

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

DAVID F. EVANS, et al.,

Plaintiffs,

v.

CITY OF DURHAM, N.C., et al.,

Defendants.

Case No. 1:07CV739

**JOINT MOTION OF ALL PARTIES TO EXTEND PAGE LIMITATIONS
AND ESTABLISH BRIEFING SCHEDULE**

The parties respectfully move this Court for leave to exceed the page limitations set forth in Local Rule 7.3 and to establish a briefing schedule for Defendants' anticipated motions to dismiss.¹ In support of this Motion, the parties state as follows:

1. On October 5, 2007, Plaintiffs filed their Complaint in the above-captioned matter. The Complaint is 148 pages in length, consists of 559 paragraphs, and alleges 22 causes of action.
2. As of November 13, 2007, the following Defendants or groups of Defendants had retained separate counsel to represent them in this matter:
 - a. The City of Durham;
 - b. Michael B. Nifong;
 - c. Mark Gottlieb;

¹ Defendant Linwood Wilson has not yet retained counsel, but he has reviewed and approved this Joint Motion and also consents to the relief requested herein.

- d. Benjamin Himan;
- e. David Addison;
- f. Steven Chalmers, Beverly Council, Ronald Hodge, Jeff Lamb, Stephen Mihaich, Michael Ripberger, and Lee Russ (collectively, the “Supervisory Defendants”);
- g. DNA Security, Inc. and Richard Clark; and
- h. Brian Meehan.

As of November 13, 2007, Defendant Linwood Wilson had not yet retained counsel.

2. On November 13, 2007, the parties’ counsel conferred by telephone, with Defendant Linwood Wilson participating *pro se*. During this conference, Defendants’ counsel stated their intention to file motions to dismiss on behalf of their respective clients.

3. Due to the length of the Complaint and the number of causes of action alleged therein, Defendants have requested and Plaintiffs consent, subject to the Court’s approval, that each of the Defendants or groups of Defendants enumerated below should have up to 50 pages to brief their respective motions to dismiss, and up to 25 pages to brief their respective reply memoranda:

- a. The City of Durham;
- b. Michael B. Nifong;
- c. Mark Gottlieb;
- d. Benjamin Himan;
- e. David Addison;
- f. Linwood Wilson;
- g. The Supervisory Defendants;
- h. DNA Security, Inc. and Richard Clark; and
- i. Brian Meehan.

4. In return, the parties have agreed, subject to the Court's approval, that the Plaintiffs may have up to 50 pages to respond to each motion to dismiss. Plaintiffs would prefer to address Defendants' arguments as efficiently as possible for the Court and, to that end, may file a consolidated opposition brief or a combination of a consolidated brief and individual briefs, but having not yet seen Defendants' motions, Plaintiffs cannot yet determine whether and to what extent they can do so. Therefore, the parties have also agreed, subject to the Court's approval, that Plaintiffs may have in excess of 50 pages for a consolidated brief that responds to common issues and/or multiple motions, so long as no more than 50 pages of briefing are devoted to arguments exclusively raised by a single Defendant's or group of Defendants' motion.

5. To accommodate the number and length of Defendants' anticipated motions to dismiss, the parties have agreed, subject to the Court's approval, to the following briefing schedule:

- a. Motions or answers due: January 15, 2008;
- b. Opposition(s) due: 90 days after filing of Motions; and
- c. Replies due: 30 days after filing of Opposition(s).

WHEREFORE, the parties respectfully request that the Court approve the requested page limitations and briefing schedule. A proposed order is attached.

Dated: November 27, 2007

Respectfully submitted,

WILLIAMS & CONNOLLY LLP

By: /s/ Charles Davant IV
Brendan V. Sullivan, Jr.*
Robert M. Cary*
Christopher N. Manning*
Charles Davant IV
North Carolina Bar #28489
725 Twelfth Street, N.W.
Washington, D.C. 20005
Tel. (202) 434-5000
Email cmanning@wc.com
Email cdavant@wc.com

Attorneys for Plaintiffs
David F. Evans and Collin Finnerty

(* admitted *pro hac vice*)

RUDOLF WIDENHOUSE & FIALKO

By: /s/ David S. Rudolf
David S. Rudolf
North Carolina Bar #8587
312 West Franklin Street
Chapel Hill, NC 27516
Tel. (919) 967-4900
Email dsrudolf@rwf-law.com

BARRY C. SCHECK, ESQ.

