In the
Court of Appeals of Virginia

Record No. 0722-26-2

CUMBERLAND HOSPITAL, LLC, et al.,
Petitioners,

v.

K.E.E., et al.,
Respondents.

CUMBERLAND HOSPITAL, LLC, et al.,
Petitioners,

v.

A.B., et al.,
Respondents.

From the Circuit Court for Richmond City
Case Nos. CL20-5209-00 & CL22-3616-00 (Hon. Bradley B. Cavedo)

BRIEF IN OPPOSITION TO PETITION FOR INTERLOCUTORY APPEAL

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STATEMENT OF THE CASE

This petition for appeal arises from lawsuits filed by plaintiffs who were abused at Cumberland Hospital by its medical director, Daniel Davidow. The plaintiffs sued both Cumberland and Davidow, as well as UHS of Delaware, Inc. (UHS-D) and Universal Health Services, Inc. (UHSI), the corporations that own and operate Cumberland, and Daniel N. Davidow, M.D., P.C., Davidow's personal corporation. The plaintiffs joined their claims together under the Multiple Claimant Litigation Act (MCLA), a statute that permits claims such as these to be joined to promote their efficient adjudication.

The petitioners (UHSI, UHS-D, and Cumberland) now seek a discretionary interlocutory appeal under a provision of the MCLA that permits such appeals "within 10 days" after the entry of an order setting "a consolidated trial." Code § 8.01-267.8. In December 2024, the trial court ordered the claims of two plaintiffs, J.C.H. and J.E.H., consolidated for trial, with a third plaintiff to be determined later. The defendants did not file a petition at that time. In October 2025, at the defendants' request, the trial court consolidated A.C.J.'s claims too, setting her as the third plaintiff for trial. Again, the defendants did not petition this Court. Now, months after the consolidation orders were entered, and with the trial fast approaching, it is too late. The petition should be dismissed as untimely.

Untimeliness aside, the petitioners' assignments of error are meritless. The standards governing consolidation are easily met here: Each plaintiff alleges that she was sexually assaulted by Davidow during her initial medical examination at Cumberland, and each brings the same claims against the same defendants. In addition, as explained in the opposition to the motion to stay, the related appeals filed in this Court are improper interlocutory appeals that do not divest the trial court of jurisdiction. *See* Rule 1:1C.

STATEMENT OF THE FACTS

J.C.H., J.E.H., and A.C.J. were minors when they were hospitalized at Cumberland Hospital. App. 234–37, 442. All three girls allege that they were sexually abused by Davidow, Cumberland's medical director. App. 235, 237, 442. And all three allege that the abuse took place in the presence of another Cumberland employee. App. 235, 237, 442.

A.C.J. alleges that during her "admission process" to Cumberland, "Davidow took her into a private room with another Cumberland Hospital staff member present, closed the door, told her that he was going to check for her femoral pulse, reached down her pants, and sexually abused [her]." App. 235. J.E.H. alleges that during her "admission process" to Cumberland, "Davidow took her into a private room with another Cumberland Hospital staff member present, closed the door, told her that he was going to check for

her femoral pulse, reached down her pants, and sexually abused [her]." App. 237. J.C.H. alleges that during her "admission process" to Cumberland, "Davidow took her into a private room with another Cumberland Hospital staff member present … placed his hand on her breast" and "put his hand beneath her underwear and inserted his fingers in her vagina." App. 442.

All three girls also allege that, during their stay at Cumberland, the defendants "made materially false statements in reports and records about [their] progress, precautions, and diagnoses with the intent to deceive and cause further harm to [the girls] by prolonging [their] stay, thus increasing the revenue and profits" to the defendants. App. 235, 237, 442.

As the petitioners recognize (at 10), all three girls assert the same claims: assault and battery, several claims based on breaches of duty, negligent retention, false imprisonment, and violations of the Virginia Consumer Protection Act (VCPA). App. 264–83, 448–67. And all three girls are asking for the same remedies—compensatory damages, punitive damages, treble damages, and costs and fees. App. 287, 288, 469.

PROCEDURAL BACKGROUND

I. Background related to this appeal (Record No. 0722-26-2)

A. The plaintiffs join their claims, arising from the abuse they suffered at Cumberland Hospital, in two complaints.

1. In 2020, K.E.E. and several other plaintiffs in Case No. CL20-5209-00 (together, the 5209 plaintiffs) joined their claims under the MCLA, Code § 8.01-267.5, and filed a complaint against the defendants for the abuse that they endured at Cumberland Hospital. Supp. App. 1–2.[1]

2. Cumberland and Davidow moved to sever the plaintiffs as improperly joined. *See* App. 2, 44. After considering the standards for consolidation set out in the MCLA, Code § 8.01-267.1, the trial court denied the motions. App. 59–60. It found that "each claim stated in the Complaint stems from the same series of occurrences involving Plaintiffs' shared experience of treatment and care at Cumberland Hospital by an alleged predatory Medical Director and negligent staff." App. 67. It also found that the claims involved "predominant common questions of law" and "fact" and

[1] Unless otherwise specified, all internal quotation marks, citations, emphases, and alterations are omitted throughout this brief. Citations to "Pet." and "App." refer to the petition for interlocutory appeal and appendix the petitioners filed on April 24, 2026. Citations to "Supp. App." refer to the supplemental appendix filed accompanying respondents' opposition to the motion to stay filed on May 18, 2026.

that keeping them consolidated would "promote[] the ends of justice, respect[] each party's due process rights, and avoid[] causing prejudice to any party's right to a fair and impartial resolution." App. 67–68.[2]

3. In 2021, the 5209 plaintiffs filed an amended complaint, adding several additional plaintiffs. App. 201–02.

4. In 2022, nine different plaintiffs in Case No. CL22-3616-00 (together, the 3616 plaintiffs) filed a separate complaint alleging the same claims against the same defendants. App. 417–19. UHS-D, Cumberland, and Davidow moved to sever. App. 473, 485, 511.

5. The 5209 plaintiffs moved to consolidate their claims with the 3616 plaintiffs' claims, Code §§ 8.01-267.3 and 8.01-267.7. App. 480.

