

STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30212
LANSING, MICHIGAN 48909

BILL SCHUETTE
ATTORNEY GENERAL

May 24, 2018

Justice Robert Young
Dickinson Wright PLLC

Dear Justice Young:

At the outset, I would like to congratulate you on your recent appointment to the position of Vice President and General Counsel for Michigan State University and to thank you for your willingness to facilitate our office's interactions with Skadden.

In that regard, Christina Grossi received an email from a Skadden attorney, Amy VanGelder, yesterday morning, May 23, in which Ms. VanGelder indicated that "we (Skadden) are working to add additional information to our privilege log to address your concerns."

In an attempt to determine what "additional information" Skadden intends to incorporate, I asked Ms. Grossi to contact Ms. VanGelder by phone. Based on their conversation, it is my understanding that Skadden intends to disclose all parties involved in the email chains that have been or will be withheld or redacted. While this is a significant improvement, it will nonetheless not resolve our fundamental issue; i.e., absent a waiver of the attorney-client privilege, we will not really know the content of the emails provided by the some of the key participants at the University in responding to the Nassar and Strampel matters.

Without this information, we will be unable to conduct the review that the Board requested of us. Consequently, I am asking you to please forward the enclosed letter to the Board of Trustees.

Thank you for your time and consideration. If you have any questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in dark ink, appearing to read "William A. Forsyth".

William A. Forsyth
Special Independent Prosecutor

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Michigan State Board of Trustees
Michigan State University

To the Board of Trustees:

On January 19, 2018, this Board sent a letter to the Attorney General asking that his Department undertake "a review of the events surrounding the Larry Nassar matter." In urging their request, the Trustees declared that "only a review by [the Department of Attorney General] can resolve the questions in a way that the victims, their families, and the public will deem satisfactory and that will help all those affected by Nassar's horrible crimes to heal." That letter, signed by each individual Board member, ended with a pledge that the Trustees "stand ready to fully cooperate with your review."

On January 27, 2018, Attorney General Schuette answered your call and announced publicly that a full and complete investigation would be done. I was charged with leading that investigation – a responsibility that I take very seriously. The crimes perpetrated by Nassar, and the events surrounding his crimes, are unparalleled in our time. Regardless of your vantage point, Michigan State University stands at the very center of those events. Because of that, a full and complete accounting of what happened at the University is imperative.

Despite my best efforts, I have not received the necessary documents to complete this review. The initial response of the University was to provide documents that were almost entirely irrelevant, providing us tens of thousands of documents that obviously played no role in the investigation, such as the Bed Bug Management-Infection Control Policy.

On March 28th, in an attempt to address our concerns, we met with MSU attorney, Justice Robert Young. While the meeting was beneficial, many documents continue to be withheld or significantly redacted.

At present, we have received almost 75,000 documents. MSU, however, continues to withhold potentially relevant information from my investigatory team based on its assertion of the attorney-client privilege and the attorney work product privilege.

MSU's attorneys send a Privilege Log each week that itemizes responsive documents that have either been withheld or redacted by the University. At

May 24, 2018

present, the log is already 111 pages long and includes over 1,500 emails, many of which involve key persons of interest in our investigation. For example, emails to and from William Strampel (who has recently been charged criminally for his role in the Nassar matter) are included in those email communications that the University refuses to release.

On April 11th, as a follow-up to our meeting, I sent a letter to Justice Young asking that the University reconsider its assertion of privilege in response to requests from this office. In the alternative, I asked that an independent third-party review the documents that have been withheld or redacted in an attempt to verify the University's assertion of privilege.


In response, Justice Young declined both our request to waive the privilege and for an independent review of the relevant documents. In his letter, Justice Young correctly points out that "the University, like any other public institution, enjoys the protections of privilege." The question in my mind, however, is not whether MSU can assert privilege; the question is whether MSU should assert privilege.

It is this Board that can waive the privilege, not MSU's attorneys. Consequently, you must decide whether it best serves the interest of the people of the State of Michigan- to whom you owe a fiduciary duty- to withhold information in response to an inquiry by the State's Attorney General. If you decline to waive the University's privilege, it will be virtually impossible to determine MSU's role in the events surrounding the Nassar matter. In other words, we will be unable to conduct "a review of the events surrounding the Larry Nassar matter"; a review that you requested and to which you pledged your full cooperation.

In light of the aforementioned, I am asking that you waive any claims of privilege and direct your attorneys to produce all documents withheld or redacted on that basis. If you decline, I am requesting that you agree to the appointment of an independent third-party to evaluate and verify the University's assertion of privilege.

Because Michigan State University, the survivors and the public are poorly served by a protracted investigation, a response in writing to this letter by June 8 would be appreciated.

Sincerely,



William A. Forsyth
Special Independent Prosecutor

cc: Justice Robert Young