127:16,21 132:15 cool 135:15 cooperate 98:7 copied 24:16 copies 55:18 56:21 58:8,9	88:22 89:1,3,14 89:19,20 90:13 148:14 copy 8:17 55:6,7 56:18,22,24 89:2 89:9,22,22 116:17 copying 49:18 core 72:24,25 73:2,19,25 74:2 74:3,5,9,12,15 79:17,18 80:7,17 83:3,8,12,16,19 83:20,22,25 84:5 84:10 86:10 96:20 99:21 104:1,3,7,10,13 105:20,23 106:15 115:10 corner 54:19 71:4 correct 6:5 11:23 15:22 20:19 31:20 51:4,21,25 53:21 53:22 55:20 59:17,20,25 79:16 80:2,11,12 80:13 81:14 83:15 84:15,20 86:20 87:9,15 88:9 92:22 95:8 95:9 97:11,20 98:18 101:9 103:7,10 104:8 105:14,15 110:18 113:16 113:19 115:1	116:6 117:5,9 121:13 122:16 122:17 140:14 150:8 corrections 150:6 correctly 6:2 12:16 55:19 81:5 97:6 correspondence 139:4 147:19 correspondent 30:15 cost 77:7 130:4,9 costing 129:24 costs 76:3 counsel 1:18 2:1 40:16 49:13 52:25 88:21 89:5,8 146:9 148:14 count 85:23 counterpart 35:20 country 10:19 136:9 county 1:2 13:8 146:13 couple 6:24 15:16 60:8,14 75:13 86:2 100:6 118:13 course 27:17 56:4 97:23 123:21 135:12 136:10,11 140:22	court 1:1 3:15 6:1 8:11,12,25 12:8 22:14 112:25 113:8 127:15 cover 85:9 118:10 139:3 covered 45:22 covers 41:24 coverup 142:22 cp 1:6 cpa 127:13 credit 30:9 criminal 26:1 68:4 129:1 132:6 cs 148:15 csb 79:8 cumbersome 89:2 current 9:19 11:12,17 16:12 17:2 31:20 33:4 135:7 currently 17:10 customary 107:8 109:18 cut 111:9,17,18 112:10,11,14 114:14 115:6,19 115:24 116:3,12 116:15,19,22,22
d			
d 3:1 9:18,21 12:1 14:19 31:16 44:18 46:12 147:1			

[damage - discussing]

Page 9

damage 27:11 49:6 74:14 123:15 damaged 28:17 122:17 damages 122:13 dash 49:8 date 1:14 54:4,6 73:23 75:4 79:9 110:15 145:2 149:24 150:12 dates 9:22 11:16 12:21,23 daughter 14:17 16:7 david 33:4 day 56:17 57:2 57:24 58:3,4,15 58:22 94:24,25 95:9,17 146:12 150:15 days 8:18 51:13 59:20,25 73:21 75:1,6 79:9,15 79:22 80:9,19 81:8 87:17 88:1 88:3 138:13 148:17 dean 38:6 40:16 49:1 57:19 58:17,18,18 deanna 14:19 deborah 126:24 126:25 deceased 67:20 declare 150:4 deemed 150:6	deeply 25:21 defendant 1:8,18 2:7 defendant's 53:6 53:15 137:15 139:9 141:10 142:24 143:14 143:21 defense 65:1 67:15 126:11 131:22,23,23 133:11,20,22,23 deferred 18:15 definitely 29:4 110:5 delahow 2:4 9:21 10:4,7,16 11:7 15:17 20:20 21:2 delay 52:22 delaying 53:2,2 53:2 deleted 61:9 107:21 demand 131:14 denied 108:22 deny 141:14 department 27:20 29:15,17 35:21 36:18 45:24 60:20,22 60:24 65:1 67:15 86:11 95:25 107:12,22 119:19 126:11 131:23 133:23 departments 121:25	depend 135:19 deponent 148:13 150:3 depose 24:3 31:16 33:7 34:1 34:2,9 deposed 3:13 7:16 deposing 148:13 deposition 1:13 6:13 7:16,21 8:2 8:7,10 27:14 28:24 29:1 35:12 36:10 50:16 82:5 93:4 93:17 141:16 145:12 deputy 133:17 derived 122:3 describe 15:7 desert 65:13 designation 105:24 106:5,8 designed 6:20 designing 126:20 desperately 28:14 details 27:22 78:3 95:22 develop 38:25 development 38:18 76:8 108:8 134:25 135:1 die 124:25 different 17:13 17:13 35:3 42:2	42:2 106:7 138:2 differentiate 108:15 differing 20:4 difficult 105:3 113:7 dig 78:13 dip 83:5 direct 32:3 49:17 50:1,3 73:14 118:4 direction 92:20 94:5 directions 65:20 directly 31:1 40:13,14 47:13 48:24 51:7 88:12 director 38:17 39:9 43:17 74:7 84:1 96:21 108:7 dirty 40:19 disagreement 67:18 disappeared 73:11 disclose 128:4 142:19 disclosures 43:21 discovery 6:21 24:9 110:14 discuss 52:4,18 discussing 120:24
--	--	--	--

discussion 28:11 58:2 discussions 26:13 28:19 dispute 45:20 47:4 52:10 130:7 disputes 126:7 disqualify 27:2 disrupt 120:14 distract 47:6 disvalue 73:1 divide 67:11 120:8 divided 122:4 division 109:20 134:18 divorce 13:7,11 13:17 14:1 143:10 divorced 11:2 12:19 13:3 dna 96:16 doc 33:11 docs 22:1 35:9 doctor 18:4 doctors 38:8 document 53:17 53:24 54:9,12,16 59:7 60:10 63:11 69:11 72:20 75:15 78:21 82:1 85:15 86:3 88:15,25 90:1,6 90:20 91:8 92:9 96:8 98:16 118:4,5,15 124:9	139:2 141:19 144:2,13,19,20 documentation 117:12 documents 36:4 37:21 42:7 57:17 81:15 89:1,15 90:5 115:25 117:1,16 124:8 139:2 141:13,14,16 145:7 dod 67:17 126:21 doing 5:15 9:10 12:15 28:15 36:5 37:12 41:16 68:20 135:22 136:6 140:3 dollar 134:10,21 donate 131:8,9 donation 132:4 dong 1:4,13 2:3 3:3,7,23 9:18,23 11:15 14:19 16:23 22:20,24 30:133:2 37:23 44:23 50:12,15 50:24 53:9,20,24 54:16 55:3 56:3 59:3 60:17 62:20,21 63:15 63:17 64:7,20 69:4,6,16 70:2 70:21 72:18 76:13 78:18 79:1,3 81:23	82:5 85:4,12,23 88:14 91:7 92:17 93:2,18 94:4,8 95:14 96:4,6,20,21 100:7 101:22 104:5,18 105:18 106:24 107:3,8 108:6 109:2,4,13 110:12 111:1 112:12,25 118:2 118:5,9 133:25 136:25 137:3,21 138:11 139:9,19 141:8,11 143:11 143:15,15,25 144:13 147:3,14 147:17,22,24 148:1,4,5 149:1 149:2,24 150:1,2 150:4,12 dong's 79:4 96:17 111:1 dongnih 105:20 door 47:2 dr 3:7,23 9:23 16:23 22:24 24:6 25:9,23 26:8 28:4,19,22 28:24 29:1,8,19 29:21,24 30:1,3 30:4,11,22 31:1 31:11,18 32:5,12 32:21 33:2,6,23 34:7,8 35:16,22 36:8,9,12,14,16 36:25 37:5,11,12 37:23 38:6,11,16	38:19,22 39:14 39:16,22 40:6,11 40:24 41:4,6,7,9 41:15,19,25 42:17,20,21,25 43:3,4,6,18,23 44:3,14,23 45:1 45:14,17,20 46:6 46:11,15,17,23 47:4,6,8,10,13 47:23 48:3,11,24 49:23 50:15,24 53:9,20,20,24 54:16 55:3,14,15 55:17,21,23,24 56:3,7,11,16 57:2,19,24 58:2 58:15,17,21 59:3 59:18 60:17 62:20,21 63:15 63:17 64:7,20 69:4,6,16 70:2 70:21 72:18 76:13 78:15,18 79:1,3,4 81:23 82:5 85:4,12,23 88:14 91:7 92:17,21 93:2,18 94:4,8 95:14 96:4,6,17,20,21 100:7 101:22 102:24,24 104:5 104:18 105:18 106:24 107:3,8 108:6 109:2,4,13 110:12 111:1,1 112:12,25 118:2 118:5,9 133:25
--	--	--	--

[dr - events]