6. After briefing and a hearing, the trial court granted the 5209 plaintiffs' motion in part and consolidated the claims "for discovery and pre-trial purposes only," "reserve[d] ruling on the consolidation of trials," and denied the severance motions. App. 519. The trial court again found that

[2] After carefully considering the defendants' arguments for severance, the trial court did sever one plaintiff's claim from the rest. *See* App. 66–67. Though "nineteen Plaintiffs raise[d] allegations of sexual assault committed by Davidow," one plaintiff asserted a count of "physical assault" against a different employee. App. 66. The court severed that claim because it found that the employee could be "prejudiced" by evidence of "sexual assault allegations against Davidow and a collective scheme of ignoring those allegations of abuse by the corporate defendants." App. 67.

the standards governing consolidation set out in Code § 8.01-267.1 had been met. App. 518–19. Specifically, the trial court found that there was a "series of same transactions or occurrences" because each of the plaintiffs "were made patients of the hospital and treated by some of the defendants" and, during "the process of … being admitted as a patient," each "suffer[ed] the torts." App. 1242. And, as before, the trial court found that "consolidating will promote the ends of justice" and "the just and efficient … disposition of the actions," and that consolidation was "consistent with each party's right to d[ue] process of law and d[id] not prejudice each individual party's right to a fair and impartial resolution" of the claims. *Id.*; *see* App. 518.

B. The first three plaintiffs go to trial and win verdicts against Cumberland and Davidow.

7. The plaintiffs moved to set a consolidated jury trial for four 5209 plaintiffs (H.E.B., E.C., A.B.E., and J.E.H.) and one 3616 plaintiff (J.C.H.). App. 701–02. The plaintiffs argued that J.C.H.'s claims should be joined with the four 5209 plaintiffs' claims for trial because, among other reasons, (1) all five plaintiffs alleged that the same person (Davidow) sexually abused them while they were staying in the same unit at the same hospital (Unit 7B at Cumberland) between 2015 and 2017, (2) all alleged that Davidow assaulted them "during their initial physical examinations" at Cumberland, (3) all were

minors, and (4) all alleged the defendants "fail[ed] to protect them from sexual abuse." App. 702–04. That meant that each plaintiff's claims "involve[d] common questions of law or fact and ar[o]se out of the same … series of transactions or occurrences," thus warranting consolidation for trial under the MCLA, Code § 8.01-267.1. *See* App. 785, 1981–82.

8. In response, the defendants once again moved to sever. App. 718, 734, 738, 764, 769. But they did not merely argue against consolidating J.C.H.'s claims with the four 5209 plaintiffs' claims for trial. *See* App. 764–65. Instead, they argued that each and every plaintiff "should proceed to trial individually." *See* App. 765. The defendants' counterproposal was to schedule one plaintiff's trial in September 2024, and a second individual trial one year later in September 2025. App. 765–66, 1702.

9. After argument, the trial court consolidated J.C.H.'s claims with the four 5209 plaintiffs (H.E.B., E.C., A.B.E., and J.E.H.) for trial. App. 785, 1981–82. The court agreed with the plaintiffs that the standards governing consolidation for trial, Code § 8.01-267.1, had been met. App. 785, 1981–82.

10. The defendants filed a petition for interlocutory appeal, arguing that the circuit court erred in setting the consolidated trial. This Court denied the petition. *Cumberland Hosp., LLC v. K.E.E.*, No. 0783-24-2 (Va. Ct. App. Sept. 23, 2024) (order).

11. About a month before trial, the defendants filed yet another motion to prevent the consolidated trial. App. 806; *see* Supp. App. 104.

12. At a pretrial status conference, the parties agreed to reduce the number of plaintiffs in the first trial to ensure that the trial would not exceed the time allotted for it, with each side striking one of the original five plaintiffs. Supp. App. 135–37. The parties ultimately agreed to proceed to a consolidated trial with A.B.E., H.E.B., and E.C., three 5209 plaintiffs.

13. Trial began in September 2024. After the plaintiffs' case-in-chief, the trial court dismissed A.B.E., H.E.B., and E.C.'s claims against UHSI and UHS-D. App. 814. The remaining claims were submitted to the jury, and the jury returned verdicts for the three plaintiffs against Cumberland Hospital, Davidow, and Davidow's corporation. *See* App. 816–17, 822–23, 828–29.

14. On August 28, 2025, the court entered judgment orders for A.B.E., H.E.B., and E.C., awarding each more than $80,000,000 in damages. App. 816–18, 822–24, 828–30.

C. The parties schedule a second trial for three more plaintiffs.

15. After the first trial concluded, the plaintiffs moved to set a second trial for J.C.H. and J.E.H., the two plaintiffs who had been removed from the first trial, and a third plaintiff to be determined later. Supp. App. 363–64.

This made sense, the plaintiffs argued, because before J.C.H. and J.E.H. were removed from the first trial, the parties had started preparing for them to go to trial: Both girls had undergone a medical examination by the defendants' psychiatrist, their parents were deposed, and the parties had completed other discovery specific to them. *Id.*; Supp. App. 450.

16. On December 17, 2024, the trial court granted the motion and set a second trial for April 2026, to include J.C.H., J.E.H., and a third plaintiff to be chosen later. Supp. App. 454, 458, 477. In doing so, the trial court partially consolidated the two cases for trial, because J.E.H. is a 5209 plaintiff and J.C.H. is a 3616 plaintiff. The defendants did not file a petition for interlocutory appeal from that order.

17. Cumberland filed a motion, joined by UHSI and UHS-D, asking the trial court to "designate[]" "Plaintiff ACJ … as the third trial plaintiff" for the April 2026 trial and to enter a case management order to that effect. Supp. App. 482–83, 487, 490–91.

18. On October 29, 2025, the trial court granted that motion and entered a "case management and scheduling order pertaining to second consolidated trial." App. 842. The order explained that "J.C.H. and J.E.H." had been "designated" as trial plaintiffs "by prior order of th[e] Court," referring to the court's December 17, 2024 order. *Id.* And it "designate[d]

Plaintiff A.C.J. as the third trial plaintiff." *Id.* The order reiterated that the trial would begin on April 9, 2026. *Id.* That order further consolidated the two lawsuits because A.C.J. is a 5209 plaintiff and J.C.H. is a 3616 plaintiff. Again, the defendants chose not to file a petition for interlocutory appeal.

19. On April 8, 2026, the trial court determined that it could not go forward with an April trial because of delays resulting from this Court's stay orders, which were entered while the first set of appeals in this litigation was pending. App. 2668–69; *see infra* at 11. The trial court ordered "that the April trial dates be removed from the docket." App. 980. The court did not vacate or void its December 17, 2024 or October 29, 2025 orders consolidating J.C.H., J.E.H., and A.C.J.'s claims for the second trial. *See id.*

20. On April 14, 2026, the trial court entered an "amended case management and scheduling order pertaining to second consolidated trial." App. 982. That scheduling order recognized that, "[b]y prior orders of [the] Court," the trial court had "designated plaintiffs J.C.H., J.E.H. and A.C.J. as trial plaintiffs." *Id.* The order rescheduled the trial for August 2026. *Id.*

21. On April 24, 2026, UHS-D, UHSI, and Cumberland filed their petition for interlocutory appeal (Record No. 0722-26-2).[3] One week later,

[3] This petition for interlocutory appeal is the defendants' third. *See UHS-D v. K.E.E.*, No. 1774-23-2 (Va. Ct. App. Nov. 9, 2023) (order denying

Davidow filed a letter agreeing with the petition.

