

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Doe MC-1,

Plaintiff,

Case No. 20-10568

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-2,

Plaintiff,

Case No. 20-10578

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-3,

Plaintiff,

Case No. 20-10579

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-7,

Plaintiff,

Case No. 20-10580

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-4,

Plaintiff,

Case No. 20-10582

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-6,

Plaintiff,

Case No. 20-10593

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-12,

Plaintiff,

Case No. 20-10595

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-11,

Plaintiff,

Case No. 20-10596

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-13,

Plaintiff,

Case No. 20-10614

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-10,

Plaintiff,

Case No. 20-10617

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-14,

Plaintiff,

Case No. 20-10618

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-5,

Plaintiff,

Case No. 20-10621

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-16,

Plaintiff,

Case No. 20-10622

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

John Doe,

Plaintiff,

Case No. 20-10629

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-15,

Plaintiff,

Case No. 20-10631

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-8,

Plaintiff,

Case No. 20-10640

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-9,

Plaintiff,

Case No. 20-10641

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-17,

Plaintiff,

Case No. 20-10664

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-19,

Plaintiff,

Case No. 20-10679

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-20,

Plaintiff,

Case No. 20-10693

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-18,

Plaintiff,

Case No. 20-10715

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-21,

Plaintiff,

Case No. 20-10731

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-22,

Plaintiff,

Case No. 20-10732

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-25,

Plaintiff,

Case No. 20-10759

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-24,

Plaintiff,

Case No. 20-10771

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-23,

Plaintiff,

Case No. 20-10772

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-28,

Plaintiff,

Case No. 20-10779

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-27,

Plaintiff,

Case No. 20-10785

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-31,

Plaintiff,

Case No. 20-10821

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-32,

Plaintiff,

Case No. 20-10823

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-26,

Plaintiff,

Case No. 20-10828

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-29,

Plaintiff,

Case No. 20-10832

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-35,

Plaintiff,

Case No. 20-10859

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-30,

Plaintiff,

Case No. 20-10861

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-34,

Plaintiff,

Case No. 20-10868

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-36,

Plaintiff,

Case No. 20-10875

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-38,

Plaintiff,

Case No. 20-10888

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-39,

Plaintiff,

Case No. 20-10889

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-33,

Plaintiff,

Case No. 20-10895

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-41,

Plaintiff,

Case No. 20-11021

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-43,

Plaintiff,

Case No. 20-11024

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-44,

Plaintiff,

Case No. 20-11025

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-45,

Plaintiff,

Case No. 20-11026

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-46,

Plaintiff,

Case No. 20-11028

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-47,

Plaintiff,

Case No. 20-11029

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-48,

Plaintiff,

Case No. 20-11030

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-49,

Plaintiff,

Case No. 20-11056

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-51,

Plaintiff,

Case No. 20-11061

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-53,

Plaintiff,

Case No. 20-11092

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-52,

Plaintiff,

Case No. 20-11102

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-54,

Plaintiff,

Case No. 20-11108

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-50,

Plaintiff,

Case No. 20-11150

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

John Does TF 1-4,

Plaintiffs,

Case No. 20-11170

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-40,

Plaintiff,

Case No. 20-11188

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-55,

Plaintiff,

v.

The University of Michigan, et al.,

Defendants.

Case No. 20-11189

Hon. Victoria A. Roberts

Doe MC-56,

Plaintiff,

v.

The University of Michigan, et al.,

Defendants.

Case No. 20-11203

Hon. Victoria A. Roberts

Doe MC-57,

Plaintiff,

v.

The University of Michigan, et al.,

Defendants.

Case No. 20-11204

Hon. Victoria A. Roberts

Doe MC-58,

Plaintiff,

Case No. 20-11225

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-60,

Plaintiff,

Case No. 20-11227

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-61,

Plaintiff,

Case No. 20-11232

Hon Victoria A. Roberts

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The University of Michigan, et al.,

Defendants.