Page 11

136:25 137:3,21 138:11 139:9,19 141:8,11 143:11 143:15,15,25 144:13 147:17 147:22,24 draft 126:3 drafted 49:19 drawing 17:20 17:21 drive 10:12 15:1 143:2,3,6 due 12:24 139:1 duly 3:4	efficiently 6:7 either 43:12 68:4 91:22 101:17 137:25 138:3,12 138:14 144:13 elaine 127:2,3 elect 8:12 eleven 24:2 else's 84:21,22 email 8:15 55:10 61:8 62:12 73:24 108:1 111:17 112:15 115:16,17,18,19 116:3,8 139:4 142:21 147:18 emailed 55:5,11 emails 24:17 49:18 61:7,8 62:6 72:23 74:20 81:18 employable 23:9 employed 15:24 16:13 17:10 66:21 employee 18:14 18:23 66:16 employer 23:13 52:10 employment 18:10 21:4,8 22:9,19 23:8,14 111:3 empty 65:4 encourage 121:20 136:7 ended 21:4 22:9 22:19 23:8,14	32:8 33:24 52:20 enduring 88:13 94:9 engaged 81:7 engineer 42:14 enter 26:7 42:11 114:17 entered 25:16 28:6 29:9 31:2 39:17 40:7,12 43:25 46:8 47:15 48:5 49:16 51:23 52:12 60:16 61:5 107:13 108:9,18 110:16 116:4,13 121:9 entering 25:20 25:25 26:5 32:21 37:7,24 enticed 135:14 entire 5:7 14:6,9 73:12 90:20 92:11 109:10 120:11 124:21 140:12 entitled 53:17 entity 135:4 enzymes 96:17 equation 31:9 equipment 21:15 22:2 23:23 26:10 27:9 30:24 31:6 35:24 36:1,5 37:22 42:6 47:5 47:21 48:18,20	57:5,7,9 61:14 70:5 71:15,18,21 71:24 72:4,6,8 72:11 73:19 75:25 77:8 79:2 79:7,14,20,23 80:5,10,16,16,18 81:8 98:25 99:19,22 100:1,1 100:4,22,23,25 101:5,7,14,16,23 102:4,8,10,11,17 102:17,22 103:2 103:8,13 104:3,4 104:6,10 105:3 105:11 106:3,11 106:12 113:24 115:8 119:13 138:14 141:1 equivalent 130:9 errata 148:11,13 148:17 especially 35:5 89:13 99:18 111:23 essential 74:6 110:22 establish 130:20 established 63:25 ethical 38:8 event 26:7 29:5 31:4 130:4 131:2 139:10,13 140:13 events 13:4 24:12 25:22 26:19 27:17,18
e			
e 3:1,1 9:21 10:12,13 11:14 12:1 14:19 38:15 39:7,8 42:20 43:7 44:4 46:11 147:1,12 149:3,3,3 earlier 19:12 43:10 45:10 50:24 86:23 87:24 109:15 111:4 early 53:12 65:24 128:3 142:13 easterwood 1:19 146:3,23 educate 114:20 effective 79:9 142:11 efficient 8:4			

28:8 29:12 33:21 34:5 41:2 44:9 146:10 eventually 36:20 37:18 47:10 57:7 65:11 124:2 everybody 98:6 114:4 124:20 125:2 131:17,19 135:25 ex 13:13 14:4,22 15:23 17:3 exact 9:22 11:16 15:19 75:3 110:15 exactly 10:14 81:25 145:5 examination 3:5 28:2 147:5 example 104:14 105:2 107:25 125:6 exceed 131:14 exception 38:9 65:19 exchange 91:20 exclusively 67:13 excuse 26:4 85:13 99:9 109:23 excuses 128:13 executive 37:1 67:12 executives 66:3 exemplified 136:9	exhibit 50:12,16 53:5,6,7,8,15,15 70:6,22,24,24 71:25 73:9 74:16,17 79:15 79:23 80:6,17 99:2,3,8,10 100:3 106:23 107:2 136:25 137:4,15 139:4,9 141:8,11 142:24 143:11,14,15,22 144:2,8,17 147:14,16,18,21 147:23 exhibits 50:18 exist 134:20 existing 84:4 99:14 129:16 exists 36:1 expand 108:13 expense 99:11 expenses 100:24 experience 23:11 132:22 experienced 29:20 experiments 42:13 expert 84:2 expertise 126:22 expires 146:24 explain 100:17 118:22 explaining 35:1 extensive 58:2 extent 67:24 80:5,17	external 99:15 99:18,25 extra 99:15 extramural 79:3 extremely 57:13 f f 118:12,22 face 6:4 facilities 47:5 74:1 106:16 111:2,5,17 115:11 facility 21:17 64:8 70:15 72:24,25 73:2 74:2,6,9,12,15 77:7,7 80:7 128:23 fact 108:21 144:11 faculties 121:20 123:1 faculty 31:25 32:2,18 33:14 36:17 52:5 57:18 62:4 72:11,13 74:23 102:25 107:25 111:21,23 112:3 120:6 121:25 123:6 136:6,7 failed 102:9 134:3,8 failing 81:7 fails 148:19 fair 5:19,20 6:8	faith 28:9 fake 137:6 fallout 96:1 false 137:13 138:10,10,23 142:1 familiar 3:10 family 17:6 129:24 fashion 97:9 137:24 fast 5:23 94:2 february 146:24 federal 27:3 30:17 83:14 92:1 federally 91:25 fee 133:5,8 feel 65:6,7 fees 86:18,18,24 87:5,7 133:3 feet 69:19 70:4 fellows 33:11 35:9 felony 128:4 142:18 fifth 53:23 59:4 78:17,18 109:1 fight 120:15 125:2 fighting 27:10 124:24 134:12 figure 76:5 103:11 112:12 112:16 file 14:6 43:20 112:5
--	--	---	--

	g
g	3:1 9:18 11:14 12:1 27:12 103:17,21
gap	99:20 133:22

general 9:9 12:22 25:5 31:17,22 33:13 35:15 36:11 40:16 45:16 46:14 52:25 72:10 88:21 89:5,7 90:4,25 126:17 generally 5:5 6:2 6:25 8:1 9:24 17:19 24:2,4 71:13 106:15 121:8 genetic 26:2,9 30:11,23 31:4 36:5 41:17 42:5 96:15 genphar 38:23 47:24 63:25 64:5,11,21 65:3 65:14 66:8,17,21 66:22,22 67:6,25 70:13 75:20 76:6,8,12,15,15 76:16,21,22,22 76:24,24 77:1,2 77:5,19,22 78:5 79:8 91:18,19,21 99:1 104:19,21 104:25 105:2,6,9 105:13 119:10 119:17 120:21 121:12 124:1,2,3 124:12,16,18 125:11,20,25 128:12,18 132:20 134:2,17	134:22,24 135:8 135:9,11,23 136:1,4 genphar's 64:8 70:15 126:13 134:19 gentlemen 95:16 german 119:21 120:4,11,13 121:12,16 122:11,19 129:12 131:7 132:11 getting 6:5 9:1 52:10 give 4:1 5:17 9:15,19 10:11 11:12,24 14:18 22:13,15,21,22 25:4 29:24 31:17 33:5 36:11 37:17 47:24 56:22,24 65:4 82:6,9 89:21 93:19,23 94:16 110:15 111:7,9 113:5,6 113:23,23 114:8 120:10 141:5 given 15:16 36:2 36:3,20 55:2,5 66:4 105:12 107:22 114:12 122:19 131:6 132:10 150:9 giving 30:5,9 73:13 93:20 132:3,13	glad 58:11 gladden 25:4,15 26:12 35:20 glasses 53:13 go 3:17 6:10 7:9 7:25 8:2 9:17 35:25 42:16 49:4 53:7 59:3 60:6 62:19,22 63:6 70:20 72:14 75:12 81:20,21 82:7,13 85:7 86:15 88:11 89:1 92:16 93:24 96:3 98:13 104:17 105:17 107:1,6 109:12 110:25 113:4 114:3 117:7 118:4,8,11,12 120:21,22 122:24 132:20 goes 11:15 94:22 119:18,18 128:6 136:1 going 3:17 5:8 17:17 21:19 24:1 28:15 44:13 46:3 50:15 52:7 54:8 57:9 58:20 79:11 81:21 82:5 86:22 94:15,17,18,20 96:25 98:10 107:1 113:2,8 118:10 119:24	131:1 133:3 140:24 141:4 good 3:7,8 4:16 6:3 8:24 34:19 34:19,24 35:4 36:10 39:21 45:12 49:2,12,12 49:15,23,24 50:2 50:8 52:5,21,23 58:17 59:18 65:7,7 95:24 106:19 goodman 40:15 gotten 102:13 governed 31:25 31:25 government 83:14 130:17,20 133:9 136:22 graduate 33:10 35:8 42:24 44:9 44:24 107:23 graduation 43:3 graham 129:7 131:8,9,20,21 graham's 130:24 grand 142:5 grant 26:25 37:13 48:21 83:17,19,23 84:5 88:13 104:7,15 105:4 106:5,12 106:13 108:21 109:23 110:4,6,7 110:9,18 131:24 grants 27:2,3 72:7,12 79:3,17 82:25 83:1,3,6,8
--	---	---	---

83:12,13,20,22 83:24,25 84:2,5 84:10,12,19,21 84:22,24 91:13 105:10,23,24 106:6,7,11,16 108:24 110:21 110:22,24 112:2 112:6 117:25 125:22 126:10 great 21:24 107:1 greater 14:23 greenberg 62:18 134:6 grew 12:25 grievance 61:4 61:21 62:3,9 guess 13:6 41:13 guilty 129:5 guy 34:24 124:25	handbook 62:4 handbooks 31:25 hannun 35:22 36:20 92:21 93:1 121:24 happen 42:12 114:9 132:21 happened 24:13 97:5 114:20 132:18 141:25 happening 24:12 happy 4:12 hard 5:11 53:13 55:6 hardcopy 94:9 harm 27:6,6 46:4,4 112:8 hat 34:20 52:24 hats 49:2 head 12:8,13,14 hear 17:18 114:22 116:2 121:9 122:9,20 heard 140:20 hearing 40:20 held 16:20 121:11 help 3:20 4:3 6:7 38:25 56:16 112:21 135:3 helped 123:8 helpful 6:2 helping 27:21 121:4 helps 6:4 hereto 150:7	hereunto 146:11 hesitate 4:8 6:11 hey 5:14 hiding 26:9 high 134:5 136:21 highly 38:8 hirable 21:19 hire 130:19 hired 51:10,14 127:7,13 history 97:12,13 hold 35:2 41:4 66:20 121:3 hole 42:20,21 hole's 43:3 hollings 61:1 holmes 51:7,10 51:22 52:13,16 52:20,24 56:23 87:14 88:8 145:6 holmes's 51:20 home 14:25 15:7 homeroom 61:14,16,17 74:21 108:1 115:24 116:11 116:12 117:3 honest 25:12 hood 43:14,16 43:24 hopefully 68:16 hopkins 136:10 hospital 16:11 hotspot 136:11 136:12	hour 6:25 7:4 house 15:3 19:9 19:11,11,13,21 20:17,20,21,23 20:24,25 21:2 49:13 67:2 husband 46:13 hutchinson 124:23 126:4,5 127:10
h	h	h	i
h 9:21 11:15 12:1 28:22 40:23 42:20 44:4,18 147:12 149:3 hair 92:11,14 94:13 hairs 91:1 94:20 half 141:24 hand 50:15 54:19 71:4 137:3 141:10 146:11			idea 24:5 25:5 29:24 31:17 33:5 36:12 104:9,12 identical 58:8 identification 50:13 137:1 139:6 141:9 143:12 identified 33:6 identify 20:16 23:12 illegal 97:14 129:4 142:8 illegally 30:22 imagine 12:9 immaterial 139:23 immediately 111:10 112:13 immorally 30:22 immunology 53:21 60:18,20 impact 46:1 impacted 29:18

