

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

RYAN MCFADYEN, et al.,)
)
Plaintiffs,)
)
v.)
)
DUKE UNIVERSITY, et al.,)
)
Defendants.)

Civil Action Number
1:07-CV-00953

**DUKE UNIVERSITY, ROBERT DEAN, MATTHEW DRUMMOND,
AARON GRAVES, AND GARY N. SMITH'S FIRST REQUESTS FOR
PRODUCTION OF DOCUMENTS TO PLAINTIFF RYAN MCFADYEN**

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Duke University, Robert Dean, Matthew Drummond, Aaron Graves, and Gary N. Smith (hereinafter "Duke"), through counsel, serve on Plaintiff Ryan McFadyen ("Plaintiff McFadyen") the requests for production of documents below. Documents responsive to the following requests for production are to be produced at the offices of Ellis & Winters LLP, 333 N. Greene Street, Suite 200, Greensboro, NC 27401. The requests are continuing in nature, and your responses are to be supplemented if and when additional responsive information comes into your possession.

DEFINITIONS AND INSTRUCTIONS

A. For purposes of interpreting or construing the scope of these definitions, instructions, and requests, the terms used shall be given their most expansive and inclusive interpretation.

B. The terms “and” and “or” used in any request in the disjunctive or conjunctive shall be read as necessary to make the request more inclusive.

C. Any singular form of any word shall be construed to include the plural and any plural form shall be read to include the singular. Any past tense of a verb shall be construed to include the present tense and any present tense shall be construed to include the past tense.

D. The term “document” or “documents” shall have the broadest meaning accorded that term, whether on paper or in any electronic format and shall mean the original and all copies thereof which are different in any way from the original (whether by interlineations, receipt stamp notation, indication of copies sent or received, or otherwise) and all attached or annexed materials to any written, typewritten, handwritten, printed, graphic, photographic or recorded material, as well as all computer e-mails, data files, text messages, Web pages, tapes, disks, inputs or outputs, and other computer-readable records or programs, transcripts and copies and reproductions thereof, however produced or reproduced, now or at any time in your actual or constructive possession, custody or control. The terms “document” or “documents” shall specifically include, but shall not be limited to, communications, correspondence, e-mails, facsimiles,

memoranda, memoranda or records of meetings, photographs and photographic films, CD-ROMs, and other electronically stored files that have not been printed.

E. The term “person” means any natural person, association, corporation, partnership, government (or government agency, bureau, or department), quasi-public entities, proprietorship, joint venture, trust, estate, and all other forms of legal entity.

F. The term “copy” when used in reference to a document or software means any color, black-and-white or electronic reproduction of a document, regardless of whether the reproduction is made by means of carbon paper, pressure sensitive paper, photocopying, scanning, electronic downloading or uploading or any other means or process.

G. The term “communication” means any writing, or oral conversation, including, but not limited to, telephone conversations and meetings, letters, e-mails, facsimiles, memoranda, telegraphic communications, and telex communications, and any posts or other submissions on Social Media Websites or Personal Websites.

H. The terms “Plaintiff,” “Plaintiff McFadyen,” “You,” “Your” all refer to Plaintiff Ryan McFadyen, including all persons acting or purporting to act on behalf of Plaintiff McFadyen, experts, persons consulted concerning any factual matter or matters of opinion relating to any of the facts or issues involved in this action, and unless privileged, the party’s attorneys.

I. The term “Duke” means Duke University, its employees, agents, representatives, attorneys and all persons acting on its behalf.

J. The phrase “Carrington Action” means the case captioned Carrington, et al. v. Duke University, et al., 1:08 cv 119, proceeding in the Middle District of North Carolina.

K. The phrase “Duke Lacrosse Players” means the members of the 2005-2006 Duke men’s lacrosse team.

L. The phrase “DukeCard Data” means information associated with the use of Plaintiffs’ DukeCard between March 13, 2006 and March 14, 2006 inclusive, as referred to in Count 24 of the Complaint.

M. The term “Endorsement” means any agreement (paid or unpaid), that you have with a company to use, promote, or otherwise be connected with that company’s products and/or services.

N. The term “Interrogatory” means the interrogatories served on you by Duke on the same date as these requests.

O. The phrase “Ms. Mangum’s Allegations” means the allegations made by Crystal Mangum relating to the party that occurred at 610 North Buchanan Blvd. in Durham, NC on March 13, 2006, the accompanying investigation, and the ultimate exoneration of the three members of the 2005-2006 Duke men’s lacrosse team who had been indicted in connection with Ms. Mangum’s allegations.

P. The phrase “Social Media Website” means social media websites that allow a user to post content publicly or privately to friends or associates, including but not limited to Facebook, Myspace, Reunion.com, Flickr, Twitter, Google+, YouTube, and/or

LinkedIn. This definition shall include any content, even content designated as personal or private, so long as that content is shared with at least one (1) other individual.

Q. The phrase “Personal Website” means all websites that are owned, operated, or contributed to by you, including a personal website (e.g. yourname.com) and/or blogs (whether personally hosted or hosted by another). This definition shall include any content, even content designated as personal or private, so long as that content is shared with at least one (1) other individual.

R. The term “Complaint” means the Second Amended Complaint filed in this action.

S. The phrase “Count 21” means Count 21 of the Complaint.

T. The phrase “Count 24” means Count 24 of the Complaint.

U. To the extent that you consider any of the following requests objectionable, respond to as much of each and every part thereof which is not objectionable in your view, and separately state the part that is objectionable and the ground for each objection.

