

**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

DEFENDANT MARK GOTTLIEB'S MOTION TO DISMISS

Defendant Mark Gottlieb, appearing through the undersigned counsel, hereby moves the Court, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss all claims asserted in the Amended Complaint against him (specifically, claims 1-3, 7-10, 13-16, and 18) on grounds that these claims, as they apply to Defendant Gottlieb, fail to state a claim upon which relief can be granted. This Motion is supported by the Memorandum in Support of Defendant Mark Gottlieb's Motion to Dismiss, which is being filed simultaneously herewith.

This the 15th day of January, 2008.

POYNER & SPRUILL LLP

By: /s/Edwin M. Speas, Jr.

Edwin M. Speas, Jr.

North Carolina Bar #4112

Eric P. Stevens

North Carolina Bar # 17609

P.O. Box 10096

Raleigh, N.C. 27605-0096

Tel. (919) 783-6400

Fax (919) 783-1075

Email espeas@poynerspruill.com

Email: estevens@poyners.com

Attorneys for Defendant Mark Gottlieb

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on January 15, 2008, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Brendan V. Sullivan, Jr.
Robert M. Cary
Christopher N. Manning
Charles Davant IV
Williams & Connolly, LLP
725 Twelfth Street, NW
Washington, DC 20005
*Attorneys for Plaintiffs David F. Evans
and Collin Finnerty*

Richard D. Emery
Emery, Celli, Brinkerhoff & Abady, LLP
75 Rockefeller Plaza, 20th Floor
New York, NY 10019
Attorney for Plaintiff Reade Seligmann

David S. Rudolf
Rudolf, Widenhouse & Fialko
312 West Franklin Street
Chapel Hill, NC 27516
Attorney for Plaintiff Reade Seligmann

Barry C. Sheck
100 Fifth Avenue
New York NY 10011
Attorney for Plaintiff Reade Seligmann

James B. Craven, III
P.O. Box 1366
Durham, NC 27702
Attorney for Defendant Michael B. Nifong

Joel Miller Craig
Kennon Craver Belo Craig & McKee,
PLLC
P.O. Box 51579
Durham, NC 27717-1579
Attorney for Benjamin Himan

Robert James King, III
Kearns Davis
Brooks, Pierce, McLendon, Humphrey & Leonard
P.O. Box 26000
Greensboro, NC 27420-6000
*Attorney for Defendant DNA Security, Inc. and
Richard Clark*

Mr. James B. Maxwell
Maxwell, Freeman & Bowman, P.A.
P.O. Box 52396
Durham, NC 27717
Attorney for Defendant David Addison

Ms. Patricia P. Kerner
Troutman Sanders, LLP
434 Fayetteville Street Mall
Two Hannover Square, Suite 1100
Raleigh, NC 27601
*Attorneys for Defendants Steven Chalmers, Beverly
Council, Ronald Holdge, Jeff Lamb, Stephen
Mihaich, Michael Ripberger, and Lee Russ*

Mr. James A. Roberts, III
Mr. Paul R. Dickinson, Jr.
Lewis & Roberts, PLLC
1305 Navaho Drive, Suite 400
Raleigh, NC 27609
*Attorneys for Defendants DNA Security,
Inc. and Brian Meehan*

Linwood Wilson
Pro Se
120 East Parrish Street, Suite 210
P.O. Box 2301
Durham, NC 27702

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

January 15, 2008

By: /s/ Edwin M. Speas, Jr.
Edwin M. Speas, Jr.