[implement - irrevocable]

Page 16

implement 35:18 importance 33:15 34:5 43:22 important 5:24 importantly 4:1 impression 34:23 93:12,14 93:14 include 62:17 129:2 included 25:10 62:16 71:15 including 29:1 41:16 50:18 53:19 61:24 77:6 79:6,17 96:15,19 101:17 120:4,12 121:23 122:5 income 18:1,7,9 19:7,19,22,24 20:16,17,18 120:9 123:4,7 inconsistent 128:21 incorporated 134:17 incur 87:6 index 2:16 147:9 indicate 84:11 105:11 141:22 indicated 27:13 28:23 31:15 35:11 36:9 51:1 87:24 indicted 142:2	indictment 128:2 142:3,4,6 142:8,12,20 indirectly 30:10 individual 134:20 industrial 23:10 industries 23:10 39:1 industry 23:7 136:16,19 information 94:24 95:16 116:9,10 119:4 127:25 129:3 138:10,20 142:19,21 147:9 147:10 informed 140:16 140:17 initial 58:10 101:10 initially 51:6 107:5 129:15 initials 54:18,20 54:23 71:4,5,6,7 initiative 136:21 input 126:18 insists 125:11 install 126:9 installed 124:25 instance 62:3 institution 66:15 72:12 instruction 107:16 instructional 107:9	insulated 125:23 intending 112:8 intention 27:5 132:7 interest 21:2 57:16 129:19 interested 29:19 52:9 57:5,19 65:8 112:9 146:10 interfered 119:8 119:9 interim 24:10 internal 59:13 61:15 105:24 127:5 interplay 39:3 interrogatories 39:12 43:15 45:15 interrupt 74:2 74:13 113:8,9 intimate 43:18 intimately 33:11 48:14,23 inventory 70:6 70:23 71:2,10 137:11,18,24 138:7,13,23,24 139:5 140:3,19 140:24 141:4 147:19 invest 119:24 132:12 invested 66:14 investigation 26:2	investigator 64:24 125:7 128:20 investigators 94:8 investment 67:16 134:21 investor 67:22 77:6 119:22 120:4 125:4 126:6 129:16 132:11 investors 38:23 65:18 67:11 119:23 120:15 123:18,19 125:24 127:14 129:18 131:7 involved 24:11 24:13,20 25:19 25:21,21 26:12 26:17 28:4 30:2 38:21,22,24 39:5 40:1,6,11,13,14 41:17 43:24 44:20 47:13 48:15,23 68:5,23 86:21 involvement 30:25 31:12 32:13 41:20 42:17 46:7 67:21,25 87:4 129:6,9 137:10 irrelevant 68:17 128:13 129:3 irrevocable 109:5
---	---	--	---

issue 45:25 127:18 issues 45:21 item 5:21 items 6:24 95:13	john 1:4,13 2:3 3:3 9:17 32:11 36:25 38:22 39:14,20 62:17 147:3 148:1,4,5 149:1,2,24 150:1 150:2,4,12 johnson 29:23 29:24 31:1,11 45:2,6,8 johnny.dong 2:5 148:2 joined 33:9 journal 21:10 judge 68:13,17 68:20,21,22,23 127:20,25 judicial 1:2 jumped 65:24 107:4 jury 142:5 justify 105:4	keys 139:15,15 139:19,25 140:7 141:5 kick 74:9 123:22 124:2,4,4 kicked 120:20,20 134:2 kind 20:9 40:17 61:3,21 73:9 117:12 124:9 138:13 knew 44:25 53:2 128:7 142:17 know 3:18 4:20 6:3,18 7:6,18 13:5,13 14:23 15:23,24 16:3,5 16:6 20:22 25:11 27:14 29:25 30:25 31:18,22 34:10 35:16,16 36:12 39:3,10 41:19 42:12,12,17,22 43:12,13,21,24 44:6,6,8,9,18,22 45:2,17 46:15,25 47:25 48:24 49:12 66:2 67:23 70:9,10 74:8 75:22 76:10,10 83:18 84:25 86:16 88:23 94:14 95:15,18 96:2 100:7,13,14,16 101:4 104:23 105:21 111:8	113:2 116:17 117:11,14,18,19 117:20,21,21 119:5 123:13,14 126:24 127:2 132:1 133:19 134:13 140:8 142:2,20 145:6 knowing 105:10 knowledge 16:20 20:8 24:5 29:12 31:11 32:3,3,12 33:15,23 43:19 46:6 47:8,14 126:22 133:11 133:18 known 25:7 knows 25:5 27:15,17,18,22 29:2,3,4 33:12 38:19 40:18,25 40:25 41:2 43:16 45:3
j 9:17 33:4 james 25:9,10,23 26:22 27:20 29:22 30:3,4,11 30:13,14 31:7 34:7 36:16 37:5 37:20 38:10 46:1 47:10 49:20 57:21 73:3 91:23 92:7 92:14 96:1 103:1 108:16 121:23 141:2 janitor 21:20 jargons 78:2 jennifer 44:3 jerry 34:8 67:20 130:17 133:7,16 jersey 16:10 jian 1:4,13 2:3 3:3 147:3 148:1 148:4,5 149:1,2 149:24 150:1,2,4 150:12 job 16:21 109:10 123:25 jobs 23:12,24 134:5 joe 40:15 49:12 49:23 52:21,23 59:18	k 40:23 katie 131:25 keep 50:23 53:1 72:24 89:5,8,11 89:13 90:4,10,12 118:10 ken 38:15 136:23 kenneth 43:6 kept 64:1 kevin 124:25 key 129:18 140:10,17 141:2	l 9:21 31:16 42:20 46:11,11 46:12 lab 21:25 22:7 26:5,7 27:9 30:23 36:5 37:22 39:4 42:9 42:11,11,25 64:15 69:22,23 88:23 96:25 97:2 100:23 112:15 113:12 114:25 115:5	

[lab - loan]

Page 18

116:21 117:2,8 117:12 label 54:14 101:2,12 102:20 103:12 labeled 104:1,24 labels 100:11 laboratories 126:21 laboratory 25:25 30:5 36:4 37:7,9 41:4 47:3 69:18 70:4 79:4 79:6 91:20 100:25 111:19 113:15,18 114:9 115:10 116:9 139:5 147:20 lack 34:19 113:21 lady 3:20 lake 10:11 19:9 19:21 20:17 london 46:11,15 46:21 language 92:3 languages 49:23 lanier 36:8,12,14 38:10 40:17,17 47:20,23 57:21 61:18 62:16 108:22 137:12 138:22 lanier's 36:9 large 146:5 late 142:13 145:1	law 51:20 68:18 89:4,4,7,10,12 90:3,9,10,11 130:19 131:3 142:15 lawsuit 27:16 29:2 30:1 31:18 34:11 35:17 36:13 38:20 42:23 43:16 44:7,8,22 45:3 45:18 46:15 47:1 50:17 51:6 51:12,13,19 53:4 88:20 95:3 143:24 144:3,5,6 144:24 lawyer 3:14 13:10,14,16,21 13:25 14:4,6,14 37:25 50:25 51:2,6 52:3,14 59:22,22 87:2,8 87:10,12,16,25 88:3,4,9 90:24 lawyers 119:2,3 layman 106:3 layperson 105:10 lays 9:2 lead 37:23 47:11 leading 25:19 learn 133:12 lease 76:24 125:6 leased 77:1 leave 138:25	leaving 52:24 56:17 lecturing 107:9 107:15 left 36:20,23,25 43:18 56:16 103:1 123:23 124:20 126:1 138:25 140:13 legal 49:23 59:12 62:1 78:2 86:18 86:24 87:5,7 88:21 89:25 132:2 148:23 legally 142:11 legitimize 43:2 lend 39:4 lengthy 82:9 lessons 93:19,21 letter 109:5,7,8 136:25 137:6,14 138:9,19 141:8 143:11 147:16 147:21,23 letters 74:23 125:24 level 25:17 lies 92:15 lieu 75:19 life 13:1 18:5 lifetime 130:4 light 100:8 lights 33:21 likewise 5:8 7:2 79:2 80:14 limit 111:5 128:8 128:9,9 131:14 132:1,2	limitations 23:17 limited 24:9 111:3 limits 131:14 lindsey 129:7 line 53:24 105:8 147:2,13 149:4,7 149:10,13,16,19 lisa 31:16 list 35:25 48:17 48:19 57:8 70:6 70:23 71:3,10,24 72:23 73:18 100:4 104:18 107:3 listed 39:11,13 42:21 43:14 44:3 45:1,15 49:11 70:5 72:5 79:6 80:5,16 99:2,8 litigate 129:1 little 114:21 live 10:25 11:1,4 11:5,8,8,10 14:22 16:7 131:17 143:6 lived 9:24 10:4 10:10,17,24 11:2 11:6 15:8 livelihood 135:18 lives 14:24,25 living 10:16 143:3,8 llc 2:9 loan 76:9
--	---	--	--