II. Background related to the second set of appeals (Record Nos. 0435-26-2, 0438-26-2, 0439-26-2, 0440-26-2, and 0441-26-2)

A. While this Court's stay order is pending, the trial court grants one plaintiff's nonsuit motion.

1. After the judgment orders from the first trial were entered, A.B.E., H.E.B., and E.C. appealed from those orders to this Court (Record No. 1681-25-2), challenging certain rulings adverse to them. Cumberland and Davidow also noted appeals from the judgment orders finding them liable (Record Nos. 1615-25-2 and 1655-25-2). UHS-D moved to dismiss the trial plaintiffs' appeal.

2. On December 10, 2025, this Court entered orders in two of the appeals, requiring the trial court "to stay all proceedings pending further order of this Court." *A.B.E. v. Universal Health Servs., Inc.*, No. 1681-25-2 (Va. Ct. App. Dec. 10, 2025) (corrected stay order); *Cumberland Hosp. v. E.C.*, No. 1615-25-2 (Va. Ct. App. Dec. 10, 2025) (corrected stay order).

3. On January 28, 2026, this Court lifted the stay order in Record No. 1681-25-2, the three trial plaintiffs' appeal, and granted UHS-D's motion to dismiss that appeal. *A.B.E. v. Universal Health Servs., Inc.*, No. 1681-25-2

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petition for interlocutory appeal); *Cumberland Hosp. v. K.E.E.*, No. 0783-24-2 (Va. Ct. App. Sept. 23, 2024) (same).

(Va. Ct. App. Jan. 28, 2026) (order) (App. 909–17). But the stay order in No. 1615-25-2, Cumberland's appeal, remained in place until this Court lifted the stay on February 18, 2026. *See Cumberland Hosp. v. E.C.*, No. 1615-25-2 (Va. Ct. App. Feb. 18, 2026) (order) (App. 919–20). On the same day that this Court entered its order in Record No. 1681-25-2 dismissing the first trial plaintiffs' appeal, Cumberland and Davidow each moved to dismiss their appeals, arguing that the order applied with equal force to their appeals.

4. Understanding that litigation was about to begin again in the trial court, both sides began submitting filings to that court, even though the proceedings remained stayed by order of this Court. Supp. App. 494–95, 499–510, 514–21, 526–30, 536–37.

5. On February 4, a single 5209 plaintiff, M.M., filed a motion for voluntary nonsuit, asking the circuit court to "enter an Order nonsuiting his claims … in accordance with Virginia Code § 8.01-380." Supp. App. 494–95.

6. The next day, February 5, the circuit court entered an order that "GRANTED" the single "Plaintiff's Motion for Nonsuit." App. 918. The court did not notify the parties that it had entered the order. *See* Supp. App. 541. The stay order entered in Cumberland's appeal remained in effect.

B. Both before and after the nonsuit order is entered, the defendants repeatedly argue that the trial court lacks jurisdiction and its actions are void ab initio.

7. During this time, the defendants repeatedly asserted that if the circuit court took any action—including granting the nonsuit motion—while the stay in Cumberland's appeal remained in effect, the court's action would be void ab initio because it lacked jurisdiction. App. 935 n.1, 942 n.2, 972, 974; Supp. App. 519–20 & n.6, 528, 537.

8. On February 18, at a hearing before the circuit court, the defendants again argued that if the trial court acted while the stay order was pending, "all your rulings are going to be void ab initio." App. 2363–33, 2635.

9. While that hearing was underway, this Court entered an order dismissing Cumberland's appeal and "lift[ing] the stay entered on December 16, 2025 so that the proceedings below may resume." App. 919–20; *see* App. 2650–52. The defendants' counsel immediately interpreted that order as vindicating their position, saying: "So up until right this very second, these proceedings have been stayed." App. 2652–53; *see* App. 2654–55.

10. On February 27, defense counsel became aware of the February 5 nonsuit order while reviewing the trial court's online tool for accessing court documents, OCRA. *See* Supp. App. 572. Defense counsel emailed plaintiffs' counsel on that day to alert them to the order, and suggested that the parties

file "a consent motion to vacate the [nonsuit] Order" because "the Stay was still in place on February 5th" when the nonsuit order was entered "and the Circuit Court lacked jurisdiction over the case at that time." *Id.*

11. Later that day, plaintiffs' counsel, by email, "suggest[ed]" raising the issue of the nonsuit order at the next hearing, so as to avoid any argument the plaintiffs had "tak[en] a tacit or implicit position on any motions or briefs to come" about the merits of the entry of the nonsuit order "by consenting to vacate the order." Supp. App. 571.

12. Defense counsel did not respond to that email. For weeks, the plaintiffs heard nothing from the defendants.

C. The defendants suddenly reverse course, claiming that the nonsuit order is a final order that dismissed all claims by all plaintiffs, and note appeals to this Court.

13. On March 9, the defendants noted their appeals from the trial court's February 5 nonsuit order. App. 921, 929, 935, 942.

14. The next day, March 10, the defendants filed a joint motion asking the trial court to hold the proceedings in abeyance. In an abrupt about-face, the defendants argued for the first time that "[t]he Nonsuit Order disposed of the entire 5209 and 3616 Actions" and "vacated all predecessor nonfinal orders—such as the three Judgment Orders, and the corresponding verdicts for A.B.E., H.E.B., and E.C." App. 954–55.

15. One day later, on March 11, the plaintiffs filed a motion asking the trial court to vacate the nonsuit order as void ab initio because it was entered while the stay was still in effect, as the "defendants themselves initially recognized and proposed" in their February 27 email. App. 960–62. The defendants opposed the motion. Supp. App. 555.

16. On March 25, the trial court held another hearing, where it rejected each of the defendants' new arguments. The court forcefully rejected the argument that the nonsuit order was a final order that somehow dismissed the entirety of the 5209 and 3616 actions, explaining that "this is a nonsuit order that affects one plaintiff … and no more." App. 2771, 2731.

