SUPREME COURT
STATE OF NEW YORK COUNTY OF NEW YORK

JANE DOE,

Petitioner,

-against-

CORNELL UNIVERSITY, INC., CHI PHI CHAPTER HOUSE ASSOCIATION, CHI PHI FRATERNITY, INC., CHI PHI EDUCATIONAL TRUST, ALPHA BETA HOUSE CORPORATION OF DELTA DELTA DELTA, DELTA DELTA DELTA SORORITY, ZAREEN ENTERPRISE LLC d/b/a MOONIES BAR & NIGHTCLUB, MATTHEW INGALLS, JOHNATHAN NEWELL, WINSTON LEE, GILLIO LOPES, DIEGO SARABIA, SCOTT NORRIS, SCOTT KRETZSCHMAR, JOHN DOE (FACULTY), JOHN DOE (ALUMNI), JOHN DOES (EXECUTIVE BOARD), and ORAZIO PETITO,

Defendants.

ATTORNEY AFFIRMATION OF JAMES C. KNOX IN OPPOSITION TO PLAINTIFF'S MOTION FOR AN ADJOURNMENT

Index No. 161704/2026

JAMES C. KNOX, an attorney admitted to practice in the State of New York, affirms under penalty of perjury the following:

1. I am a member of Hacker Murphy LLP, attorneys for defendant Diego Sarabia (hereinafter "defendant"), and am fully familiar with the facts and circumstances of this matter. I submit this affirmation in opposition to plaintiff's application seeking an adjournment of defendant's pending motion to dismiss (Dkt. No. 99).

2. Defendant respectfully submits that plaintiff has failed to demonstrate good cause for the substantial adjournment requested. Plaintiff does not address the obvious prejudice to defendant that would be occasioned by the requested delay.

3. The pending motion to dismiss plaintiff's complaint was timely filed and noticed in accordance with the CPLR.

4. Plaintiff now seeks an extraordinarily lengthy adjournment to respond, but plaintiff does not contend that counsel is unavailable; that counsel has a conflicting trial schedule; that counsel suffers from any medical, mental, or personal hardship; or that there exists any other circumstance preventing counsel from preparing opposition papers within the ordinary briefing schedule.

5. In short, plaintiff identifies no present inability to timely oppose defendant's motion.

6. Instead, plaintiff speculates that other defendants may elect to file motions at some date in the future, and that it would be more convenient for her to respond to all such motions (if filed) simultaneously.

7. Plaintiff elected to commence a multi-defendant action containing numerous causes of action and extensive factual allegations.

8. The prospect of responding to motion practice from multiple defendants is an ordinary consequence of such a litigation decision and does not, standing alone, justify delaying the determination of the instant motion which is already properly before the Court.

9. Plaintiff makes no claim that the hypothetical potential motions from other defendants may include similar issues. Each defendant's situation is factually specific and distinct. Plaintiff will need to respond to any future motion on its own merits, making it unlikely that an adjournment would result in any benefit of convenience.

10. Plaintiff's convenience is not the equivalent of necessity; nor is convenience good cause for the requested adjournment.

11. Defendant respectfully submits that his pending motion should not be delayed based upon hypothetical anticipated motions that have not yet been filed and whose nature remains unknown.

12. Plaintiff's assertion that defendant's motion has "complex issues of law" which "need to be examined against [the] extensive complaint" is belied by the content of defendant's straightforward motion.

13. Plaintiff waited too long to bring her intentional tort claims against defendant, and she relies on an obviously fictional duty to support her negligence claim. Plaintiff has no other claims against this defendant, and these are not complicated issues.

14. Defendant's simple motion addresses those issues and other pleading deficiencies plainly evident on the face of the complaint in a very brief memorandum of law. Plaintiff makes no argument that she would have any real difficulty timely responding to defendant's arguments.

15. While defendant's counsel appreciates requests for reasonable accommodations when circumstances require them, plaintiff has never given any reason – not now or in her prior requests to defendant for an adjournment – evincing any genuine need for an extension, much less a need for a two-month extension.

16. Defendant's refusal to consent does not establish good cause for the requested relief, especially when he would be prejudiced by the requested delay.

17. Whether plaintiff granted extensions of time to other defendants is of no moment to defendant, and irrelevant to the issues of good cause and prejudice. Defendant is an individual and should not be collectivized with any other defendant.

18. Plaintiff has asserted serious and salacious allegations against defendant, but most of plaintiff's claims are barred by the statute of limitations.

19. The only claim not so barred – sounding in negligence – is brought despite the plain absence of any legally cognizable duty.

20. Plaintiff should have known that her claims against defendant were legally untenable when she brought them.

21. Plaintiff's request for an adjournment appears to be a thinly-veiled attempt to unnecessarily delay an unfavorable decision.

22. In the event the Court determines that some additional time is warranted, defendant respectfully requests any adjournment be limited to the minimal period sufficient to permit plaintiff to prepare opposition papers to defendant's motion.

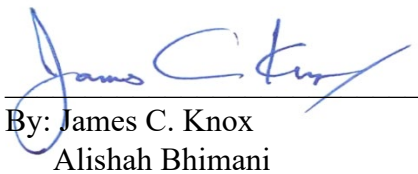
WHEREFORE, defendant Diego Sarabia respectfully requests that plaintiff's application for an adjournment (Dkt. No. 99). be denied or, in the alternative, that any adjournment be limited to a very brief period deemed appropriate by the Court, together with such other and further relief as the Court deems just and proper.

I affirm this 5th day of November, 2026, under penalties of perjury under the law of New York, which may include a fine or imprisonment, that the foregoing is true, except as to matters alleged on information and belief and as to those matters I believe it to be true, and I understand that this document may be filed in an action or proceeding in a court of law.

DATED: Albany, New York
November 5, 2026

Respectfully submitted,

HACKER MURPHY, LLP



By: James C. Knox
Alishah Bhimani

Attorneys for Defendant Diego Sarabia
Office & P.O. Address
22 Corporate Woods Boulevard, Suite 404
Albany, NY 12211
Telephone: 518-274-5820
jknox@hackermurphy.com
abhimani@hackermurphy.com

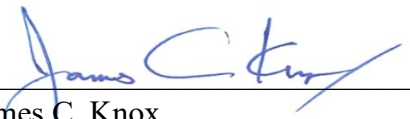
CERTIFICATION PURSUANT TO RULE 202.8-B

I, James C. Knox, hereby certify pursuant to Rule 202.8-b of the Uniform Rules of the Supreme Courts, that the length of this Affirmation, exclusive of the signature block and of this certification itself, is **838 words**. In making this certification, I have relied on the word count tool in the word processing program that I used to compose this document, Microsoft Word.

Dated: Albany, New York
November 5, 2026

Respectfully submitted,

HACKER MURPHY LLP

By: 

James C. Knox
Attorneys for Defendant Diego Sarabia
Office & P.O. Address
22 Corporate Woods Boulevard, Suite 404
Albany, NY 12211
Telephone: 518-274-5820
jknox@hackermurphy.com