lobbying 133:3,5 133:8 lobbyist 133:13 133:13 local 16:21 67:20 locally 64:8 130:18 locate 94:6,9,15 94:18,18,21,23 located 36:2 57:7 64:13,14 79:7 95:13,16 location 1:16 35:4 42:3 77:10 96:18 101:1 140:6 141:1 lock 97:2,11 locked 74:19,20 96:25 97:7,9 112:23 113:11 113:15 117:13 139:21,24 141:1 locking 111:20 lockout 113:25 locks 111:21 140:1,8 141:6 logbooks 116:23 logistics 49:9 81:1 london 45:14,17 46:6,20 47:6,8 47:19 london's 46:17 46:23 long 9:23 11:17 39:9 71:3 90:19 130:2 137:9,12 138:7 139:1,11	141:6 143:5 longer 101:9 108:10 look 7:5 9:1 21:7 21:8 50:20 53:23 54:15 59:2,5,22 63:9 69:8 71:2 75:11 78:17,25 82:18 82:21 85:13,22 91:4 100:3 109:1 118:2 137:4 139:8 143:15 144:7,16 145:2 looking 9:22 24:4 53:16 57:5 73:8 127:17 131:3 looks 46:10 132:24 144:18 losing 49:10 lost 94:10 101:6 115:14 lot 17:13 19:15 27:22 34:14,17 41:24 49:21 77:23 115:25 136:16 louisiana 36:24 low 132:8 lucile 46:11,17 46:20 47:6 lunch 106:18,20 lyndsey 130:24 131:8,9,20,21	m m 40:22 44:18 146:3,23 m.d. 1:4,13 2:3 3:3 147:3 148:1 mail 8:15 mailed 143:1 major 46:1 majority 120:1 120:13,18 making 41:1 manage 125:17 125:18 managed 125:20 management 110:21 125:17 126:10 manager 35:19 95:23,25 126:3 126:25 132:21 managing 132:22 mandate 39:1 march 63:1,4 99:12 109:6 137:19,21,25,25 138:12 140:19 marital 15:7 mark 24:3,9 marked 50:13,16 137:1,4 139:5 141:9 143:12 marriage 11:11 11:21 14:20,25 15:12 17:1 marriages 12:2 married 11:18	massachusetts 136:10 material 21:13 21:14 25:13,22 26:3,10 27:8 30:4,7,12,20,23 31:4 35:19 36:5 41:17 42:6 43:2 47:21,21 60:4 70:17 71:18,21 77:13,16 81:15 96:15,23,24 110:14,14 111:19 114:18 115:7 117:22,25 135:9 139:2,5 140:4,23 147:20 materials 21:18 33:16 34:6 41:8 70:5 78:5 88:13 94:7 96:16,19 97:3 98:1 116:25 138:14 matter 59:13 matters 36:6 md 148:4 149:1 150:1 me.com 2:5 148:2 mean 17:12,14 19:15,15,16 23:3 51:11 58:21,22 87:24 90:21 100:14 101:22 112:5 135:11 meaning 6:11 7:18 17:24 51:18 94:23
---	--	--	--

98:24 106:11 116:25 meaningless 106:2,10 means 5:16 8:10 22:3,5 23:5 82:16,18 94:20 100:20 101:4,25 103:5 104:2 meant 3:20 4:3 4:15 6:20 48:1 measured 5:25 mechanism 35:2 medical 1:7 2:7 16:18 18:10 32:1 33:13 49:1 53:18 58:19 138:8 148:4 149:1 150:1 medicine 53:19 60:23 meeting 24:25 56:12 58:15 meetings 24:19 24:21 25:19 67:1 107:25 member 32:18 33:14 52:6 57:18 60:25,25 111:22,24 129:24 members 17:6 32:2 65:17,18 66:13 72:11,13 74:23 121:24 122:1 123:6 136:6,7	memory 12:20 12:24 13:25 57:23 58:10 mens 132:6 mention 12:6 mentioned 11:20 12:3 40:20 109:22 110:7 met 3:10 14:13 24:14 31:22 32:5 58:22 138:8 meter 49:8 methodology 9:9 michael 27:12 microbiology 53:21 60:17,20 60:24 middle 49:8 100:7,8 105:18 million 66:14 77:6,7 108:21 109:23 110:6 136:15,17,17 mimic 136:14,20 mind 17:19 84:10 mine 29:4 106:3 123:9,11 minute 7:3 11:20 50:19 52:3 59:5 85:14 86:1 88:14 115:19 119:1 minutes 7:7,7 50:9 106:18 missing 35:25 48:18 57:6	misspelling 45:7 misusing 26:25 37:13 mit 136:9 mix 106:6 moment 7:6 money 25:23 26:10 29:21 37:13 41:10 66:15,15 67:16 73:2 80:1 91:23 92:14 100:20 105:7,25 106:5 125:17,20 127:7 128:21 131:11 131:13,24 132:3 132:10,14 monies 105:12 monitor 21:8 month 18:24 19:8 110:11 131:2 monthly 18:2 62:25 months 51:14 111:16 112:14 128:9 142:4,14 morning 3:7,8 20:15 mortgage 20:21 moultrie 10:11 19:10,21 20:17 143:6 mount 10:22 15:1 64:9 77:3 126:13 143:3 move 21:24 98:3 103:2	moved 36:21 71:23 72:16 101:15,24 122:18 multibillionaire 130:18 multiple 83:20 83:22 106:16 121:25 musc 18:21 19:4 20:5,14 21:4,22 22:9,19 23:8,14 24:7,8,18,23 25:16,20 26:14 27:2,2,6,10,11 28:6,10 29:9 31:2,23,24 32:4 32:8,14,15,17,19 32:24 33:5,20,24 34:4 35:5,6,6 37:4,19,24 38:18 38:25 39:1,6,24 40:12,16 41:21 44:1 46:2,8 47:15 48:1,5,25 49:13 50:12 51:1,24 52:2,7 52:13,25 55:18 56:25 59:13 60:16 61:25 62:14,25 64:4,23 69:20 72:3,7,8 72:25 73:1 74:4 74:10 76:2,3 79:14,21 80:9,15 81:7 82:3 84:16 85:9,19 88:22 89:12,18,20
--	--	---	--

[musc - number]

Page 21

91:18 97:14 99:11,21,22,24 100:19,19 101:15,18,24 102:25 103:6,21 103:25 104:10 104:14,14 105:12 107:14 107:16 108:10 108:14,22,25 109:20,24 110:4 111:22 112:8 114:23 115:23 116:19 117:11 119:8,15 120:3,3 120:3,5,11,13,17 120:20,25 121:3 121:11,15,18,20 122:10,12,20 123:1,2,4,6,10 123:10,11,17,24 124:8 125:16 128:6 134:3 136:4,8,23 137:1 137:9 140:20 141:9 143:12 145:7 147:15,17 147:22,24 musc's 116:20 122:11	44:18 46:12,12 147:1 name 9:15,18 11:13,14,24 12:1 13:22 14:10,18 16:10 35:12 38:13 40:20 44:14 53:25 104:15 105:14 106:1,4 124:21 134:22 138:22 named 125:8 narrative 82:13 narratives 82:8 narrow 99:20 narrowed 142:6 142:7 national 119:21 120:11 121:12 121:16 122:11 122:19 136:13 nationwide 20:7 naturalized 16:24 nature 116:23 nearby 79:7 necessary 150:6 need 3:18 4:14 10:1 11:16 12:6 83:5 93:2 114:6 120:1 124:8 138:3 140:9,9 143:19 needed 59:12 needs 82:12 negotiated 34:13 negotiating 68:18	negotiation 34:21,24 neither 126:8 134:14 146:8 never 3:19 6:12 14:13 20:12 24:14 31:21 52:17 57:10 59:1 70:17 73:6 83:4 86:25 87:2 88:4 91:19 97:12 100:1 109:8,21 111:21 112:8 113:18 114:18,24 123:14 125:8,17 125:18,20 128:11 130:21 134:20 135:5,10 137:22 138:8,9 143:21 new 16:10 38:23 70:7,10,10,12 77:11 96:17 101:1 126:13 133:12 nice 3:9 58:24 nih 83:14 86:11 97:15,16,17 99:18 110:7,17 110:23 111:24 112:2,4,6 126:11 136:18 nine 128:9 142:14 ninth 1:2 nod 12:8,13,14	non 125:14,15 norris 25:9,10 25:23 26:8,22 27:20 29:19,22 30:3,4,11,14,14 30:22 34:7 36:16 37:5,11,12 37:20 38:10 41:4,9,25 42:25 43:4,23 45:20 46:1 47:4,10,13 48:3,11 49:20 57:21 73:3 91:23 92:7,14 96:1 103:1 108:16 121:23 141:2 norris's 31:7 north 10:22 norton 68:13,21 68:21 norton's 68:18 127:20 notary 146:4 150:13,19 note 148:10 notebook 89:22 notebooks 89:5 89:8,13,16 90:12 90:14 noted 150:7 notes 42:9,11,11 notice 116:15 noticed 38:11 nowadays 19:15 number 3:10 21:9 95:19 104:11 139:9
n			
n 3:1 9:17,17,18 10:12,12,13,13 11:14 12:1,1 14:19,19 31:16 38:15 39:7,8,8 40:22,23 43:7			

[numbers - paragraph]