17. The next day, the trial court denied the defendants' motion to hold proceedings in abeyance, finding that the nonsuit order "does not dismiss the entire CL20-5209 action; it merely dismisses Plaintiff M.M.'s claims." App. 975. And the court vacated the nonsuit order because it recognized that the order "was entered before the Court of Appeals' stay orders were lifted" and was hence "Void *Ab Initio*." App. 978.

STANDARDS OF REVIEW

Timeliness. This Court "always has jurisdiction to determine its own jurisdiction," and it assesses that issue *de novo*. *Rutter v. Oakwood Living Ctrs. of Va., Inc.*, 282 Va. 4, 13 (2011). If a petition for appeal is untimely,

this Court lacks active jurisdiction. *See Bd. of Supervisors of Fairfax Cnty. v. Bd. of Zoning Appeals of Fairfax Cnty.*, 271 Va. 336, 343–44, 347 (2006).

First Assignment of Error. "A decision to order separate trials or to consolidate claims for a single trial is a matter of procedure, left to the trial court's discretion." *Allstate Ins. Co. v. Wade*, 265 Va. 383, 392 (2003). This Court "will not alter" an order setting a consolidated trial "unless the trial court plainly abused its discretion." *Id.*

Second Assignment of Error. Whether the trial court had jurisdiction to enter its April 14, 2026 scheduling order is "a question of law" reviewed "*de novo*." *Minor v. Commonwealth*, 66 Va. App. 728, 738 (2016).

ARGUMENT

The petition for interlocutory appeal has a threshold issue that requires dismissal. It is untimely. This Court should not condone what the petitioners have done here: wait months beyond their deadline to file an interlocutory appeal of an order setting a consolidated trial, file an untimely petition, and demand that this Court intervene because that trial is quickly approaching.

In any case, the petitioners' assignments of error are meritless. As courts routinely hold in similar cases, consolidation is proper here because the sexual assaults were committed by the same perpetrator at the same facility under materially identical circumstances, even though the assaults

themselves were committed on different days. And the petitioners' jurisdictional argument fails because the improper interlocutory appeals from the nonsuit order did not divest the trial court of jurisdiction.

I. The petition should be dismissed as untimely.

Under the MCLA, this Court "in its discretion" may "permit an appeal to be taken … where the circuit court has ordered a consolidated trial of claims joined or consolidated pursuant to this chapter." Code § 8.01-267.8(A). But any such "[a]pplication for an appeal … shall be made within 10 days after the entry of the order." *Id.* § 8.01-267.8(C). The petitioners could have filed a petition for interlocutory appeal within ten days of December 17, 2024, when the trial court ordered a consolidated trial of J.C.H., J.E.H., and a third plaintiff to be determined later. Supp. App. 477. They declined to do so. Or the petitioners could have filed a petition within ten days of October 29, 2025, when the trial court "designate[d] Plaintiff A.C.J. as the third trial plaintiff" for the consolidated trial with J.C.H. and J.E.H. App. 842. Again, they declined to do so. Instead, the petitioners waited months to file their petition. Now, with trial scheduled for August 2026 and fast approaching, it is much too late.

As Virginia courts routinely hold, filing a timely petition for appeal "is a mandatory prerequisite to an appellate court acquiring jurisdiction over a

case." *Ghameshlouy v. Commonwealth*, 279 Va. 379, 390–91 (2010) (collecting cases). If a petitioner fails to file a timely petition, this Court's potential "subject matter jurisdiction" over a case does not ripen into "active jurisdiction," and the Court does not have "the power to adjudicate a particular case upon the merits." *Bd. of Supervisors of Fairfax Cnty. v. Bd. of Zoning Appeals of Fairfax Cnty.*, 271 Va. 336, 343–44, 381 (2006). Because the petitioners did not comply "with the rule involving the timely filing of a petition for appeal," this Court is "deprive[d]" of "active jurisdiction over the appeal" and must "dismiss[]" the petition. *Smith v. Commonwealth*, 281 Va. 464, 468 (2011); *see Ghameshlouy*, 279 Va. at 390.

It is black-letter law that untimely appeals must be dismissed for lack of jurisdiction. *See, e.g.*, *Smith*, 281 Va. at 468 (failure to timely file petition for appeal in Supreme Court warrants dismissal); *Super Fresh Food Markets of Va., Inc. v. Ruffin*, 263 Va. 555, 560, 563–64 (2002) (failure to timely notice appeal to Supreme Court warrants dismissal); *Williams v. Landon*, 1 Va. App. 206, 207–08 (1985) (failure to timely notice appeal to this Court warrants dismissal); *Bd. of Supervisors of Fairfax Cnty.*, 271 Va. at 346 (failure to timely file notice of appeal from certain agency actions warrants dismissal). The statutory time limit here is no different. *See* Code § 8.01-267.8(C) (using the mandatory "shall"). The petitioners' failure to comply

with the ten-day limitation thus requires this Court to dismiss the petition.

The petitioners make no effort to address this fatal deficiency. They recognize that the trial court "set[] a second consolidated jury trial, to occur in April 2026" with plaintiffs "J.C.H., J.E.H., and a third yet-to-be-identified plaintiff." Pet. 9 (discussing December 17, 2024 order, Supp. App. 477). And they acknowledge that the court entered an order "that identified A.C.J. as the third plaintiff." *Id.* (referring to October 29, 2025 order, App. 842.). Yet they do not explain why they failed to file their petition for appeal within ten days of either of those orders, as the MCLA requires.

Instead, the petitioners claim that the trial court "void[ed] the April trial" and then entered a "new consolidated trial order." Pet. 9 (citing App. 980–91). But that is not what happened. After this Court's stay orders from the first set of appeals were lifted in February 2026, the trial court observed that the parties were not prepared to go to trial in April. App. 2668–69. So, as a scheduling matter, the court "ORDER[ED] that the April trial dates be removed from the docket." App. 980. The court did not "void" its prior order consolidating J.C.H., J.E.H., and A.C.J.'s claims for trial. *See id.*

If there were any doubts about the status of the court's earlier orders, the very order that the petitioners purport to petition from would resolve them. *See* App. 982. That order, entered on April 14, does not say that the

court's prior orders consolidating J.C.H., J.E.H., and A.C.J.'s claims for trial were vacated or void. *Id.* To the contrary, it expressly acknowledges that "prior orders of this Court" had "designated plaintiffs J.C.H., J.E.H. and A.C.J. as trial plaintiffs." *Id.* And the title of the order makes clear that it is merely an "*Amended* Case Management and Scheduling Order" rescheduling the previously consolidated trial for August 2026. *Id.* (emphasis added).

