

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

DAVID F. EVANS, COLLIN FINNERTY, )  
 and READE SELIGMANN, )

Plaintiffs, )

v. )

Case No. 1:07-CV-00739

THE CITY OF DURHAM, NORTH )  
 CAROLINA, MICHAEL B. NIFONG, MARK )  
 GOTTLIEB, BENJAMIN HIMAN, DAVID )  
 ADDISON, LINWOOD WILSON, PATRICK )  
 BAKER, STEVEN CHALMERS, BEVERLY )  
 COUNCIL, RONALD HODGE, JEFF LAMB, )  
 MICHAEL RIPBERGER, LEE RUSS, DNA )  
 SECURITY, INC, RICHARD CLARK, and )  
 BRIAN MEEHAN, )

Defendants. )

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**MOTION TO DISMISS OF  
 DEFENDANTS BAKER, CHALMERS, COUNCIL, HODGE,  
 LAMB, RIPBERGER, and RUSS  
 FED. R. CIV. P. 12(b)(6)**

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Defendants Patrick Baker, Steven Chalmers, Beverly Council, Ronald Hodge, Jeff Lamb, Michael Ripberger, and Lee Russ (“Defendants”) respectfully move the Court, pursuant to FED. R. CIV. P. 12(b)(6), to dismiss Plaintiffs’ First Amended Complaint for failure to state a claim upon which relief can be granted. In support thereof, Defendants’ submit their accompanying Brief in Support of Motion to Dismiss filed pursuant to Local Rule 7.1(a), 7.2, and 7.3(a). Because of complexity of the causes of action at issue in this

case, Defendants request oral argument be scheduled on their Motion to Dismiss pursuant to Local Rule 7.3(c)(1).

Respectfully submitted, this the 15th day of January, 2008.

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By: /s/ Patricia P. Kerner

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## CERTIFICATE OF SERVICE

The undersigned attorney for Defendants Baker, Chalmers, Council, Hodge, Lamb, Ripberger, and Russ hereby certifies that on January 15, 2008, the foregoing Brief in Support of Defendants' Motion to Dismiss was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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The undersigned attorney further certifies that on January 15, 2008, a copy of the foregoing Defendants' Brief in Support of Motion to Dismiss was served upon each of the following non-CM/ECF participants by United States mail, postage prepaid, addressed as follows:

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