Page 22

numbers 141:22	68:19 88:21,21	operation 23:23	pace 5:25
o	89:25 90:4 97:8	74:2,4,14 133:24	paddock 102:20
o 3:1 9:18,21	111:19 114:12	opportunities	102:21,24,24
10:12,12,13	114:14,17,24	21:9	103:5,16,22
11:15 38:15	115:5,10 116:22	opportunity	page 53:16,23
39:7,8,8,8 40:22	117:2,8,13	82:7 93:3	54:9,12,15,16,17
42:20 43:7,7	officer 125:10	135:14	54:19,21,24 59:2
44:18 46:12	official 55:16	opposite 46:5	59:4 60:7 62:20
103:17,21	56:25 60:15	option 8:6 23:15	62:21,22,22,22
objection 22:20	64:22 125:3	options 119:16	63:6,7 68:25
obligated 92:2	146:12	order 31:7 55:12	69:1,3,4,5,6,6
111:25	officially 11:14	57:17 97:25	71:25 72:15,17
obligations 9:2	125:8 126:5	119:25 120:13	75:12 78:9
obtain 30:17	135:25	123:19 129:17	81:21 85:3,4,8
obtained 86:25	offsite 63:17,21	135:17,20	85:23 86:19
87:2 119:15	oh 53:8,10	ordered 61:18	90:6,16 96:4
120:12	139:10	original 56:22	104:17 105:17
obtaining 30:7	okay 4:4,10,23	originally 106:4	105:18,21 107:6
obviously 7:22	4:24 7:23 8:19	outright 20:21	107:7 109:12,12
23:25 49:12	9:3 15:16 18:19	outside 140:14	109:13,13,14,14
51:5,11 144:3	34:16 54:10	overall 46:2	111:1 118:3,5,7
occasions 3:10	131:5,8,21	oversee 36:3	118:8,11,12
occupied 75:21	old 17:16 28:8	126:12	147:2,13 149:4,7
75:23	once 7:22 8:14	oversees 126:17	149:10,13,16,19
occupy 76:1	8:24 9:3 39:23	oversight 109:19	pages 54:18 71:3
occupying 75:23	41:10 62:6	109:25	71:8
occur 63:23	73:13 75:21,22	overzealous	paid 67:17
94:24 120:24	75:25 98:7	131:2	129:23 134:5
occurred 112:16	102:13,18	owens 126:24,25	paper 36:3 55:18
132:16 137:19	113:25 115:16	owned 123:2	55:18 56:25
140:19	120:19 124:24	126:8	134:1
october 1:14	125:2 129:22	ownership 21:1	papers 56:25
146:12 148:3	130:7	p	paperwork
offer 100:19	ongoing 26:6	p 3:1 11:14	117:1
office 37:9 55:15	operate 67:14	28:22 44:4,4	paragraph 59:4
55:21,23 56:16	operating 76:23	p.m. 145:13	59:5 60:6,15
57:2,24 58:3,6	77:22		62:19,20 63:9
			69:9,9 70:20,22

[paragraph - point]

Page 23

72:14,16,17,18 73:6 75:12 77:24 78:18,19 79:1 81:20,22,23 82:15,15 85:8,10 85:11,12,23 86:1 86:18 88:11,12 89:10 90:16 91:4,6,24 92:8 92:16,19 93:10 94:4,17,22 96:4 96:5,14 98:13,14 98:21,25 107:7 108:4,5 109:2,14 109:16 110:25 118:19,22 parens 70:5 75:21 parents 13:1 parking 77:23 parkway 64:10 70:15 75:24 76:16,25 77:10 part 13:25 29:10 31:9 38:24 41:23 48:22 53:6 76:1 82:5 97:16 107:18 108:3,11 110:19 110:22 112:1 113:22 116:8 127:3 133:4 participate 119:23 123:18 particular 66:20 parts 4:13 134:11	party 6:12 76:12 126:8 134:14 146:9 patent 43:20 patriots 15:6,10 15:21 pay 59:14 62:25 63:3 129:16,20 130:5,8,8 paying 57:15 142:8 payment 85:20 86:8,12,17 payments 75:20 payroll 41:7 penalty 127:19 pending 61:4,21 62:10 146:10 penny 91:19 92:13 pension 20:6,9 pensions 20:3 people 4:21,25 17:13 24:2 37:14 39:11,13 42:10 58:18 105:5 132:3 percent 130:8,9 percentage 122:7,10 123:2 123:17 perform 23:23 period 24:11 95:17 108:6 115:22 124:3,5 135:15 142:14 periodicals 117:24	permanent 16:25 permanently 19:17,18 permissions 98:11 permitted 99:14 persecuted 13:1 person 26:25 30:5,16 34:12,20 35:25 36:15 37:14 40:14 42:9 45:9 46:10 46:22 49:3,11 71:16 73:13 84:11 85:2 92:24 94:1 95:23,24 103:14 103:14,25 122:5 122:7 123:3 124:20 126:1 127:10,11 129:12 131:15 132:9 135:24 137:7 138:21 person's 14:10 personally 131:6 131:10 132:14 132:15 personnel 42:6 62:14 100:25 111:20 113:24 pertains 29:25 ph.d. 1:4,13 2:3 3:3 147:4 148:1 phone 7:19 9:12 10:2	phrase 91:2 phrases 92:12 physical 74:23 109:18,25 physically 55:4 64:13,14 pi 79:4 83:25 84:1,9,23,24 picture 47:19 piece 35:24 36:1 101:23 105:11 122:18 pieces 48:18 pis 102:6 place 50:8 69:20 120:21,22 133:15 places 19:25 plain 92:15 plaintiff 1:5 2:2 plasma 96:16 played 38:24 playing 34:23 pleas 1:1 pleasant 10:22 15:1 64:9 77:3 126:14 143:4 please 69:1,4 82:23 94:1 137:5 plentiful 65:10 plural 83:17 pocket 41:11 point 6:15 8:17 15:1,6,11,21 17:21 62:4,5 70:14 86:24 95:7 106:19
--	--	---	--

[point - provide]

Page 24

121:18 140:21 143:2,3 pointed 71:20 policies 99:16,25 policy 31:23,24 99:15,18,18 122:2 123:6 political 132:9 132:23,24 133:6 portion 86:10 120:11 position 21:17 22:7 27:7 31:10 34:14 47:3 60:15 64:20,22 66:21 68:19 80:14 97:2 119:9,10 124:16 140:18,20 positions 21:5 22:18 23:6,7 post 22:1 33:11 35:9 posture 6:3,13 potential 52:25 potentially 39:23 potentials 66:12 practice 33:13 precedence 111:22 preceding 54:18 predominantly 63:17,20,23 106:14 prepare 71:24 72:1	prepared 8:14 8:25 72:2 prepares 8:11 present 65:19 presented 49:2 78:16 80:23 88:24 107:19 108:23 110:4 133:10 president 27:19 33:4,24 34:2 37:2,6,10 40:3,3 45:23 58:19 65:3,5,22 125:12 134:7 137:8 prestigious 21:23 presume 7:1 8:21 18:20 55:11 104:2,6 110:16 presuming 99:9 presumption 84:3 prevent 26:21 principal 64:24 125:7 128:19 principle 72:10 125:4 print 55:16,17 56:21 printed 55:12,13 55:14 prior 10:7 32:21 private 23:7,9 privileged 119:4 pro 2:2 6:12	probably 5:23 7:2 8:21 18:13 34:15 48:16 52:22 57:4 61:19 62:17 65:24 78:11 91:2 problem 12:20 39:24 47:9 52:8 128:11 problems 24:18 37:12 48:13 52:6 77:4 process 3:18 6:19 13:22 14:1 14:5,12 32:18 40:2 47:9 49:5 105:6 124:21 140:2 produce 74:17 117:16 produced 141:21 product 134:24 134:25 products 74:6 135:3 profession 91:3 94:19 professional 58:25 91:3 146:4 professionals 38:9 professions 38:9 professor 18:4 21:21 29:15 33:14 41:3 46:19 53:20	57:18 60:17,19 103:6,21 107:21 108:3 109:10 110:23 136:5 professorship 23:18 profit 131:10 program 83:24 131:22 prohibition 115:6 project 21:25 43:3,3,4,19 83:24 projects 21:18 28:14 30:16,20 31:5 33:9,10,16 37:21 106:7 118:1 promise 22:12 promised 34:17 35:7 promote 41:5 promoted 45:22 promotion 43:1 pronounce 44:13 propagation 94:16 proper 95:21 property 107:3 prosecute 128:20 protect 29:21 protocols 116:1 prove 35:4 proven 27:4 provide 8:17 35:2 48:17
---	---	--	--

[provide - recollection]

Page 25

67:14 72:22 88:25 89:9,14,20 90:13 105:6 109:18,25 110:2 110:20,21 121:5 134:22 provided 83:13 83:13 89:23 95:14 96:19 105:2 providing 18:1 64:3 76:4 provost 24:10 31:20 32:7,9,11 39:15,17,21 public 18:14,22 65:12 146:4 150:19 publication 30:14 publications 117:24 publish 117:22 purchase 119:22 purchased 79:2 104:7 105:12 purpose 106:9 106:13 136:22 purposes 63:19 push 128:17 135:9,11 pushed 135:8 put 27:25 41:11 45:23 52:24 58:11 72:6 77:6 144:11	q question 4:7,13 4:15 5:5,7,9,15 5:18 6:14,14,18 6:19 7:9 22:12 22:14,15 33:1 42:16 48:9 61:19 66:11 70:9 73:5,17 76:14 82:8,11,13 86:12,22 87:23 89:6 90:15 93:3 93:6,15,16,22,23 98:20 99:5 104:5 107:13 109:22 110:6 112:10 117:10 130:2 137:23 138:2,11 questioning 54:7 questions 3:15 3:25 5:1 6:10 7:1,3 9:5,8 12:7 60:8,14 66:25 69:10 75:13 78:19 82:6,22 86:2 96:7 98:15 100:6 107:4 113:2,3 118:14 quick 86:2 quickly 27:9 49:4 78:4 quite 20:11 56:14 quotant 131:17 131:18,18 quote 108:6,8	r r 3:1 12:1 38:15 39:7,8,8 40:23 43:7 44:18,18,18 103:17,17,21,21 149:3,3 raise 134:9 ran 95:17 ray 62:18 134:5 raymond 32:11 36:25 38:22 39:14,16,22 40:6 40:11 62:17 rea 132:6 reach 27:7 81:17 reached 17:15 28:6 32:14 41:20 48:8 58:5 63:24 112:19 131:18 read 8:13,21 52:23 53:13 57:2 59:9 60:7 60:12 63:10 69:9 75:12 77:24 78:1,18 86:1 88:14 90:6 90:16,18,23 92:8 92:10 94:11 96:6,12 98:14,20 98:22 100:12 103:19 118:12 143:18,20 145:15 148:9 150:5 reading 8:7 57:17 78:9 89:9	ready 46:2 reagan 133:17 real 24:12 142:21 realize 116:15 really 3:20 6:7 26:8 55:4 118:23 121:17 rear 2:16 reason 3:23 21:10 23:1 138:24 148:11 149:6,9,12,15,18 149:21 recall 14:4 25:14 28:18 29:7 32:20 54:3,5 55:1 91:16 108:17 144:12 receipt 148:18 receive 9:3 18:9 18:20,21,23 19:8 19:20,24 110:23 137:14 142:24 received 92:1 109:19,24 receiving 17:23 19:2 20:8 112:2 133:14 144:13 recess 50:10 106:20 145:9 recipient 30:21 recognize 138:21 recollection 14:3 28:5 40:5,10 55:20 66:20,24 74:25 75:3,5 84:3 86:7 87:25
--	--	---	---

