

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

File No. 1:07-CV-739-JAB-WWD

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

Plaintiffs,)

vs.)

**DEFENDANT BENJAMIN
HIMAN’S MOTION TO DISMISS**

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.)

Defendant Benjamin Himan (“Investigator Himan”), through his undersigned attorney, moves pursuant to Fed. R. Civ. P. 12(b)(6) for an order dismissing this action in its entirety as to this Defendant upon the grounds that the Amended Complaint fails to state a claim upon which relief may be granted and, in the alternative, that all claims asserted against Investigator Himan are barred by the doctrines of qualified and public officer immunity.

In support of this Motion, Defendant submits the accompanying memorandum of law.

WHEREFORE, Defendant Benjamin Himan prays that all claims against him in this action be dismissed with prejudice.

This the 15th day of January, 2008.

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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that I electronically filed the foregoing Defendant Benjamin Himan's Motion to Dismiss with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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This the 15th day of January, 2008.

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