The petitioners' position is untenable. It can't be that every time a trial court enters a scheduling order adjusting the date for a consolidated trial, the 10-day period for interlocutory appeals under Code § 8.01-267.8(C) is refreshed. *Cf. de Haan v. de Haan*, 54 Va. App. 428, 443 (2009) (rejecting interpretation of statute that "would compel this Court to repeatedly entertain [interlocutory appeals] and significantly delay the progress of the case at the trial level"). The petitioners' view does not comport with the text of the MCLA, which permits appeals only from "an order of a circuit court … where the circuit court has ordered a consolidated trial," not from orders rescheduling consolidated trials. Code § 8.01-267.8(A). And it flies in the face of "the strong policy considerations against frequent interlocutory appeal[s]." *de Haan*, 54 Va. App. at 443. The petitioners missed two potential bites at the apple; they cannot now manufacture a third one as the parties are just a few months out from trial. *See Avery v. Cnty. Sch. Bd. of*

Brunswick Cnty., 192 Va. 329, 333 (1951) (After a time limit for appeal expires, a respondent is "entitled to assume" there will not be an interlocutory appeal "and to act on that assumption.").[4]

II. The petitioners' assignments of error are meritless.

A. This Court should not grant review on the petitioners' first assignment of error.

The petitioners ask this Court to grant their petition for interlocutory appeal because, in their view, the MCLA's requirements governing consolidation for trial were not met. But to prevail on appeal, the petitioners must show that "the trial court plainly abused its discretion" in consolidating the claims under the MCLA. *Allstate*, 265 Va. at 392. They cannot do so.

Consolidating claims for trial under the MCLA requires three things: (1) the claims must "arise out of the same transaction, occurrence or series of transactions or occurrences"; (2) the claims must involve "common questions of law or fact" that "predominate and are significant to the actions"; and (3) consolidation must promote the efficient resolution of the

[4] UHSI also asks this Court (at 1 n.1) to grant the petition to consider the trial court's exercise of personal jurisdiction over it. But no statute authorizes this Court to review that holding in this interlocutory posture. *See* Code § 8.01-267.8 (authorizing discretionary interlocutory appeals from orders "where the circuit court has ordered a consolidated trial").

claims without prejudicing any party or violating their due-process rights. Code § 8.01-267.1. Each of these requirements is satisfied here.

1. The trial court did not plainly abuse its discretion in concluding that the claims arise out of the same series of transactions or occurrences.

a. As the trial court found, the first requirement is met because the three plaintiffs' claims arise out of the same "series of transactions or occurrences." Code § 8.01-267.1; App. 67, 1242**.** Each plaintiff alleges that they were sexually abused as minors by the same person (Davidow) in the same place (Unit 7B of Cumberland Hospital) in the same basic way (by touching their vaginal area during their admission to Cumberland). Each alleges that they suffered the same basic injury as a result (psychological trauma and emotional distress), and that this injury was also caused by common institutional negligence. And each plaintiff brings the same claims against the same defendants, based on the same theories of liability.

b. The petitioners contend that the first requirement is not met because J.C.H., J.E.H., and A.C.J. were "not admitted together" at Cumberland, and Davidow sexually abused them on "different dates." Pet. 10; *see* Pet. 16-20. But several Virginia courts have held that plaintiffs' claims arise from the same series of transactions or occurrences even if their injuries occurred at different times. In one of the first cases to interpret the

MCLA, Judge Lemons held that the claims of 27 plaintiffs—14 children and their parents—who were sexually abused at a church were properly consolidated even though each child alleged that they had been abused at different times. *Doe v. Bruton Par. Church*, 42 Va. Cir. 467, at *2 (1997). The court held that the claims "arose out of a series of transactions or occurrences set into motion by the hiring of [the alleged abuser] and ending with an alleged conspiracy by the Church to conceal his abuse." *Id.*; *see also In re Chinese Drywall Cases*, 80 Va. Cir. 69, at *1–2 (2010) (consolidating claims for trial even though plaintiffs suffered different injuries in different locations at different times). The petitioners simply ignore these cases.

The petitioners instead rely on *Branch v. Purdue Pharma, L.P.*, 64 Va. Cir. 159 (2004), but it is inapposite. There, plaintiffs who had each been prescribed OxyContin by different doctors sued the drug's manufacturer and their doctors. The court held that consolidation was improper because each plaintiff brought claims based on "an intervening act by their individual physician." *Id.* at *1. There is no analogous intervening act here. Each of the three plaintiffs brings claims based on sexual assault committed by the same person (Davidow) and a scheme of ignoring or covering up the abuse by the same institutional defendants.

Other jurisdictions, interpreting the same "series of transactions or

occurrences" language, routinely reach the same result.[5] For example, in *B.A. v. Bohlmann*, 2009 WL 3270124 (W.D. Wis. 2009), five plaintiffs alleged that a doctor had "sexually assaulted them while performing medical examinations on them," and that institutional defendants "knew about the risk of sexual assault and failed to protect" against it. *Id.* at *1. Even though "each medical examination was separate," the court permitted the claims to be joined because they arose out of "a single 'series' of transactions: [the doctor's] allegedly sexually improper behavior during medical examinations and the remaining defendants' alleged failure to adequately respond." *Id.* Similarly, in *Phillips v. Berkeley Unified School District*, 2022 WL 3133848 (N.D. Cal. 2022), the court permitted joinder of eight women who alleged sexual improprieties by the same teacher at different times. Their claims arose from the same series of occurrences because they "were all sexually harassed or assaulted while they were students at Berkeley High by the same perpetrator." *Id.* at *2.[6] The trial court did not abuse its discretion in finding

[5] *See Supplemental Report of Committee on Mass Claims Litigation*, Boyd-Graves Conference at 38 (1994), https://perma.cc/T4LU-LQ9L (explaining that language was "borrow[ed]" from "the statutes" of other jurisdictions).

[6] Many other cases are in accord. *See, e.g.*, *Mascia v. Solhjoo*, 2006 WL 574192, at *2–3 (Conn. Super. Ct. 2006) (permitting joinder of employees' sexual harassment claims even though they did not work at the defendant

the same here. *See* App. 68–69 (relying on *Bruton Par.*, 42 Va. Cir. 467).

