



parties that it did not wish to further delay resolving Defendants' Motions to Dismiss. [Dkt. No. 56]. Unfortunately, however, Defendants indicated that they were not amenable to an extension of the deadline for joinder under any circumstances. *Id.* Indeed, Texas Christian University ("TCU") and the individual Defendants continually demonstrate to this Court and the public that they are not interested in meritoriously defending against the valid claims brought against them by Plaintiffs. Instead, Defendants wish to game this litigation in a continued showing of their deliberate indifference toward the sincere complaints of race and sex-based discrimination submitted to TCU and TCU agents (including TCU's Title IX Office) regarding the discrimination endured by African-American women on its campus. Therefore, though Plaintiffs' Memorandum in Support of its Opposed Motion to Modify Scheduling Order to Extend Deadline for Joinder of Parties is currently pending before this Court, out of an abundance of caution and in observance of the deadline for joinder found in the Scheduling Order in this case, Plaintiffs file this Opposed Motion for Joinder.

Despite Defendants' opposition and many attempts to confuse the issues before the Court, this lawsuit has been and remains about the deliberate indifference with which TCU and its agents respond to the complaints of race and sex-based discrimination occurring on campus and at TCU sanctioned activities reported by African-American women. Sadly, many of the underlying facts warranting reports to TCU by African-American women students involve conduct that constitutes violations of federal and Texas State law. [Dkt. No. 44]. Rather than treating such complaints with the seriousness necessary to protect its students, TCU and its agents have either failed to respond at all, responded inadequately, or ratified the conduct made basis of such reports because the reporting students are African-American women. In fact, TCU is notorious for such conduct occurring when African-American women report instances of

discrimination to TCU officials. Thus, in describing the conduct made the basis of Plaintiffs' and other African-American women's reports (like Jane Does Nos. 4 and 5), it should come as no surprise that the extreme and outrageous conduct allowed to fester on campus may also result in allegations of violations of federal and state law that though different, meet at the same nexus, or in the case of TCU—in the Chancellors' or Title IX offices. Put simply, the primary series of transactions and/or occurrences that form the basis of Plaintiffs' complaints relate to their experience when they reported claims of discrimination to TCU officials. Such experiences were not Plaintiffs alone, but also those of other African-American women enrolled at TCU. [Dkt. No. 44 at ¶¶ 129-31]. In fact, since the filing of this lawsuit many African-American women have contacted Plaintiffs and/or undersigned counsel to confirm that they too were met with deliberate indifference when they reported instances of discrimination to TCU. White women too have contacted Plaintiffs and/or undersigned counsel in support of Plaintiffs'; expressing that their reports of discriminatory treatment to TCU were handled with sincere concern and in contrast to the handling of Plaintiffs' and other African-American women's reports. Plaintiffs hereby seek to add two of the African-American women who also endured the racially and sexually hostile environment at TCU and reported the same to TCU officials as Plaintiffs in this case, Jane Does Nos. 4 and 5. **Jane Does Nos. 4 and 5 bring identical claims to Plaintiffs**, including claims against TCU for violations of Title VI of the Civil Rights Act of 1964; Title IX of the Education Amendments of 1972; and state law claims of fraud, violations of the Texas Deceptive Trade Practices Act, breach of fiduciary duty, and breach of express warranty for services; and against Dr. Karen Steele claims of negligence, and intentional infliction of emotional distress.

Plaintiffs' also seek to add Drs. Fredrick W. Gooding Jr. and Dr. Karen Steele as

Defendants. With respect to Dr. Gooding, Plaintiffs' have already fully alleged allegations against him in their live Complaint. [Dkt. No. 44]. Dr. Gooding's conduct renders him jointly and severally liable for at least Jane Doe No. 1's complaints of negligence, intentional infliction of emotional distress and conspiracy. With respect to Dr. Steele, her conduct towards Jane Does Nos. 4 and 5 formed the basis of their reports of discrimination to TCU officials, which were met with deliberate indifference and thus give rise to their complaints of TCU's violations of federal and state law. The underlying conduct of Dr. Steele herself renders her jointly and several liable for Jane Does Nos. 4 and 5's complaints of negligence and intentional infliction of emotional distress.

## B. ARGUMENT

### *Legal Standard*

Fed. R. Civ. P. 20 controls the permissive joinder of parties to a federal action and allows the joinder of plaintiffs if "(A) they assert right to relief jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all plaintiffs will arise in the action." Likewise, Rule 20 also allows the permissive joinder of defendants if "(A) any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and (B) any question of law or fact common to all defendants will arise in the action." *Id.* Thus, Rule 20 allows the joinder of a plaintiff who has some relation to the action but not as a necessary party. *Arrington v. City of Fairfield, Ala.*, 414 F.2d 687, 693 (5th Cir. 1969). Permissive joinder is broad in its application, permitting the court wide latitude to decide the scope of the action and make orders that will prevent delay or prejudice. *Id.* Consequently, Rule 20 is focused on trial convenience such that

plaintiffs or defendants should be joined “whenever there is a common question of law or fact and the right relief arises out of a single transaction or occurrence or a series of transactions or occurrences.” *Walker v. City of Houston*, 341 F.Supp. 1124, 1132 (S.D. Tex. 1971). Indeed, the policy for Rule 20 is to promote trial convenience and eliminate unnecessary lawsuits. *See In re Silica Product Liab. Litig.*, 398 F.Supp.2d 563, 650 (S.D. Tex. 2005). While, this Court has not identified a specific test to satisfy the “same transaction or occurrence,” many district courts in the fifth circuit have used the Eighth Circuit’s “logically related” test for the “same transaction” requirement. *Carter v. Diamond URS Huntsville, LLC*, 175 F.Supp.3d 711, 727 (S.D. Tex. 2016). That test allows all reasonably related claims to be tried in the same proceeding; there is no need for absolute identity of all the events. *Id.* (citing *Mosley v. GMC*, 497 F.2d 1330, 1332-33 (8th Cir. 1974)).