[recollection - requested]

Page 26

88:2 record 5:13 6:6 9:16 50:11 54:8 71:13 106:21 146:7 records 94:10 recruit 100:18 recruited 21:22 36:25 136:23 recruiting 38:24 recruitment 29:16 recuse 68:21 refer 54:8 reference 54:11 70:10 referenced 148:6 references 70:22 100:13 referencing 70:11 76:6,15 refrigerators 79:7 regard 25:1,15 55:3 77:13 regarded 137:7 regarding 26:21 48:12 regardless 105:25 130:14 registered 146:3 regulation 89:7 90:9,10,11 regulations 89:11,12 90:3 112:4 regulatory 125:18	reid 35:13,16 57:7,11,11 71:16 73:14 80:25 92:23 94:5 95:19,22 98:10 reids 35:13,14 reimburse 130:10 reimbursement 130:11 reinitiate 112:20 rejected 125:13 related 17:4 25:2 138:13 146:9 relates 29:2 relation 133:9 relationship 32:1 34:3 39:22 130:17,21 136:1 relevance 127:23 128:15,17 135:6 135:7 141:25 relinquish 69:17 70:3 91:6 92:12 102:6 relinquished 92:1,5 relocate 79:14 79:16,22 80:4,9 80:15 81:8 relocated 79:8 80:3 99:1 relocation 79:5 remaining 111:3 remember 9:13 10:18 12:12,18 13:2,5,7,16,22 14:10 15:19	16:10 24:15,15 24:16,17,19,25 25:18 26:12,17 38:11 50:6,7 51:9,13 52:20 55:7,9,13 56:2,8 56:11,13,17,20 56:21,24 57:22 58:6,14,16 60:21 66:3,9,10 67:8 69:24 73:23 78:11 83:10,21 84:25 85:1,21 90:18 103:24,24 108:11,20 110:11 115:15 115:21 116:14 124:7 137:17 138:1,4,5,6,15 138:16,19 139:10,12 140:16 142:25 145:4,5 remind 9:11 12:13 reminds 12:5 remove 102:7,9 102:9 removed 14:11 102:1 139:21 140:25 renewed 113:18 rent 19:14,15,16 19:16,18,20 20:17 rental 75:20 rented 19:9	repeat 42:13 repeated 89:14 rephrase 4:13,23 report 39:20 112:6 114:5 126:3,10 reported 1:19 37:11 reporter 3:15 6:1 8:11,12,25 12:9 93:25 113:8 146:1,4 147:7 reporter's 22:14 113:1 reporting 26:22 47:7 reports 28:2 represent 50:17 51:10,23 representative 48:25 represented 13:10 32:15 50:25 representing 37:25 repropagation 94:8 requested 59:8 60:11 63:12 69:12 72:21 75:16 78:22 82:2 85:16 86:4 88:16 91:9 96:9 98:17 118:16 144:21 147:9,10
--	--	--	--

[requests - right]

Page 27

requests 89:14	113:23 114:9,17	rest 54:7	98:16 118:15
required 80:10	115:12,25 118:1	restart 78:4	144:20
80:15,18 150:13	119:11,13	restate 4:9	revised 143:18
requirement	123:24 124:1,14	result 19:3	revision 143:16
117:15 126:19	126:20 135:9,13	135:24	revoke 60:1
130:19 138:6	135:18,21,22,23	retained 51:20	right 4:5,11,17
requirements	reserve 83:4	retire 103:2	4:18 6:3,9,16,22
117:17	reside 10:8	retired 15:25	6:23 7:12,13 8:8
requires 80:21	resided 15:20	16:2,14,15,17	8:20,22 9:4
93:22	residence 10:24	17:11,12,14,19	10:14,17,21,23
rescind 60:2	15:8	retirees 18:1	11:22 12:17
research 21:12	resident 16:25	retirement 17:15	14:2,8 15:21,22
21:14,17,18,18	residential 9:20	17:23,25 18:7,9	16:16 19:7,13,19
21:25 22:2,4,6	10:9	18:20,24 19:2	19:22 20:10,16
25:22 27:8	residing 10:15	retrospect 28:9	32:8 33:3,25
28:14,16 29:20	resign 67:12	return 148:13,17	38:17 39:16
30:8,12,16,18,20	127:12 135:25	returned 99:10	46:22,24 51:3
30:20,23 31:4,5	resignation	99:22 131:13	52:19 53:16
31:5,6 33:10,12	109:5	reves 34:8 38:6	54:9,12,13,19
33:13,16 34:4,5	resigned 66:4	40:16 48:24	59:9,11 62:13,15
35:3,5,8,10 36:6	126:6	55:14,17,24 56:7	62:24 63:8 66:2
37:2,3,8,20,21	resolve 52:8	56:11 57:20,24	66:23 69:7 70:8
38:18 41:8 42:1	resources 30:12	58:2,15,17,18,18	71:1,4,7,8,9 73:9
42:2,4,6,8 43:2,3	respect 18:21	58:21 78:15	76:2 78:12
43:19 47:21	respond 75:8	reves's 55:15,21	79:20 80:6,22
49:4,7 57:14,15	81:18 98:9	55:23 56:16	81:13 84:6,14
57:19 58:13	response 98:12	57:2	85:25 87:7,15
60:5 61:1,11	responses 12:10	review 8:18 52:3	88:17 91:6,10
64:15 74:11	39:12	52:17 71:10	95:5,10 96:10
78:4,6 79:17	responsibilities	87:18 93:9	97:10 99:12,13
81:15 89:17,24	107:10	112:7 125:22,22	100:5,10 102:6
91:15,20,25	responsibility	127:23 148:7	104:22 109:8
96:15,18,18	137:11	reviews 59:7	111:6 113:22
97:25 99:23	responsible	60:10 63:11	116:5 117:2
106:7 107:19	36:15 59:19	69:11 72:20	121:12 130:6
108:13,15,21	123:3 126:19	75:15 78:21	136:2 140:13
109:19 111:19	128:19	82:1 85:15 86:3	141:23 142:12
112:1,9,20		88:15 91:8 96:8	144:25 145:15

[right - separate]

Page 28

145:16 ring 52:25 rivertowne 10:18,19,19,25 15:3,18 role 60:23 124:13 125:16 125:18 ronald 92:25 94:6 96:2 room 3:14 58:7 72:9 139:24 rooms 79:8 126:20 roozen 43:6,11 43:18 136:23 rosen 38:12,15 38:15,16,19 39:7 43:9 roson 43:10 rough 24:4 roxanne 1:19 146:3,23 rpr 1:19 146:23 rubinchick 40:21,22,24 41:6 41:7,15,19 42:17 rude 5:15 12:15 rule 9:2 12:25 121:19 rules 8:6,19 9:2 93:21 97:16 112:3 121:20 122:11 rumor 133:19 run 65:5 67:22 73:16 124:22	runs 67:22 rush 135:20 s s 3:1 31:16 38:15 39:7,8,8 40:22 44:4,4 147:12 149:3 saladin 31:16,18 32:5,12,21 salary 63:2 86:10 123:10 samyon 40:21,21 san 65:9 101:15 sasse 133:17 sat 3:14 save 8:1 saw 142:9 saying 4:10,22 43:8 87:1 105:22 116:2 119:23 121:9 122:9,21 131:14 136:18 says 45:6 63:15 63:20 69:16 70:2,6 74:10 75:19,21,22 79:2 88:13 89:3 91:5 91:25 92:19 94:4 95:12 96:14 98:25 100:12,13 101:8 101:13,21 102:21 107:8 108:5 109:4,17 111:1 137:21	sc 1:16 2:4,10 scan 90:22 scanned 56:24 57:4 78:12 90:20,21 schepps 44:4 schmidt 27:12 28:4,19 school 49:1 science 21:10 109:20 125:19 scientific 29:14 42:14 89:5,8,15 90:4,12,13 109:11 125:10 125:14 126:18 scientist 67:5 125:15 126:15 scott 35:12,14 57:6,11 71:16 73:14 80:25 92:23 94:5 95:19,22 98:10 se 2:2 6:12 28:7 sea 64:9 70:15 75:24 76:16,25 77:9,22 seal 146:12 search 95:13 second 4:25 11:10,21 14:20 35:22 60:6,21,22 68:10,12 70:1,20 72:14,17,18 73:6 91:24 96:4,5 104:17 105:21 107:7 118:8,11 128:13 142:10	secret 141:1 secretary 56:4 58:8 126:2 127:4 133:17 security 17:20 17:21,24 18:8 19:8,20 20:18 see 3:9 6:4 12:11 59:4 62:2 82:14 82:15 85:9 88:22 91:19 93:7,8 100:9,12 103:20 105:9 144:22 seeing 133:3 145:5 seek 59:12 123:20 seeking 24:17 120:15 seen 59:24 61:5 73:6 74:18 143:19,21 144:3 144:4 select 127:13 send 62:6 81:19 125:24 sent 42:25 138:9 138:19 142:25 148:14 sentence 38:3 63:15 75:19 79:1 81:22 91:24 94:11 108:5 109:16 separate 135:4 139:24
--	--	--	--