As against these cases, the petitioners cite no example of any court finding to the contrary—much less an appellate decision holding that such a conclusion would constitute a plain abuse of discretion. Instead, the petitioners simply assert that the "same series" language requires that the plaintiffs' claims "must arise together from the identical set of operative facts." Pet. 16. But they cite no case from any court that has ever imposed such a stringent requirement. And it has never been the law. Federal courts have rejected that reading for over 50 years, and no Virginia case provides any support for it. *See, e.g.*, *Mosley v. Gen. Motors Corp.*, 497 F.2d 1330, 1333 (8th Cir. 1974) ("Absolute identity of all events is unnecessary."). As a result, the petitioners cannot show that the trial court plainly abused its discretion in finding that the MCLA's first requirements is satisfied.[7]

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company at the same time, because they alleged "a common scheme"); *Ardolf v. Weber*, 332 F.R.D. 467, 480 (S.D.N.Y. 2019) (permitting joinder of claims by models against photographer who molested them at different times and locations because he "subjected them to the same *modus operandi* to molest them"); *Macias v. Lange*, 2016 WL 8999479, at *1 (S.D. Cal. 2016) (tenants could be joined in suing landlord even though they were sexually harassed at different times and locations); *Geir v. Educ. Serv. Unit No. 16*, 144 F.R.D. 680, 688–89 (D. Neb. 1992) (claims of seven students who sued a school for abuse arose from the same series of transactions or occurrences even though the students "may not have attended the school simultaneously or alleged assaults by the same school employees on the same dates").

[7] Nor does the petitioners' argument (at 17–18) about the accrual rules

2. The trial court did not plainly abuse its discretion in concluding that significant common questions of law and fact predominate.

Now turn to the second requirement—that that there be significant common questions of law or fact that predominate. The petitioners again focus on the different dates on which each plaintiff was assaulted. But they ignore the predominating legal and factual questions. *See* App. 67–68, 518.

As just one example, take the plaintiffs' breach-of-duty claims. Each plaintiff alleges that the defendants breached various duties, including the common law duty of care, the duty arising from special relationship, assumed duty of care, and the duty arising from Code § 37.2-400. The questions of whether and which defendants owed those duties to the plaintiffs are significant questions common to all three plaintiffs.

Other common questions of law and fact include the following: Did Davidow have a *modus operandi* to sexually abuse minors during their initial physical examination? Did Davidow have dangerous propensities? Was

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hold water. The petitioners cite no case from any court holding that claims cannot have arisen out of the same series of transactions or occurrences if the claims accrued at different times. Indeed, the only case they cite simply held, for res judicata purposes, that a claim that had not accrued at the time of a first lawsuit could be brought in a second lawsuit. *Allstar Towing, Inc. v. City of Alexandria*, 231 Va. 421, 425 (1986). That case did not consider or interpret the meaning of the language in the MCLA: whether the claims arose out of the same series of transactions or occurrences. Code § 8.01-267.1(1).

Davidow acting in the scope of his employment? Did Cumberland have knowledge of Davidow's dangerous behavior? Was Cumberland negligent in retaining him? Did the institutional defendants engage in a scheme to conceal or ignore the abuse allegations? Did they engage in a common scheme in violation of the Virginia Consumer Protection Act?

Each of these questions is common and will be established by common proof at trial, including testimony by the same witnesses. And that same proof would be put on by the plaintiffs whether they proceeded to trial individually or together. App. 1227–34; *See Bond v. Baker Roofing Co.*, 81 Va. Cir. 439, at *7 (2010) (permitting consolidation because "the same evidence, expert witnesses, proof, and testimony, in six separate trials … would result in unnecessary repetition and delay"). Indeed, even the testimony of individual plaintiffs would likely be replicated in trials for the other plaintiffs, because multiple plaintiffs would testify in support of the claims raised by their fellow plaintiffs. Taken together, these common questions are significant, and they easily predominate. Thus, just as Judge Lemons found that common questions predominated in an analogous sexual-assault case, the same conclusion is warranted here. *See Bruton Par.*, 42 Va. Cir. at *2.

The petitioners argue that the predominance requirement isn't met

because whether each plaintiff was sexually assaulted by Davidow is an individualized question that precludes a finding of predominance. But they cite no Virginia case in support of that argument, and none of the federal cases that they cite (interpreting similar language for certifying a class action) support their position either. The federal cases petitioners cite arise in the class action context, where predominance is about "the relation between common and individual questions in a case." *Tyson Foods, Inc. v. Bouaphakeo*, 577 U.S. 442, 453 (2016). But even in that different context, the predominance requirement "does *not* require a plaintiff seeking class certification to prove that each 'element of her claim is susceptible to [common] proof.'" *Amgen Inc. v. Conn. Ret. Plans & Tr. Funds*, 568 U.S. 455, 469 (2013) (cleaned up). Because the inquiry is "qualitative rather than quantitative," *Ebert v. Gen. Mills, Inc.*, 823 F.3d 472, 478 (8th Cir. 2016), it is satisfied "even if just one common question predominates," *In re Hyundai & Kia Fuel Econ. Litig.*, 926 F.3d 539, 557 (9th Cir. 2019) (en banc).

That is the case here. Although there may be some factual differences between the plaintiffs, those questions do not predominate over the many legal and factual common issues described above. The trial court did not plainly abuse its discretion in rejecting the petitioners' arguments.

3. The trial court did not plainly abuse its discretion in concluding that a consolidated trial will not prejudice the petitioners.

The last requirement is that consolidation promote the ends of justice and efficiency without violating due process or prejudicing any "party's right to a fair and impartial resolution of each action." Code § 8.01-267.1. The petitioners contend (at 26–28) that this requirement isn't satisfied here because a consolidated trial, though more efficient, poses "too great a risk of prejudice" to the defendants—namely, juror "passion" and "confusion."

The trial court did not abuse its discretion in rejecting this argument. Even if the cases were not consolidated for trial, a jury would likely still hear testimony from multiple plaintiffs at each individual trial. And either way, the defendants will have "the opportunity to address each plaintiff's claims independently." *Campbell v. Bos. Sci. Corp.*, 882 F.3d 70, 75 (4th Cir. 2018). So there is no prejudice to the defendants simply because the plaintiffs will testify against them. *See C.R. v. Massage Luxe Int'l*, No. CL22-579 (Cir. Ct. Nov. 22, 2022) (ordering a consolidated trial and rejecting the argument that evidence of six separate alleged sexual assaults would improperly bolster each plaintiff's claims and prejudice the defendants).

Moreover, the trial court may "limit any potential jury confusion or prejudice resulting from the consolidation" as the trial unfolds. *Campbell*,

882 F.3d at 74. "Any dangers of prejudice arising from joinder [may be] adequately addressed by the trial court's instructions to the jury to consider each Plaintiff's claim separately." *Ingham v. Johnson & Johnson*, 608 S.W.3d 663, 685 (Mo. Ct. App. 2020). And the court may use "special interrogatories … for each plaintiff," if necessary, to "promote independent review of each case." *Campbell*, 882 F.3d at 75; *see* Code § 8.01-267.6.