*The Court should Join Jane Does No. 4 and 5 as Plaintiffs.*

In order to properly join another party under Fed. R. Civ. P. 20, there are two prerequisites: (1) common questions of law and fact (2) whether the causes of action arise out of the same transaction or occurrence. First, Jane Does Nos. 4 and 5 should be joined in this action because there are common questions of law and fact relating to their claims against TCU and TCU’s liability for the same. Specifically, Jane Does Nos. 4 and 5 (like Jane Does Nos. 1, 2 and 3) each bring suit against TCU for responding to their complaints of discrimination with deliberate indifference and/or inadequately addressed. There is a legal dispute regarding whether TCU and TCU agents violated federal and state law through their intentional indifference of racial and sex-based complaints made by African American women students and the resulting harm perpetuated thereby. Indeed, Jane Does No. 4 and 5 were victims of the same haphazard treatment and racist and sexist environment that assailed Plaintiffs. Moreover, Jane Does Nos. 4 and 5 bring identical,

claims against TCU for its discriminatory treatment of them and other African-American women. Therefore, there is a common question of law and fact at play.

Second, there is also a common series of occurrences central to Jane Does Nos. 4 and 5 claims against TCU. Plaintiffs and Jane Does Nos. 4 and 5 are all African-American women who encountered the same deliberate indifference that lead to and/or perpetuated the physical and physiological harm from resulting from the hostile and racist and sexist environment at TCU. TCU's conduct in responding to Plaintiffs', Jane Does Nos. 4 and 5 and other African-American women's complaints ratified and—to-this-day—encourages TCU's agents to perpetuate jarringly hostile and discriminatory acts toward African-American women. Thus, absent unnecessary and self-serving complication from Defendants, there is a clear common series of occurrences central to the claims presently against TCU by Plaintiff's and Jane Does Nos. 4 and 5.

*The Court should Join Jane Drs. Fredrick W. Gooding Jr. and Karen Steele as Defendants.*

Similarly, the court should add Drs. Fredrick W. Gooding Jr. and Karen Steele as defendants in this lawsuit. Much like the permissible joinder of plaintiffs, Rule 20 provides for the permissible joinder of defendants if there are (1) common questions of law and fact and (2) the causes of action arise out of the same transaction or occurrence. *See* FED. R. CIV. P. 20. As stated above, with respect to Dr. Gooding, Plaintiffs' have already alleged facts against him in their live Complaint. *See* [Dkt. No. 44]. Moreover, Dr. Gooding's conduct, as already alleged renders him liable to Jane Doe No. 1 for the underlying conduct necessitating her reports of discrimination to TCU officials. Specifically, Dr. Gooding's conduct as alleged renders him liable for negligence, intentional infliction of emotional distress, and conspiracy—all claims which are brought against other individual Defendants and for which Dr. Gooding is jointly and severally liable. Thus, the addition of Dr. Gooding arises out of the same transaction or

occurrence. *See In re EMC Corp.*, 677 F.3d 1351, 1356 (Fed.Cir.2012). With respect to Dr. Karen Steele, the facts underlying both Jane Does Nos. 4 and 5's reports of racist and sexist discrimination to TCU officials include allegations of the racist conduct perpetuated against them by Dr. Steele. Should this Court join Jane Does Nos. 4 and 5 as plaintiffs' it should also join Dr. Steele as a defendant given that the underlying operative facts leading to TCU's deliberate indifference toward Jane Does Nos. 4 and 5's reports and pleas for relief from TCU's unyieldingly hostile environment were spawned by Dr. Steele's behavior.

Plaintiffs' have adequately alleged that they and other African-American women are regularly met with deliberate indifference when they submit reports of discrimination to TCU, Jane Does Nos. 4 and 5 have previously fully laid out the underlying factual basis for such reports to this Court. [Dkt. No. 40]. In the interest of judicial efficiency and because Plaintiffs have already pled that other African-American women—like Jane Does Nos. 4 and 5—are also victims of TCU's deliberate indifference towards their reports of discrimination, Plaintiffs' submit this Motion to the Court without the amended factual allegations contained in their prior pleadings. Plaintiffs, however, defer to the guidance of the Court and will submit an amended pleading if the Court so requires.

### **C. CONCLUSION AND PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that the court Grant this Motion for Joinder and that the Court award Plaintiff such further relief as it deems just and proper.

Respectfully submitted,

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**CERTIFICATE OF CONFERENCE**

I hereby certify that on August 20, 2020, Plaintiffs' Counsel, Nnamdi Anozie, conferred with Defendants counsel, George Haratsis. Mr. Haratsis indicated that Defendants oppose Plaintiffs' Opposed Memorandum in Support of Motion to Join under Federal Rules of Civil Procedure 20.

/s/ Nnamdi M. Anozie

Nnamdi M. Anozie

**CERTIFICATE OF SERVICE**

I certify that a copy of the foregoing pleading has been served on counsel identified below in accordance with the Federal Rules of Civil Procedure on the 21st day of August, 2020:

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