[separated - sources]

Page 29

separated 143:5 143:9 separation 53:17 september 51:12 141:24 143:2 144:24 sequential 142:4 serious 39:24 49:6 serve 106:13 134:19 served 106:16 service 67:14 134:18,22 135:1 services 96:20 set 48:16 71:4 93:21 100:23 130:17 133:7,15 sets 71:5 setting 23:6 38:22 settlement 67:10 setup 43:5 severe 27:11 severely 28:16 shadow 40:17 shape 137:24 share 67:18 107:9 120:5,12 122:7 123:2,9,16 123:17 shared 94:7 shares 119:16,18 119:22 120:1,3 120:18,23 121:3 121:7,11,15,17 122:10,18 123:7 123:12,16	sharing 47:5 shed 33:21 100:8 sheet 148:11 short 81:25 130:3 145:8 show 104:20 shut 61:13 sic 35:14 48:7 52:23 125:1 131:17 side 21:24 123:21 sides 67:10,12 sign 8:13,22 47:16 49:22 55:2,6,12,15 112:18 125:5,21 126:5 128:11 132:20 145:15 148:12 signature 53:24 53:25 54:1,17 143:17 146:22 signed 24:21 25:1 26:14 38:4 39:18 44:10,11 50:25 52:1,18 54:4 55:8,16,21 55:24 56:11,17 57:1,3,25 58:1,9 58:10 59:21 60:1 61:22 62:10 64:6,19 71:11 77:25 78:3,9 83:1,7 87:8,12 90:7,8 90:17 91:13,15 92:9 94:12 98:5	98:8,21 111:16 112:22 113:10 113:17,25 114:11,15,23 115:20 117:6 120:7,25 121:1,2 124:12 125:7 130:21 133:1 137:13 148:20 significant 29:12 121:7 signing 8:7 47:11 48:22 57:8 75:9 87:17 88:1,3 111:10 112:13 silence 9:11 10:3 similar 45:21 94:7 simple 54:8 simplify 105:6 simplistic 8:9 simply 89:6 90:15 137:23 single 34:12 93:15 134:9,21 136:22 sir 96:12 109:14 144:7 145:2 sit 22:12 93:4 sitting 20:15 86:16 108:17 situation 49:3 skip 37:16 85:4 107:3 slipped 38:4 slow 5:23	small 4:13 31:9 41:23 72:9 smith 45:2,6 smooth 36:4 sneaked 49:21 social 17:20,21 17:24 18:8 19:8 19:20 20:18 sold 103:3 sole 79:3 84:24 125:7 solely 6:20 126:19 solutions 148:23 somebody 5:18 7:19,21 19:17 26:2 35:12 55:6 59:10 66:5 72:1 72:2 84:16 125:5 128:18 soon 80:24,24 sorry 15:15 18:18 30:6 34:14 39:15 45:13 46:13 69:2 87:19 91:23 99:15 118:5 144:1 sort 5:24 6:4 9:8 9:9 49:21 115:8 sothmann 24:3,6 24:9,20 sound 58:21 sounds 13:24 78:12 sources 18:7 19:6,19,21,24 20:16
--	--	--	--

south 1:1,7 2:7 15:2 16:7 17:3 18:10,13,22 39:2 53:18 134:5 146:5,13 148:4 149:1 150:1 southeast 148:15 space 39:5 69:18 70:4,7,10,11,12 75:20 76:9,22 77:19 78:5 79:6 114:25 115:5 117:8 span 51:9 speak 5:2,7,23 7:17 94:2 speaking 44:19 91:7 specific 69:20 78:14 79:18 98:24 specifically 38:25 55:22 106:13 134:6 speedy 128:9 142:15 spell 38:13 43:12 spelled 44:17 spend 100:21 spending 25:23 106:7 spent 78:8 84:5 91:23 92:6,13 spirit 78:3 90:25 92:10 94:14 spirited 112:5 split 67:8 91:1 92:11,14 94:20	96:25 98:24 splitting 94:13 sponsor 99:16 99:18 121:21 136:8 spouse 11:17,25 12:18 13:13 14:4,22 15:23 46:23 square 69:18,19 70:4 79:5 staff 56:6 stage 53:12 standing 140:10 start 5:3,12,17 21:16 23:20 42:1 47:4 83:4 83:11 101:1 121:4 123:8 134:4,8 started 9:9 10:16 39:20,23 57:14 77:4 122:1 124:24 starts 85:9 96:5 109:2 startup 100:12 100:14,15,20 102:11,17,18 state 1:1 36:22 39:2 65:11 146:5 stated 23:1 statement 122:22 137:13 138:23 states 97:12 128:5	status 16:24 125:25 stay 140:12 stephanie 45:1,5 45:6 stephen 28:22,22 steve 45:14 46:23 47:19,20 47:23 57:21 61:18 62:16 91:22 124:23 126:4,5 127:10 138:22 steven 36:8 38:10 40:16,17 108:22 137:12 stole 26:2 stonewall 73:16 98:8 stonewalling 75:10 81:17 114:7 stop 26:8 28:15 42:4 49:8 stopped 42:5 109:11 116:11 storage 61:14,15 61:15 stored 61:17 116:1,10 117:5 story 130:3 straw 132:4 strawman 132:5 street 1:16 2:4 2:10 9:21 10:8 10:16 11:8 20:20 21:2 127:11	strike 81:3 82:20 strom 60:25 61:1 student 33:11 44:9 students 35:8 42:25 44:25 107:23 stuff 104:11 submit 73:18,23 73:24 75:6 submitted 73:21 75:1 109:8 submitting 109:5 subparagraph 118:12 subscribed 150:14 subsidiary 134:17 substantive 57:23 successful 121:22 suddenly 116:15 suffer 12:24 suggest 89:4 suggested 118:24 suggestion 52:21 suite 2:10 superficial 127:12 superficially 78:13 90:23 superseding 142:7
---	--	---	--

support 65:11 109:18,25 110:2 110:5 111:25 112:1 116:19 131:21,22,23,23 136:16 supposed 77:9 77:10 106:6 123:12 supposedly 114:4 115:23 133:21 138:21 suppression 12:24 sure 3:24 4:10 4:19 5:9 6:1,5 12:15 16:6 20:11 38:14 49:9 81:2 99:6 118:23 surgeon 16:9 23:24 surgeon's 23:22 sworn 3:4 150:14 system 20:2,7 32:17 115:17 116:20	tags 101:4,8 tails 114:3 take 6:25 7:3,5,6 7:7,10,11,18 8:25 12:9 20:12 23:22 26:9 27:13 28:24,25 30:4 35:11 36:9 37:8,20 41:10 50:9,19 52:3,9 53:14 59:5,21 69:8 70:21 71:17 82:18 85:13 86:1 87:7 87:10,11,16 88:13 99:19,24 106:17,19 130:11,16 131:10,24 135:8 137:4 139:8 143:15 145:8 taken 1:18 21:13 21:14 22:5 33:16 34:6 41:13 43:23 47:18 50:10 69:14 70:16 106:20 108:16 145:9 talk 4:3 5:12,24 7:19,23 18:16 47:24 50:20 52:2 57:6 98:10 114:3 115:18 131:24 talked 45:9 72:15 87:11,20 88:10 101:19	119:3 140:11 talking 15:13 43:10 54:12 69:19 70:25 79:18,20 92:24 118:21 121:10 124:5 133:18 target 47:17 48:6 teacher 16:18 teaching 35:8 61:12 107:9,15 107:20 115:11 tech 136:21 technical 65:20 116:10 technically 116:17 technician 22:1 23:20 technologies 37:21 43:19,22 64:25 66:11 121:5 135:5 technology 43:22 64:3 67:3 117:23 122:6 134:19 135:3 tell 4:21 5:5 8:12 16:4 17:14 24:4 25:12 26:5 28:25 34:8 35:15 40:24 42:21 43:15 44:21 45:2,16 46:14,25 53:1 54:20 93:4,8 119:1,6 129:9	138:3 139:12 telling 26:11 82:15 97:18 114:22 121:14 tells 103:13 ten 7:3,7,7 50:9 73:21 75:1,6 tend 5:16 tendency 5:1,22 12:8 38:6 tends 34:18 tenure 34:4 tenureship 32:4 terminology 91:2 terms 8:9 37:13 128:22,25 134:10 testified 3:4 68:8 68:15 testify 32:16 68:4,5 136:24 testimony 6:5,21 7:18,20,21 12:16 73:17 79:21 80:12 143:7 148:9,18 150:8 text 7:20 thank 26:11 50:5 138:17 themselves 92:6 thereof 146:10 thing 7:8,25 41:24 60:8 97:23 115:8 118:6 things 3:17,20 4:2 6:7 7:14 9:6
t 44:18 147:12 149:3,3 table 3:21 tag 101:17,20,20 101:21,25 102:1 102:7,9 104:10 105:19			

[things - trend]