STIPULATION AND ORDER

On May 19, 2020, the Court held a combined Status Conference in the above-captioned cases at which the Court and the parties discussed several issues about

how each case should initially proceed, and the parties reached an agreement that the Court approved (“the Agreement”). Consistent with the discussion and Agreement at the Status Conference, the above-captioned John Doe, John Doe MC, and John Doe TF Plaintiffs (collectively, “Plaintiffs”) and University of Michigan Defendants (collectively, “the University”) (collectively together, “the Parties”) now make the following stipulations.

Plaintiff John Doe MC-1’s Emergency Motion to Depose Tom Easthope. On April 17, 2020, Plaintiff John Doe MC-1 filed an emergency motion for leave to depose and preserve the testimony of Tom Easthope before a Rule 26(f) Conference [Case No. 20-10568, ECF 16]. Consistent with the Agreement reached at the Status Conference, the University will not oppose a trial preservation video deposition of Mr. Easthope to take place in July of 2020, provided there is a discovery deposition approximately one week prior. The Parties also agree that the video trial preservation deposition will be the one used in all current and future cases brought by plaintiffs against the University or other defendants related to the Dr. Anderson litigation. Notwithstanding the prior sentence, any Party may use any deposition of Mr. Easthope at trial as permitted by the Federal Rules of Evidence, subject to any objections available under those Rules. Counsel for Plaintiff John Doe MC-1 will provide Rule 30(b)(1) notice to Plaintiffs and other known plaintiffs who file lawsuits against the University, and the University may also provide cross-notice

consistent with the Federal Rules of Civil Procedure, subject to the Parties' objections.

The Parties agree that no further depositions of Mr. Easthope will be allowed in any lawsuits related to the Dr. Anderson litigation, absent a showing of good cause based only upon information (1) obtained or obtainable after completion of the last deposition and (2) that plaintiffs could not have known about at the time of the last deposition. The Parties further agree that any such successive deposition would be conducted only if consistent with the Federal Rules of Civil Procedure. Although the Parties agree to facilitate the deposition of Mr. Easthope subject to the foregoing conditions, they recognize that Mr. Easthope is a non-party with independent legal rights who is not represented by any party or party's attorney. The Parties agree that the discovery deposition and trial preservation deposition should be completed in July of 2020.

Stay of Discovery. Aside from (1) the discovery deposition and trial preservation deposition of Mr. Easthope, (2) the University's production of any litigation holds or preservation orders issued in anticipation of litigation related to Dr. Anderson within seven days of entry of a Protective Order but no later than 48 hours before Mr. Easthope's discovery deposition, and (3) any notes, documents, audio tapes, and/or video tapes, in whatever medium held, including electronic, related to University of Michigan Police Department Detective Mark West's

investigation into allegations about Dr. Anderson that the University can compile from a reasonable and good faith search of records within its control, including within the control of the University of Michigan Police Department and Detective West, by June 30, 2020, the Parties agree that all other discovery should be stayed until August 31, 2020.

Plaintiffs' Responses to the University's Pending Motions to Dismiss. The University has filed motions to dismiss in the cases brought by John Does MC 1–17 and 19–20. The Parties agree that those Plaintiffs will have until August 31, 2020 to respond to those motions. Alternatively, if Plaintiffs file amended complaints on or before August 31, 2020, the University agrees not to object, the University will have until September 30, 2020 to file renewed motions to dismiss, and the due date for Plaintiffs' Responses to the University's motions to dismiss is extended to October 30, 2020.

The University's Other Responsive Pleadings. Aside from the motions to dismiss filed in the cases brought by John Does MC 1–17 and 19–20, the University has not filed responsive pleadings. To promote judicial economy and streamline early dispositive motion practice, the Parties agree that in all currently pending cases (and all additional cases filed and assigned or reassigned to the Court prior to the Court's ruling on the currently pending motions to dismiss), the University need not file responsive pleadings until 30 days after the Court rules on the pending motions

to dismiss—or renewed motions to dismiss, if amended complaints are filed—in the cases brought by John Does MC 1–17 and 19–20.