Federal courts, in considering whether to consolidate claims under Federal Rule of Civil Procedure 42(a), routinely reach the same conclusion as the court below. And federal appellate courts consistently affirm those consolidation orders even when a jury later awards identical damages to each plaintiff, as the jury did in the first consolidated trial. The Eighth Circuit, for example, upheld a consolidation order and a jury award for three plaintiffs who were sexually assaulted by a prison guard. The court found "no abuse of discretion in consolidating plaintiffs' actions for trial, as consolidation promoted judicial efficiency and outweighed the minimal prejudice to [the guard], and as the identical damages awarded to each plaintiff were insufficient to show jury confusion." *Keil v. Bearden*, 2023 WL 2531867, at *1 (8th Cir. 2023). Other circuits have unanimously—and "easily"—held the same, even with identical damages awards. *J.K.J. v. Polk Cnty.*, 960 F.3d 367, 376–77 (7th Cir. 2020) (en banc); *see also Eghnayem v. Bos. Sci. Corp.*,

873 F.3d 1304, 1315 (11th Cir. 2017). The petitioners' appeals to prejudice and juror confusion cannot be reconciled with these cases.

4. The trial court was not required to make written findings.

Citing nothing, the petitioners further assert (at 14) that the trial court erred because it did not make express findings that the MCLA's consolidation standards were satisfied. As a threshold matter, it makes sense that the trial court did not make those findings in the order that the petitioners appeal from, because that order was a scheduling order, not a consolidation order. *See* App. 982. And in any case, the petitioners are wrong about the law. "In Virginia, a trial court has no common law duty to explain in any detail the reasoning supporting its judgments." *Pilati v. Pilati*, 59 Va. App. 176, 180 (2011). Trial courts are only required to make express "findings of fact and conclusions of law" if there is "a statutory requirement to do so." *Lisann v. Lisann*, 304 Va. 242, 260 (2025). The MCLA does not contain such a requirement. *See* Code § 8.01-267 *et seq*.

Trial courts are required to articulate their findings only if a statute contains an "express directive" to do so; an "oblique reference" is not enough. *Lisann*, 304 Va. at 261. In enacting the MCLA, the General Assembly could have included such an express directive, as it has elsewhere in the Court of

Virginia. *See, e.g.*, Code § 20-107.1(F) (An order "shall be accompanied by written findings and conclusions of the court."); Code § 8.01-654(B)(5) ("The court shall give findings of fact and conclusions of law … to be made a part of the record.") Code § 64.2-2007 ("The court in its order shall make specific findings of fact and conclusions of law."). The MCLA contains no similar requirement. *Compare* Code § 8.01-267.3, *with Morrissey v. Va. State Bar ex rel. Third Dist. Comm.*, 297 Va. 467, 475 & n.2 (2019). And regardless, the trial court in this case has repeatedly found that the MCLA's requirements are satisfied here. *See* App. 67–69, 518, 1981–82, 1242.

B. This Court should not grant review on the petitioners' second assignment of error.

The petitioners claim that the order rescheduling the April 2026 trial to August 2026 was entered without jurisdiction because (in their view) the second set of appeals divests the trial court of jurisdiction. But those appeals (Nos. 0435-26-2, 0438-26-2, 0439-26-2, 0440-26-2, and 0441-26-2) are premised entirely on the trial court's February 5, 2026 order nonsuiting plaintiff M.M.'s claims. As explained in the respondents' opposition to the motion to stay, filed May 18, 2026, and incorporated here by reference, that order is not a final, appealable order, so the appeals from it did not divest the trial court of jurisdiction. *See* Rule 1:1C (explaining that trial courts retain

"concurrent jurisdiction" in "any" appeal of an interlocutory order).

First, as the defendants repeatedly recognized below, and as the trial court agreed, the nonsuit order is void ab initio because it was entered while this Court's stay in Cumberland's appeal (Record No. 1615-25-2) was still in place. Because of the pending stay, the trial court had "no power to render" that order or any other, so it "is void *ab initio*." *Singh v. Mooney*, 261 Va. 48, 51–52 (2001). The trial court itself recognized that the nonsuit order was void ab initio and vacated it on that basis. App. 978.[8]

The petitioners know that the nonsuit order is void ab initio. For months, that was their position below, and they expressly stated that any argument to the contrary was so devoid of support that it would warrant sanctions. *See* App. 935 n.1, 942 n.2, 972, 974, 2632–33, 2635, 2652–53; Supp. App. 519–20 & n.6, 528, 537. But once the petitioners realized that they might be able to secure a strategic advantage—further delaying the trial of three sexual-abuse victims who have already waited years for their day in court—they argued for the first time that the parties "ha[d] not shown that

[8] Though this Court need not rely on the trial court's vacatur to deny the stay motion here, the petitioners' argument (at 29) that the trial court could not vacate the nonsuit order because Rule 1:1's 21-day period had expired is wrong. Rule 1:1's 21-day period "does not apply to a motion to vacate … on the ground that [an order] was void ab initio." *Bonanno v. Quinn*, 299 Va. 722, 736–37 (2021).

the Nonsuit Order is void ab initio." Supp. App. 563–64. But the "ancient" doctrine of approbate-reprobate "forbids" parties from "talk[ing] through both sides of [their] mouth" "depending on their perceived self-interests." *Page v. Portsmouth Redevelopment & Hous. Auth.*, 303 Va. 259, 267 (2024). As a result, the petitioners' newfound position (at 28–29) that the nonsuit order is actually *not* void ab initio, but is instead a valid final order from which an appeal divests the trial court of jurisdiction, is "waived." *Amazon Logistics, Inc. v. Va. Emp. Comm'n*, 304 Va. 107, 114–15 (2025).

Second, even if the nonsuit order were not void ab initio, it still would not be a final, appealable order. A nonsuit order that merely resolves the claims brought by one plaintiff is not a final order. App. 915 (explaining a final order renders "final dispositions on *all* pending claims").