Barry C. Scheck*
Attn: Elizabeth Vaca
100 Fifth Avenue
New York, NY 10011
Tel. (212) 364-5390
Email bcsinnocence@aol.com

(* motion for special appearance
to be filed forthwith)

**EMERY CELLI BRINCKERHOFF &
ABADY LLP**

Richard D. Emery*
75 Rockefeller Plaza, 20th Floor
New York, NY 10019
Tel. (212) 763-5000
Fax. (212) 763-5001
Email remery@ecbalaw.com

(* motion for special appearance
to be filed forthwith)

Attorneys for Plaintiff Reade Seligmann

FAISON & GILLESPIE

By: /s/ Reginald B. Gillespie, Jr.
Reginald B. Gillespie, Jr.
North Carolina Bar #10895
5517 Durham Chapel Hill Boulevard
Suite 2000
Durham, N.C. 27727-1729
Tel. (919) 489-9001
Fax (919) 489-5774
Email rgillespie@faison-gillespie.com

STEPTOE & JOHNSON

Roger E. Warin*
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036
Tel. (202) 429-6280
Fax (202) 429-3902
Email rwarin@steptoe.com

(* motion for special appearance
to be filed forthwith)

Attorneys for Defendant City of Durham, N.C.

JAMES B. CRAVEN III, ESQ.

By: /s/ James B. Craven III
James B. Craven III
North Carolina Bar #997
P.O. Box 1366
Durham N.C. 27702
Tel. (919) 688-8295
Fax (919) 688-8295
Email jbc64@mindspring.com

Attorney for Defendant Michael Nifong

POYNER & SPRUILL LLP

By: /s/ Edwin M. Speas, Jr.
Edwin M. Speas, Jr.
North Carolina Bar #4112
P.O. Box 10096
Raleigh, N.C. 27605-0096
Tel. (919) 783-6400
Fax (919) 783-1075
Email espeas@poynerspruill.com

Attorney for Defendant Mark Gottlieb

**KENNON, CRAVER, BELO, CRAIG &
McKEE, PLLC**

By: /s/ Joel M. Craig
Joel M. Craig
North Carolina Bar #9179
4011 University Dr., Suite 300
P.O. Box 51579
Durham, N.C. 27717-1579
Tel. (919) 490-0500
Fax (919) 490-0873
Email jrcraig@kennoncraver.com

Attorney for Defendant Benjamin Himan

MAXWELL FREEMAN & BOWMAN, P.A.

By: /s/ James B. Maxwell
James B. Maxwell
North Carolina Bar #2933
P.O. Box 52396
Durham, N.C. 27717-2396
Tel. (919) 493-6464
Fax (919) 493-1218
Email jmaxwell@mfbpa.com

Attorney for Defendant David Addison

TROUTMAN SANDERS LLP

By: /s/ Patricia P. Kerner

Patricia P. Kerner
North Carolina Bar #13005
434 Fayetteville Street, Suite 1900
Raleigh, N.C. 27601
Tel. (919) 835-4117
Fax (919) 829-8714
Email tricia.kerner@troutmansanders.com

*Attorney for Defendants Steven Chalmers
Beverly Council, Ronald Hodge,
Jeff Lamb, Stephen Mihaich, Michael
Ripberger, and Lee Russ*

**BROOKS PIERCE McLENDON
HUMPHREY & LEONARD**

By: /s/ Kearns Davis

Robert J. King III
North Carolina Bar #15946
Kearns Davis
North Carolina Bar #22014
P.O. Box 26000
Greensboro, N.C. 27420
Tel. (336) 373-8850
Fax (336) 378-1001
Email rking@brookspierce.com
Email kdavis@brookspierce.com

*Attorneys for Defendants DNA Security
and Richard Clark*

**OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.**

By: /s/ Nicholas J. Sanservino, Jr.

Bob Sar
North Carolina Bar #36557
Nicholas J. Sanservino, Jr.
North Carolina Bar #22306
P.O. Box 31608 (27622)
2301 Sugar Bush Road, Suite 600
Raleigh, N.C. 27612
Tel. (919) 787-9700
Fax (919) 783-9412
Email Bob.Sar@ogletreedeakins.com,
Nicholas.Sanservino@ogletreedeakins.com

Attorneys for Defendant DNA Security

LEWIS & ROBERTS PLLC

By: /s/ Paul R. Dickinson Jr.

