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15 **UNITED STATES DISTRICT COURT**
 16 **CENTRAL DISTRICT OF CALIFORNIA**

17 *IN RE USC STUDENT HEALTH*
 18 *CENTER LITIGATION*

No. 2:18-cv-04258-SVW-GJS

[consolidated with 2:18-cv-04940-SVW-GJS, 2:18-cv-05010-SVW-GJS, 2:18-cv-05125-SVW-GJS, and 2:18-cv-06115-SVW-GJS]

USC’S RESPONSE TO ORDER TO SHOW CAUSE WHY CERTAIN DOCUMENTS SHOULD NOT BE PUBLICLY DISCLOSED

1 At the Court's request, on April 25, 2019, the USC defendants lodged *in*
2 *camera* documents relating to complaints USC had received during Dr. George
3 Tyndall's tenure at USC, as well as the university's investigation and response
4 efforts. (Dkt. 127). The Court sought review of those documents in connection with
5 its consideration of the parties' proposed class settlement. (Dkt. 124). The Court
6 was specifically interested in assessing whether information existed that "would
7 implicate USC for having knowledge of Dr. Tyndall's wrongdoing," so it could
8 determine the risks class members faced at trial should their claims proceed. (*Id.* at
9 6).

10 USC agrees it is important for class members to understand and appropriately
11 weigh the risks of trial as they evaluate the substantial benefits offered under the
12 proposed settlement. As the Court's request reflected, a primary hurdle plaintiffs
13 face in these lawsuits is establishing that university officials knew about Dr.
14 Tyndall's alleged sexual assault or that he posed a foreseeable risk of harm, and that
15 they failed to take appropriate action. A finding that USC lacked such knowledge,
16 or that it appropriately responded to the issues that were raised, could preclude
17 former patients from obtaining any monetary relief against the university.

18 Thus far, class members have been presented only with assertions about the
19 university's alleged knowledge of ongoing sexual assault by Dr. Tyndall; some have
20 even suggested without evidence a supposed "cover-up" by the university. To the
21 contrary, the documents submitted to the Court in connection with the proposed
22 settlement tend to confirm that the troubling accounts of alleged physical sexual
23 assault now being alleged by Dr. Tyndall's former patients had not been sufficiently
24 raised with university officials during his employment. USC is of course not
25 suggesting that the lack of complaints concerning inappropriate physical contact
26 necessarily demonstrates none ever occurred. Rather, these documents indicate the
27 university was not on notice of a pattern of such reports over Dr. Tyndall's nearly
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1 30-year tenure, and the plaintiffs retain the substantial burden at trial to establish
2 otherwise.

3 The Court has now addressed the patient privacy concerns USC raised about
4 public disclosure of this information. Class members should have access to these
5 materials in considering the proposed settlement. USC thus concurrently lodges in a
6 public filing all materials submitted by USC *in camera* for the Court’s evaluation of
7 the proposed settlement.¹

8 USC appreciates the Court’s reasoned and careful attention to all the interests
9 implicated by this information. The university hopes this disclosure will assist all
10 class members in assessing their options, and believes it confirms the class action
11 settlement remains the best option for bringing a fair and respectful resolution to as
12 many former patients of Dr. Tyndall as possible.

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25 ¹ Since its submission of materials to the Court on April 25, USC has identified a
26 small number of additional internal records regarding the complaints received by the
27 University as to Dr. Tyndall. Those supplemental records are included in USC’s
28 current lodging of documents.

1 DATED: May 23, 2019
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4 By: /s/ Shon Morgan

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