Page 32

17:13 19:15 49:21 79:19 88:23 116:23 think 5:3,22 8:3 10:13 11:20 12:23 13:4,5 20:11 24:10 29:2 34:22 39:8 39:25 43:8 45:7 45:7,21,23,25 46:18 47:18 48:1 51:2,18 52:20,21 55:14 56:21 58:4,18 59:10,12 62:1 63:6,24 67:9 71:2,12 74:1,4 78:8,14 79:12 81:5 83:23 86:9 87:22 89:25 91:22 94:20 95:21 100:19 101:16 103:23 103:25 109:13 111:4 115:22 118:24 119:18 122:23 128:3,5 130:13,15 131:10 132:6 133:16 136:23 140:20 143:5 145:4 thinking 17:20 third 68:25 69:3 69:6 75:11 85:22 142:10,11 thought 47:25 58:5 114:1	131:15,16,18 134:3,8 three 81:24 85:24 95:15 143:10 threw 135:21 thurmond 60:25 61:2 time 1:15 5:13 5:13 7:5 8:18 14:4,9 15:8 24:11 25:10 26:4 27:11 28:13 32:8,11 33:24 36:23 38:5 39:9,17 41:18 49:5 51:5 51:9,23 52:9,23 53:1,13,14 57:12 59:10 60:16 61:4,22 62:10,18 64:6,17,19 65:4 66:3 68:20 70:14,18 71:11 72:4 74:1,21,24 77:20,25 78:8 79:5 81:18 83:7 85:19 86:25 90:19 91:12,13 91:15 94:1 95:13 105:8 106:8,10 115:22 115:24 116:18 119:7,11 124:3,5 124:17 125:11 127:3,18 128:9 129:23 130:12 130:16 132:22	133:12 135:15 136:5,17 148:19 timeframe 124:10 148:8 timeline 111:8 timely 78:6 times 95:20 tired 7:1,2 title 37:2 60:15 65:2,4 66:20 108:6,10,18 125:12 titled 100:9 titles 66:5 toal 127:25 today 3:9 4:7 6:11 8:11 56:19 73:18 86:16 108:17 121:10 told 18:8 19:12 59:11 68:2 74:1 79:12 86:23 93:11 98:2,4 111:4 142:5 tomlinson 28:23 29:8 tomlinson's 28:24 29:1 tool 6:21 top 72:19 96:5 98:13 105:8 tor 105:19 trace 106:5 track 101:6,10 trained 33:10 trainee 23:19 30:3	trainees 22:1 training 35:9 transcript 2:16 3:25 8:7,11,13 8:22,24 145:15 146:6 148:6,20 150:5,8 transfer 35:19 36:4 41:16 60:4 70:12 71:17 77:23 78:5 96:15,23 97:1,7 97:19 98:7 100:24 102:5,15 120:23 135:5 139:1 140:2 transferred 20:14 22:3 40:2 68:22 70:7,17 72:5,6 74:13 76:1 77:9,11,18 97:3 100:2 101:17 120:3 121:11,16 140:5 transferring 140:23 transpired 26:19 28:8 29:5,13 33:22 44:10 47:9,11 48:13 transpirer 48:7 travel 63:18 129:23,25 130:12 treated 125:16 treatment 59:3 trend 136:13
--	--	--	--

[trial - violation]

Page 33

trial 68:5,12,13 68:15,24 128:9 142:15 trials 68:6 tricked 37:17 tried 40:1 47:4 132:11 134:8 136:13 trigger 27:1 trouble 135:10 true 48:2 128:1 146:6 150:8 trusted 71:12 truth 25:12 try 4:23 7:3 12:12 28:10 49:3 62:22 98:23 112:19 135:22 136:20 trying 10:3 18:6 28:14 43:20 61:20 76:5 81:2 83:18 84:9 103:11 112:12 112:15 114:20 tulane 36:24 turn 53:5,6 63:16 68:25 69:3,5 70:23 73:1 85:3 115:17 118:3 120:17 turned 61:9,18 twice 136:19 two 12:3 40:21 47:20 50:18 55:17 56:3,21 58:8 67:11	81:24 134:11 type 23:13 109:23 u u 9:17 10:13 40:23 46:11 u.s. 16:23 68:18 68:19 ucsf 20:5 21:22 38:25 72:5,6 101:13,20,21,23 102:1,3,5 104:15 104:16 136:10 136:14,15 ultimate 30:16 ultimately 36:14 37:3,17 understand 3:22 4:7,10,20,22 7:24 31:10 38:3 48:9 49:25 55:19 76:13 81:3,5 84:9 97:6 97:18 117:4 118:23 understanding 63:22 76:14 77:15,18 90:9,25 99:13 122:16 united 97:12 128:5 universities 18:3 20:4 21:6,9 97:13 102:7 136:20 university 1:7 2:7 18:10 21:23	32:1 36:21,24 37:10 40:4 45:22 46:4 52:11 53:18 63:16 73:10 75:6,8 91:5 99:15,17,20 101:14,18 109:17 111:23 115:15 122:2,4 134:7 136:7,21 148:4 149:1 150:1 unrelated 118:20 unsealed 128:3,4 142:13 unsure 116:3,7 use 26:10 27:1 30:24 47:22 54:14 69:17 70:3 84:21 90:1 90:21 103:3 108:6,10 111:2 112:23 113:11 123:16 135:2 usually 5:2 v v 50:12 147:15 148:4 149:1 150:1 vacate 127:18 vaccine 108:7 value 33:12 43:21 119:19 123:15	van 127:2,3 various 100:11 vaxima 133:24 134:16 vector 72:23,25 73:2,19,25 74:2 74:3,5,9,12,14 79:17,18 80:7,17 83:3,8,12,16,19 83:20,22,25 84:5 84:10 86:10 96:20 99:21 104:1,3,7,9,13 105:23 106:15 vectors 94:7,15 96:17 verbal 12:10 verbally 88:24 verify 71:22 148:9 veritext 148:14 148:23 veritext.com. 148:15 vice 27:19,19 37:1,6,10 40:3 45:23 58:19 137:8 victory 15:1 143:2,3 violate 28:3 112:4 142:15 violating 143:17 violation 61:10 97:15 107:18 112:3 128:25 132:8 142:16,18
---	--	---	---

violations 27:25 viral 96:16 voelkel 29:23,24 vs 1:6	watch 127:8 way 8:4 17:4 18:9,22 21:10 22:6 27:22 28:5 28:12 30:10 34:19 41:5 42:14 63:1 64:1 74:21 81:3 93:17 102:18 105:12 108:14 112:8 114:21 115:3,4 117:10 133:4 136:2 137:6 141:5 142:17,19	wife 11:10 14:15 16:12 17:2,3 46:18,24 129:25 wife's 11:12 20:23 window 94:25 95:10 witness 7:2,15 8:2,5 22:25 25:13 59:7,9 60:10,12 63:11 63:13 69:11,13 72:20,22 75:15 75:17 78:21,23 82:1,3,11,14,20 82:23 85:15,17 86:3,5 88:15,17 91:8,10 92:23 93:7,11,16,19,24 94:2 96:8,10 98:16,18 118:15 118:17 141:12 141:18,23 144:20,22 145:14 146:11 148:1,8,10,12,19 witnesses 5:6 36:11 woraratanadha... 44:15,16 word 90:22 112:23 113:11 133:13,15 words 41:9 52:16 78:14 90:24 97:1 98:24 113:20 121:8	work 8:15 16:12 18:21 19:3 20:3 22:7 40:19 41:3 41:6,12 42:15 47:2 57:10 63:17,20,22 72:3 105:10 124:11 worked 19:25 20:5,6 32:4 47:19 working 18:3 42:10 49:9 115:23 works 15:24 16:3 20:2 32:17 39:4 93:18 world 129:23 130:1,12 worry 130:5 worst 137:8 write 62:15 74:22 87:3 131:5 writing 107:11 written 26:13 28:19 29:9,11 31:12 32:13 37:24 40:6,11,14 40:15 41:21 42:18 43:25 46:7 47:14 48:4 48:11 49:15 51:1,24 52:1,12 61:4,21 79:3 87:3 94:9 118:20 wrong 55:20 100:19
w			
w 9:21 12:1 44:18 wait 5:14 18:19 119:1 130:3 waiting 58:7 60:4 waive 145:16 walked 58:6 wall 127:10 want 3:23 7:11 7:23,25 8:13,16 8:21 12:15 21:20 22:24 23:21 28:25 33:6 34:9 37:16 39:12 52:6 78:13 81:19 82:9 91:1 92:14 93:5 113:6 119:5,5 125:13 129:14,15 130:10 139:13 139:18 141:17 wanted 26:9 27:13 28:24 31:15 35:11 36:9 47:24 72:24 110:14 129:12,14 130:1 130:14,21 139:14	wayne 36:22 ways 122:23 we've 87:11,20 118:21 wearing 34:20 website 61:10 107:22 weeks 40:21 111:15 112:14 weird 58:21 105:19 welcome 7:5 went 44:25 46:18 53:9 55:15,23 71:22 whatsoever 127:24 128:16 133:11 135:6 whistleblower 46:3 127:4 white 34:20 49:2 55:18		

[x - zucker]

Page 35

x
x 147:1,12
y
y 9:17 40:22 y'all 75:23 yeah 69:13 year 12:19 13:2 51:16,17,19 88:5 88:5 110:11 128:8,10 136:15 137:20 141:23 141:24 years 12:23 111:3 127:24 128:10,14 129:8 132:18,18,25 143:10 york 38:23 yun 1:4,13 2:3 3:3 147:3 148:1 148:4,5 149:1,2 149:24 150:1,2,4 150:12 yusuf 35:22 36:20 92:21 93:1 94:5 121:24
z
z 11:15 43:7 zucker 67:20 130:18 133:7,16

South Carolina Rules of Civil Procedure

Part V. Depositions and Discovery

Court Rule 30

(e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed the deposition shall be submitted to the witness for examination and shall be read to or by him unless such examination and reading are waived by the witness and by the parties. Any changes in form or substance which the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill or cannot be found or refuses to sign. If the deposition is not signed by the witness within 30 days of its submission to him, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed unless on a motion to suppress under Rule 32(d)(4) the court holds

that the reasons given for the refusal to sign
require rejection of the deposition in whole or in
part.

DISCLAIMER: THE FOREGOING CIVIL PROCEDURE RULES
ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.
THE ABOVE RULES ARE CURRENT AS OF APRIL 1,
2019. PLEASE REFER TO THE APPLICABLE STATE RULES
OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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