

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

CIVIL ACTION NUMBER 1:07-CV-00953

RYAN McFADYEN, et al.,

Plaintiffs,

v.

DUKE UNIVERSITY, et al.,

Defendants.

**DUKE DEFENDANTS' CONSENT
MOTION FOR AN EXTENSION OF
TIME TO FILE MOTION FOR
PROTECTIVE ORDER
CONCERNING PLAINTIFFS'
SUBPOENAS DUCES TECUM
ADDRESSED TO BURSON-
MARSTELLER AND EDELMAN**

Pursuant to Rule 6(b) of the Federal Rules of Civil Procedure and Local Rule 6.1, Defendants Duke University, Robert Dean, Matthew Drummond, Aaron Graves, and Gary N. Smith (the "Duke Defendants") by and through counsel, respectfully move this Court for an extension of time to file a Rule 26(c) motion for protective order concerning the subpoenas duces tecum issued by the Plaintiffs on November 17, 2011, addressed to public relations firms Burson-Marsteller and Edelman. These subpoenas are attached hereto as Exhibits A and B, respectively, and incorporated herein by reference. In support of this Motion, the Duke Defendants state as follows:

1. On November 17, 2011, Plaintiffs issued a subpoena to Burson-Marsteller requiring the firm to produce requested documentation on December 19, 2011, at 12 pm. Burson-Marsteller was served with the subpoena on November 18, 2011.

2. On November 17, 2011, Plaintiffs issued a subpoena to Edelman requiring the firm to produce requested documentation on December 20, 2011, at 5 pm. Edelman was served with the subpoena on November 21, 2011.

3. Burson-Marsteller and Edelman are public relations firms engaged by Duke University at various times. The subpoenas duces tecum request Burson-Marsteller and Edelman to produce documentation in their possession pertaining to their work for Duke University.

4. The Duke Defendants' time to file a Rule 26(c) motion for a protective order concerning the subpoenas has not expired. The Duke Defendants seek a formal extension of time in an abundance of caution given the requirement of Rule 45(c)(2)(B) that objections to a subpoena must be served the earlier of the time specified for compliance or 14 days after a subpoena is served.

5. The Duke Defendants have not requested any earlier extension of its time to file a motion for a protective order concerning these subpoenas.

6. This motion is made in good faith and not for any improper purpose.

7. In accordance with Local Rule 6.1, counsel for the Duke Defendants have consulted with Plaintiffs' counsel, and Plaintiffs' counsel has consented via a December 1, 2011 12:07 pm e-mail from Stefanie Sparks to an extension of the Duke Defendants' time to file a protective order concerning the subpoenas duces tecum through and including Thursday, December 8, 2011.

8. Counsel for the Duke Defendants believe that additional time for discussion between the parties may enhance the prospect of eliminating or narrowing the matters in dispute.

9. In accordance with Local Rule 7.3(j), a proposed order accompanies this motion.

WHEREFORE, the Duke Defendants respectfully request that the Court enter an Order extending the time within which the Duke Defendants may file a Rule 26(c) motion for a protective order concerning the Burson-Marsteller and Edelman subpoenas.

This the 1st day of December, 2011.

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CERTIFICATE OF SERVICE

I hereby certify that on December 1, 2011, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record and to Mr. Linwood Wilson, who is also registered to use the CM/ECF system.

This 1st day of December, 2011.

/s/ Richard W. Ellis

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