CLAIM OF PRIVILEGE

If you object to any discovery request on the basis of attorney-client privilege, work-product doctrine, or any other privilege, state the privilege claimed, and identify the document or communication for which such privilege is claimed, stating the following:

A. The date of the communication;

B. The description of the document or communication protected, including the identity of all persons present or all persons who authored, transmitted or

received a copy of such communication, and the number of pages, if written;

- C. The subject matter of the document or communication;
- D. The basis on which the privilege is claimed.

REQUESTS FOR PRODUCTION

Request No. 1. Please produce all documents identified in or relating to your answers to the Interrogatories.

RESPONSE:

Request No. 2. Please produce all documents that anyone reviewed in the preparation of your response to the Interrogatories.

RESPONSE:

Request No. 3. Please produce all documents that support your claims for damages you have purportedly suffered, including but not limited to all bills and statements of all other expenses that you contend you are entitled to recover as damages in this action.

RESPONSE:

Request No. 4. Please produce all documents you contend support your allegations in Count 21.

RESPONSE:

Request No. 5. Please produce all documents you contend support your allegations in Count 24.

RESPONSE:

Request No. 6. Please produce all videotapes or photographs regarding the subject matter of this litigation.

RESPONSE:

Request No. 7. Please produce all documents concerning Ms. Mangum's Allegations.

RESPONSE:

Request No. 8. Please produce all documents, whether written or photographic, submitted to any individual for review with regard to the allegations in your Complaint.

RESPONSE:

Request No. 9. For each Social Media Website and/or Personal Website identified in response to Interrogatory No. 7, please produce all initial postings and updates you have made to that Social Media Website and/or Personal Website from March 2006 through the present.

RESPONSE:

Request No. 10. Please produce all documents relating to your application to any post-high school educational institutions, including but not limited to all application forms, application materials, and any resume(s) submitted in connection with the application.

RESPONSE:

Request No. 11. Please produce all documents relating to your application to any potential employer (paid or unpaid), including but not limited to all application forms, application materials, cover letters, and any resume(s) submitted in connection with the application.

RESPONSE:

Request No. 12. All documents prepared in connection with a class, employment application (paid or unpaid), or college application (including graduate schools), that relate to the allegations of the Complaint or Ms. Mangum's Allegations, such as papers or essays. For purposes of this request, please include all non-identical drafts of such documents.

RESPONSE:

Request No. 13. Please produce your tax returns for the years 2005 through the present.

RESPONSE:

Request No. 14. Please produce all documents related to your interim suspension from Duke, or the suspensions of Breck Archer and Matthew Wilson from Duke, as described in Paragraph 696. Please include documents related to any attempts to appeal the interim suspension, or re-enter Duke after the interim suspension.

RESPONSE:

Request No. 15. Please produce all documents related to any professional licensure applications you have submitted to any licensing board from March 2005 through the present.

RESPONSE:

Request No. 16. Please produce the “stories straight” e-mail your counsel referred to in the August 31, 2011 hearing.

RESPONSE:

Request No. 17. Please produce all documents related to the “stories straight” e-mail referred to in Request No. 15.

RESPONSE:

Request No. 18. Please produce your complete academic file (including but not limited to your transcripts and your disciplinary file). For purposes of this response, please include your high school academic record.

RESPONSE:

Request No. 19. Please produce all documents related to any Endorsements you have received.

RESPONSE:

Request No. 20. Please produce a current and complete copy of your resume.

RESPONSE:

Request No. 21. Please produce the complete medical or office records of each health care provider (including hospitals) consulted by you in connection with any treatment or evaluation of you at any time from March 2001 to the present date. Alternatively, you may provide a list of the names and addresses of the providers of all such treatment and execute a medical authorization form that Duke's counsel can provide to your counsel.

RESPONSE:

Request No. 22. In your Complaint, you contend that you have suffered "reputational harm." Please produce all documents that demonstrate the harm to your reputation, including but not limited to documents related to your reputation before, during, and after Ms. Mangum's Allegations.

RESPONSE:

Request No. 23. Please produce all documents relating to any conversation between you or any Duke Lacrosse Player, on the one hand, and Dr. Tallman Trask, on the other hand.

RESPONSE:

Request No. 24. Please produce all documents relating to any conversation between you or any Duke Lacrosse Player, on the one hand, and Dean Sue Wasiolek, on the other hand.

RESPONSE:

Request No. 25. Please produce all documents relating to any conversation between you or any Duke Lacrosse Player, on the one hand, and President Brodhead, on the other hand.

RESPONSE:

Request No. 26. To the extent not already produced in response to the above requests, please produce all documents that relate to the damages you purportedly suffered, as referred to in Paragraph 1388 of your Complaint.

RESPONSE:

Request No. 27. To the extent not already produced in response to the above requests, please produce all documents relating to Counts 21 and 24 of the Complaint. Your response should include documents by you or on your behalf. Your response should include, but not be limited to, communications with other Duke Lacrosse Players, communications with Duke, communications with parents of Duke Lacrosse Players, and communications with other defendants in this action or the Carrington action.

RESPONSE:

Request No. 28. Please produce all documents identified in your initial disclosures.

RESPONSE:

This the 21 day of September, 2011.



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CERTIFICATE OF SERVICE

It is hereby certified that the foregoing **Duke University, Robert Dean, Matthew Drummond, Aaron Graves and Gary N. Smith's First Requests for Production of Documents to Plaintiff Ryan McFadyen** has been served this day by depositing copies thereof in a depository under the exclusive care and custody of the United States Postal Service in a postage prepaid envelope properly addressed as follows:

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This the 21 day of September, 2011.

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