

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

Chambers of  
**STEVEN C. MANNION**  
United States Magistrate Judge

Martin Luther King Jr, Federal Bldg.  
& U.S. Courthouse  
50 Walnut Street  
Newark, NJ 07102  
(973) 645-3827

August 7, 2017

**LETTER ORDER/OPINION**

**Re:   Michaels v. Rutgers Univ., et al.**  
**Civil Action No. 15cv7603 (JLL)(SCM)**

Dear Litigants:

Before this Court is the parties' informal joint discovery dispute letter.<sup>1</sup> The Court has reviewed the submission and discussed it with counsel on August 1, 2017. Counsel for Plaintiff, Dr. Jennifer Michaels has confirmed receipt of Defendant, Dr. Barry Levin's discovery responses, so that issue is now moot. Counsel shall meet and confer regarding the sufficiency of his responses along with their remaining disputes.

In response to certain discovery disputes, Defendant Rutgers `proposed' providing responsive documents in compromise. Relevant discovery, however, should be disclosed without prompting. The purpose of initial disclosures is "to accelerate the exchange of basic information about the case and to eliminate the paper work involved in requesting such information."<sup>2</sup>

---

<sup>1</sup> (ECF Docket Entry No. ("D.E.") 41). The Court will refer to documents by their docket entry number and the page numbers assigned by the Electronic Case Filing System.

<sup>2</sup> *U.S. ex rel. Hunt v. Merk-Medco Managed Care, LLC*, 223 F.R.D. 330, (E.D.Pa. 2004)(quoting Advisory Committee Notes to 1993 amendments).

Disclosures must include, among other things, “a copy – or description by category and location— of all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses....”<sup>3</sup> Then, even if the initial disclosures were sufficient, parties still have a duty to

supplement or correct its disclosure ... in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect, and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.<sup>4</sup>

Rutgers has identified responsive documents, but not produced them. Accordingly, Rutgers shall amend its disclosures to include the documents it proposed producing.

An appropriate Order follows:

### **ORDER**

**IT IS** on this Monday, August 07, 2017,

1. **ORDERED**, that Defendant Rutgers supplement its disclosures to include all relevant, responsive and non-privileged emails sent or received by Drs. Michaels, Levin, Kamin, Soto-Greene, Hidalgo, and Johnson, as well as Mr. Hajart, for the two (2) years prior to the non-renewal of Plaintiffs contract regarding Plaintiffs claims in this matter. All relevant and responsive emails subject to privilege shall be included on a privilege log. The parties shall then meet and confer regarding any continued dispute in accordance with the Supplemental Scheduling Order; and it is further
2. **ORDERED**, that Defendant Rutgers supplement its disclosures to include all documents (including date and summary of allegations) concerning any complaint proposed or filed in

---

<sup>3</sup> Fed.R.Civ.P. 26(a)(1)(A)(ii).

<sup>4</sup> Fed.R.Civ.P. 26(e).

court, charge filed with the EEOC or complaint filed with the Employee Relations department alleging gender, sex or age discrimination within the Neurology Department for the three (3) years prior to the non-renewal of Plaintiffs contract. The parties shall then meet and confer regarding any continued dispute in accordance with the Supplemental Scheduling Order; and it is further

3. **ORDERED**, that Defendant Rutgers supplement its disclosures to include the name and title of any individuals in the Neurology Department who were reprimanded or disciplined by Dr. Levin for the three (3) years prior to the non-renewal of Dr. Michaels' contract. The parties shall then meet and confer regarding any continued dispute in accordance with the Supplemental Scheduling Order.



A handwritten signature in black ink that reads "Steve C. Mannion".

Honorable Steve Mannion, U.S.M.J.  
United States District Court,  
for the District of New Jersey  
phone: 973-645-3827

8/7/2017 5:57:06 PM

Original: Clerk of the Court  
Hon. Jose L. Linares, U.S.D.J.  
cc: All parties  
File