Protective Order. The Parties will work together on a proposed protective order to submit to the Court. The Parties agree that depositions should proceed as confidential under the Protective Order, and the University’s litigation hold shall be covered by the Protective Order. The Parties further agree that Plaintiffs’ names shall be covered by the Protective Order, and by August 31, 2020, Plaintiffs’ counsel shall provide to counsel for the University the names of all plaintiffs who have filed complaints.

Tolling of State Law Claims. The University and John Doe MC-1 agree to filing a stipulation to hold Washtenaw County Circuit Court Case No. 20-000379-NO in abeyance pending a decision on the University’s pending motion to dismiss or on a renewed motion to dismiss filed in the case brought by John Doe MC-1 [Case No. 2:20-cv-10568-VAR-EAS]. The Parties agree to negotiate and enter tolling agreements to toll the time for Plaintiffs to file state law claims in any state court six months, including but not limited to, the Michigan Court of Claims and Washtenaw County Circuit Court. Any such tolling agreements shall not revive any claims or causes of action that may be time-barred.

Dismissal of State Law Claims without Prejudice. The Parties agree to filing a stipulation to dismiss Plaintiffs’ state law claims without prejudice in Plaintiffs’

federal cases with pending state law claims after the Parties enter tolling agreements. The University's arguments in pending motions to dismiss related to Plaintiffs' state law claims will then be deemed moot.

The University's Motion to Consolidate. The University withdraws its pending motion to consolidate in the case brought by John Doe MC-1 [Case No. 20-10568, ECF 14], without objection from the Plaintiffs, and the Parties agree that the cases should proceed separately on individual dockets.

By executing this stipulation, the Parties are not waiving any claims or defenses raised or to be raised in these cases.

Dated: May 28, 2020

Respectfully submitted,

/s/ Michael A. Cox (by consent)

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Doe MC-1,

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Doe MC-2,

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Doe MC-10,

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Case No. 20-10617

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Doe MC-14,

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Case No. 20-10618

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Doe MC-15,

Plaintiff,

Case No. 20-10631

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Defendants.

Doe MC-8,

Plaintiff,

Case No. 20-10640

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-9,

Plaintiff,

Case No. 20-10641

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-17,

Plaintiff,

Case No. 20-10664

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-19,

Plaintiff,

Case No. 20-10679

Hon. Victoria A. Roberts

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The University of Michigan, et al.,

Defendants.

Doe MC-20,

Plaintiff,

Case No. 20-10693

Hon. Victoria A. Roberts

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The University of Michigan, et al.,

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Doe MC-18,

Plaintiff,

Case No. 20-10715

Hon. Victoria A. Roberts

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Doe MC-21,

Plaintiff,

Case No. 20-10731

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Doe MC-22,

Plaintiff,

Case No. 20-10732

Hon. Victoria A. Roberts

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The University of Michigan, et al.,

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Doe MC-25,

Plaintiff,

Case No. 20-10759

Hon. Victoria A. Roberts

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The University of Michigan, et al.,

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Doe MC-24,

Plaintiff,

Case No. 20-10771

Hon. Victoria A. Roberts

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Doe MC-23,

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Doe MC-28,

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Case No. 20-10779

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Doe MC-27,

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Case No. 20-10785

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Doe MC-29,

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Doe MC-35,

Plaintiff,

Case No. 20-10859

Hon. Victoria A. Roberts

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Doe MC-30,

Plaintiff,

Case No. 20-10861

Hon. Victoria A. Roberts

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The University of Michigan, et al.,

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Doe MC-34,

Plaintiff,

Case No. 20-10868

Hon. Victoria A. Roberts

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Doe MC-36,

Plaintiff,

Case No. 20-10875

Hon. Victoria A. Roberts

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The University of Michigan, et al.,

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Doe MC-38,

Plaintiff,

Case No. 20-10888

Hon. Victoria A. Roberts

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Defendants.

Doe MC-39,

Plaintiff,

Case No. 20-10889

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Doe MC-33,

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Doe MC-41,

Plaintiff,

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Doe MC-43,

Plaintiff,

Case No. 20-11024

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Defendants.