James A. Roberts, III
North Carolina Bar #10495
Paul R. Dickinson Jr.
North Carolina Bar #20510
1305 Navaho Drive, Suite 400
Raleigh, N.C. 27605-7482
Tel. (919) 981-0191
Fax (919) 981-0199
Email jimroberts@lewis-roberts.com
Email pauldickinson@lewis-roberts.com

Attorneys for Defendant Brian Meehan

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DAVID F. EVANS, et al.,

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CERTIFICATE OF SERVICE

I hereby certify that, on November 27, 2007, I electronically filed the foregoing **JOINT MOTION OF ALL PARTIES TO EXTEND PAGE LIMITATIONS AND ESTABLISH BRIEFING SCHEDULE** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

James B. Craven III
340 West Main Street
P.O. Box 1366
Durham, N.C. 27702

Counsel for Michael B. Nifong

Reginald B. Gillespie, Jr.
FAISON & GILLESPIE
5517 Durham-Chapel Hill Blvd., Ste.
2000
P.O. Box 51729
Durham, N.C. 27717-1729

*Counsel for Defendant City of Durham,
N.C.*

Joel M. Craig
KENNON CRAVER BELO CRAIG &
MCKEE, PLLC
4011 University Drive, Suite 300
P.O. Box 51579
Durham, N.C. 27717-1579

Counsel for Defendant Benjamin Himan

James B. Maxwell,
MAXWELL, FREEMAN & BOWMAN,
P.A.
P.O. Box 52396
Durham, N.C. 27717-2396

Counsel for Defendant David Addison

Edwin M. Speas
POYNER & SPRUILL, LLP
3600 Glenwood Avenue
Raleigh, N.C. 27612

Counsel for Defendant Mark Gottlieb

Patricia P. Kerner
TROUTMAN SANDERS LLP
434 Fayetteville Street, Suite 1900
Raleigh, N.C. 27601

*Counsel for Defendants Steven
Chalmers, Beverly Council, Ronald
Hodge, Jeff Lamb, Stephen Mihaich,
Michael Ripberger, and Lee Russ*

Robert A. Sar
Nicholas J. Sanservino, Jr.
OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
2301 Sugar Bush Road
Suite 600
Raleigh, NC 27612

Counsel for Defendant DNA Security

Robert J. King III
Kearns Davis
BROOKS, PIERCE, McLENDON,
HUMPHREY & LEONARD, LLP
2000 Renaissance Plaza
Post Office Box 26000
Greensboro, North Carolina 27420

*Counsel for Defendant DNA Security,
Inc. & Richard Clark*

David S. Rudolf
RUDOLF WIDENHOUSE & FIALKO
312 West Franklin Street
Chapel Hill, NC 27516

Counsel for Plaintiff Reade Seligmann

I further certify that I caused the foregoing document to be served by first-class mail,
postage prepaid, to the following non CM/ECF participants:

Roger E. Warin
STEPTOE & JOHNSON LLP
1330 Connecticut Ave. N.W.
Washington, D.C. 20036

*Counsel for Defendant City of Durham,
N.C.*

Paul R. Dickinson, Jr.
LEWIS & ROBERTS PLLC
5960 Fairview Rd., Ste. 102
Charlotte, N.C. 28210-3103

James A. Roberts, III
LEWIS & ROBERTS PLLC
1305 Navaho Drive, Suite 400
Raleigh, N.C. 27609-7482

Counsel for Defendant Brian Meehan

Linwood Wilson
6910 Innesbrook Way
Bahama, N.C. 27503-9700

Pro se

Barry C. Scheck
100 Fifth Avenue
New York, NY 10011

Richard D. Emery
EMERY CELLI BRINCKERHOFF &
ABADY LLP
75 Rockefeller Plaza, 20th Floor
New York, NY 10019

Counsel for Plaintiff Reade Seligmann

Respectfully submitted,

/s/ Charles Davant IV
Charles Davant IV (N.C. Bar No. 28489)
WILLIAMS & CONNOLLY LLP
725 Twelfth Street, N.W.
Washington, D.C. 20005
Tel. (202) 434-5000
Email: cdavant@wc.com

*Attorney for Plaintiffs David F. Evans and
Collin Finnerty*