

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
CIVIL ACTION NO. 1:07-CV-00953**

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RYAN McFADYEN; MATTHEW WILSON; and BRECK ARCHER,

Plaintiffs,

v.

DUKE UNIVERSITY; DUKE UNIVERSITY POLICE DEPARTMENT; AARON GRAVES; ROBERT DEAN; LEILA HUMPHRIES; PHYLLIS COOPER; WILLIAM F. GARBER, II; JAMES SCHWAB; JOSEPH FLEMING; JEFFREY O. BEST; GARY N. SMITH; GREG STOTSSENBERG; ROBERT K. STEEL; RICHARD H. BRODHEAD, Ph.D.; PETER LANGE, Ph.D.; TALLMAN TRASK, III, Ph.D.; JOHN BURNES; LARRY MONETA, Ed.D.; VICTOR J. DZAU, M.D.; ALLISON HALTOM; KEMEL DAWKINS; SUZANNE WASIOLEK; STEPHEN BRYAN; MATTHEW DRUMMOND; DUKE UNIVERSITY HEALTH SYSTEMS, INC.; PRIVATE DIAGNOSTIC CLINIC, PLLC; JULIE MANLY, M.D.; THERESA ARICO, R.N.; TARA LEVICY, R.N.; THE CITY OF DURHAM, NORTH CAROLINA; MICHAEL B. NIFONG; PATRICK BAKER; STEVEN CHALMERS; RONALD HODGE; LEE RUSS; STEPHEN MIHAICH; BEVERLY COUNCIL; JEFF LAMB; MICHAEL RIPBERGER; LAIRD EVANS; JAMES T. SOUKUP; KAMMIE MICHAEL; DAVID W. ADDISON; MARK D. GOTTLIEB; BENJAMIN W. HIMAN; LINWOOD WILSON; RICHARD D. CLAYTON; DNA SECURITY, INC.; RICHARD CLARK; and BRIAN MEEHAN, Ph.D.,

Defendants.

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**NOTICE OF APPEAL BY DEFENDANTS**  
**MARK GOTTLIEB, BENJAMIN HIMAN, DAVID ADDISON,**  
**AND THE CITY OF DURHAM, NORTH CAROLINA**

NOW COME Defendants Mark Gottlieb, Benjamin Himan, David Addison, and the City of Durham, North Carolina, herein by and through their attorneys, and pursuant to Rule 3 of Federal Rules of Appellate Procedure, give notice of appeal

to and hereby appeal to the United States Court of Appeals for the Fourth Circuit, from that part of the Memorandum Opinion (Doc. no. 186) and Order (Doc. no. 187) entered by Chief Judge James A. Beaty, Jr. on March 31, 2011, denying said Defendants' motions to dismiss and Defendant City of Durham, North Carolina's Motion for Summary Judgment (Governmental Immunity).

This the 2nd day of May, 2011.

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CERTIFICATE OF ELECTRONIC FILING AND SERVICE

The undersigned hereby certifies that, pursuant to Rule 5 of the Federal Rules of Civil Procedure and LR5.3 and LR5.4, MDNC, and to the extent applicable, Rules 25(b) and 25(c) of the Federal Rules of Appellate Procedure and Local Rule 25(a) of the Local Rules of the United States Court of Appeals for the Fourth Circuit Court, the foregoing pleading, motion, affidavit, notice, or other document/paper has been electronically filed with the Clerk of Court of the United States District Court for the Middle District of North Carolina (the "MDNC"), using the CM/ECF system of the MDNC, which system will automatically generate and send a Notice of Electronic Filing (NEF) to the undersigned filing user and registered users of record, and that the MDNC's electronic records show that each party to this action is represented by at least one registered user of record (or that the party is a registered user of record), to each of whom the NEF will be transmitted.

This the 2nd day of May, 2011.

FAISON & GILLESPIE

By: /s/ Reginald B. Gillespie, Jr.  
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