Doe MC-44,

Plaintiff,

Case No. 20-11025

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The University of Michigan, et al.,

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Doe MC-45,

Plaintiff,

Case No. 20-11026

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Doe MC-46,

Plaintiff,

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Doe MC-47,

Plaintiff,

Case No. 20-11029

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The University of Michigan, et al.,

Defendants.

Doe MC-48,

Plaintiff,

Case No. 20-11030

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v.

The University of Michigan, et al.,

Defendants.

Doe MC-49,

Plaintiff,

Case No. 20-11056

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-51,

Plaintiff,

Case No. 20-11061

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-53,

Plaintiff,

Case No. 20-11092

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-52,

Plaintiff,

Case No. 20-11102

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-54,

Plaintiff,

Case No. 20-11108

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-50,

Plaintiff,

Case No. 20-11150

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

John Does TF 1-4,

Plaintiffs,

Case No. 20-11170

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-40,

Plaintiff,

Case No. 20-11188

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-55,

Plaintiff,

v.

The University of Michigan, et al.,

Defendants.

Case No. 20-11189

Hon. Victoria A. Roberts

Doe MC-56,

Plaintiff,

v.

The University of Michigan, et al.,

Defendants.

Case No. 20-11203

Hon. Victoria A. Roberts

Doe MC-57,

Plaintiff,

v.

The University of Michigan, et al.,

Defendants.

Case No. 20-11204

Hon. Victoria A. Roberts

Doe MC-58,

Plaintiff,

Case No. 20-11225

Hon. Victoria A. Roberts

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The University of Michigan, et al.,

Defendants.

Doe MC-60,

Plaintiff,

Case No. 20-11227

Hon. Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

Doe MC-61,

Plaintiff,

Case No. 20-11232

Hon Victoria A. Roberts

v.

The University of Michigan, et al.,

Defendants.

STIPULATED ORDER

The Court adopts the Parties' stipulation and orders the following:

(1) Plaintiffs may notice a discovery deposition of Mr. Easthope followed by a trial preservation deposition, and Plaintiffs and the University may examine the witness at both depositions. The discovery deposition and trial preservation deposition shall be completed in July of 2020.

(2) A successive deposition by Plaintiffs will be permitted only upon a showing of good cause based on new information that Plaintiffs could not have known about at the time of the last deposition. Any such successive deposition will be conducted only if consistent with the Federal Rules of Civil Procedure.

(3) Plaintiff John Doe MC-1's Emergency Motion for Leave [Case No. 20-10568, ECF 16] is denied as moot.

(4) Aside from the discovery described in the Parties' stipulation, all other discovery shall be stayed until August 31, 2020.

(5) Plaintiffs shall have until August 31, 2020 to respond to the University of Michigan Defendants' motions to dismiss filed in the cases brought by John Does 1–17 and 19–20. Alternatively, Plaintiffs in those cases may file amended complaints on or before August 31, 2020, Defendants shall have until September 30, 2020 to file renewed motions to dismiss in the cases brought by John Does 1–17 and 19–20, and the due date for Plaintiffs to respond to Defendants' motions to dismiss is extended to October 30, 2020.

(6) The Parties will stipulate to dismiss Plaintiffs’ state law claims without prejudice in Plaintiffs’ federal cases with pending state law claims after the Parties enter agreements tolling the time for Plaintiffs to file their state law claims six months, and the University’s arguments in pending motions to dismiss related to Plaintiffs’ state law claims will be moot.

(7) In all other cases assigned or reassigned to this Court as related to the Dr. Anderson litigation, the University of Michigan Defendants need not file responsive pleadings until 30 days after the Court rules on the pending motions to dismiss—or renewed motions to dismiss, if amended complaints are filed—in the cases brought by John Does MC 1–17 and 19–20.

(8) The University withdraws its pending motion to consolidate [Case No. 20-10568, ECF 14], and the cases will proceed individually.

(9) The above stipulations and orders apply to all later filing plaintiffs who sue the Defendants over the same or similar allegations.

Dated: June 10, 2020

s/ Victoria A. Roberts
Hon. Victoria A. Roberts
United States District Judge