The petitioners argue (at 28) that the nonsuit order "facially can be read as dismissing at least the *K.E.E.* Action." But the nonsuit order does not do that. By its own terms, it merely "GRANT[S]" M.M.'s "Motion for Nonsuit." App. 918. And that motion, of course, did not ask the trial court to nonsuit all the claims brought by all the plaintiffs. Supp. App. 494–95. The motion, submitted by "M.M., By and Through his Next Friend and Mother, M.E.M.," asked the trial court only to "enter an Order nonsuiting *his* claims." *Id.* (emphasis added). The motion was not submitted on behalf of any other

plaintiffs, nor did it ask the trial court to act with respect to any other plaintiffs. *See id.* And no authority, statutory or otherwise, would even permit M.M. to involuntarily nonsuit claims brought by other parties; indeed, plaintiffs are not even permitted to nonsuit their *own* claims if an opposing party has filed a counterclaim. *See* Code § 8.01-380(D). So, an order granting a single plaintiff's nonsuit motion can only do what that plaintiff had the authority to ask for—nonsuit *his* claims.

And if there were any doubt about the meaning of the nonsuit order remaining, the trial court made clear what it meant: The nonsuit order "affects one plaintiff and one case and no more"; it is merely "a nonsuit of M.M.'s involvement in that case 5209." Supp. App. 586, 589; *see Hill v. Commonwealth*, 301 Va. 222, 226 n.1 (2022) ("We defer to the court's interpretation of its own order.").

III. This Court should not stay the trial court's order rescheduling the April 2026 trial to August.

The petitioners do not explain why this Court should stay the trial court's scheduling order where they waited months to file their untimely petition. For the reasons set out in the respondents' response in opposition to the stay motion, this Court should deny the petitioners request for a stay.

CONCLUSION

The petition and request for a stay should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

1. I certify that on May 22, 2026, I filed the forgoing motion with this Court through VACES.
2. The Parties to this action are:
    a. Petitioners: Cumberland Hospital, LLC, UHS of Delaware, Inc., and Universal Health Services, Inc.
    b. Respondents-Plaintiffs: A.B.; A.B.E.; A.C.J.; A.J.S. (By next friend and grandmother A.A.S.); B.C.P.; B.E.J. (By and through next friend and mother S.L.R.); C.L.K.; C.T.K. (By next friend and mother J.K.); D.T.A.; D.W.S.; E.C.; G.K.; H.E.B.; H.G.B. (By next friend and mother G.L.B.); H.N.M.; H.W. (By and through next friend and mother D.S.); J.A.H. (By next friend and mother S.M.H.); J.C.H.; J.E.H.; J.H.W. (By and through next friend and father R.L.H.); J.I.L; J.L.E.; J.S.S.; K.A.M. (By next friend and mother S.M.M.).; K.E.E.; K.E.H. (By next friend and mother F.E.H.); K.M.; K.M.J.; K.P.S.; K.T.; Kathleen Nevins, conservator of the person of M.J.M., and John Morelli and Catherine Morellim co-conservators of the estate of M.J.M, Incapacitated; L.G.C.; M.A.M.; M.J.M.; M.M. (By next friend and mother S.E.M.); M.M.A.; M.O.; O.L.H.; O.M.F.; S.M.F.; S.N.R.

c. Respondents-Defendants: Daniel N. Davidow, M.D. and Daniel N. Davidow, M.D., P.C.

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4. I certify that this document complies with the requirements of the Rules of the Supreme Court of Virginia, and with Rule 5A:12(d)'s word count limit because this brief in opposition does not exceed the longer of 35 pages or 7,500 words.

/s/*Kevin Biniazan*
Kevin Biniazan

EXHIBIT A

VIRGINIA:

IN THE CIRCUIT COURT FOR THE CITY OF VIRGINIA BEACH

C.R. (Fictitious Name),
Plaintiff,
v.
MASSAGE LUXE INTERNATIONAL, LLC, *et al.*,
Defendants.

Civil Case No. CL22-579

M.D. JANE DOE,
Plaintiff,
v.
MASSAGE LUXE INTERNATIONAL, LLC, *et al.*,
Defendants.

Civil Case No. CL22-578

DAWN BROKER,
Plaintiff,
v.
MASSAGE LUXE INTERNATIONAL, LLC, *et al.*,
Defendants.

Civil Case No. CL22-580

MONICA B. CLAYTON,
Plaintiff,
v.
MASSAGE LUXE INTERNATIONAL, LLC, *et al.*,
Defendants.

Civil Case No. CL22-581

C.H.W.,
Plaintiff,
v.
MASSAGE LUXE INTERNATIONAL, LLC, *et al.*,
Defendants.

Civil Case No. CL22-2501

D.L.,
Plaintiff,
v.
MASSAGE LUXE INTERNATIONAL, LLC, *et al.*,
Defendants.

Civil Case No. CL22-2502

ORDER ON PLAINTIFFS' MOTION TO CONSOLIDATE

This matter came before the court on September 14, 2022, on Plaintiffs' Motions to Consolidate:

- C.R. (Fictitious Name) v. Massage Luxe International, LLC, *et al.*, Case No. CL22-579;
- M.D. Jane Doe v. Massage Luxe International, LLC, *et al.*, Case No. CL22-578;
- Dawn Broker v. Massage Luxe International, LLC, *et al.*, Case No. CL22-580;
- Monica B. Clayton v. Massage Luxe International, LLC, *et al.*, Case No. CL22-581;
- C.H.W. v. Massage Luxe International, LLC, *et al.*, Case No. CL22-2501; and
- D.L. v. Massage Luxe International, LLC, *et al.*, Case No. CL22-2502.

Upon consideration of Plaintiffs' Motions and Briefs in Support, Defendants' Responses and Briefs in Opposition, and argument of counsel, this Court FINDS that these six actions involve common questions of law or fact and arise out of the same transaction, occurrence, or series of transactions or occurrences; these common questions of law or fact predominate and are significant to the actions; and consolidation will promote the ends of justice and the just and efficient conduct and disposition of the actions, is consistent with each party's right to due process of law, and does not prejudice each individual party's right to a fair and impartial resolution of each action.

This Court, hereby, GRANTS Plaintiffs' Motions to Consolidate and ORDERS that these actions be consolidated for pretrial discovery and trial pursuant to Virginia Code § 8.01-267.1 et seq. SUBJECT TO OBJECTIONS RAISED BY DEFENDANT ROBINSON. THIS ORDER IS WITHOUT PREJUDICE TO DEFENDANT ROBINSON.

IT IS FURTHER ORDERED that, as of November 22, 2022, all parties and the Clerk's Office shall file all pleadings in these consolidated matters under Case Number CL22-579.

11/22/2022

IT IS FURTHER ORDERED that, pursuant to Virginia Code § 8.01-267.1, Kevin Biniazan of Breit Biniazan, PC, is appointed as Plaintiffs' lead counsel.

The Clerk of this Court is directed to certify a copy of this Order for each counsel of record.

11/22/2022

JUDGE

ENTERED

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 11/22/2022

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