

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

RYAN MCFADYEN, ET AL.,

Plaintiffs,

v.

DUKE UNIVERSITY, ET AL.

Defendants.

1:07-CV-953

**PLAINTIFFS' SECOND REQUEST FOR
PRODUCTION OF DOCUMENTS & THINGS AND
FIRST REQUEST FOR ADMISSIONS**

I. INSTRUCTIONS

Pursuant to Rules 26, 33, 34, and 36 of the Federal Rules of Civil Procedure, Plaintiff serves upon Defendant Duke University this Second Request for Production of Documents & Things and First Request for Admissions. Pursuant to the rules, you must serve responses to this discovery request or specific objections thereto within 30 days after being served with this discovery request.

This discovery request shall be deemed to be continuing so as to require you to supplement the responses as required by law. You may serve your responses electronically as an attachment to an email addressed to rce@ninthstreetlaw.com and sas@ninthstreetlaw.com. In the alternative, you may serve your responses upon Plaintiffs by delivering them to undersigned counsel at Ekstrand & Ekstrand, LLP, 811 Ninth Street, Suite 260, Durham, NC 27701.

II. SECOND REQUEST FOR PRODUCTION OF DOCUMENTS & THINGS

1. Please produce a true and accurate copy of the signed release referred to in Plaintiffs' Exhibit Kennedy 16 (Pls. #00022358) and in the document attached to these discovery requests.¹
2. Please produce a true and accurate copy of the signed release referred to by President Brodhead in his television interviews on April 5, 2006.²

III. FIRST REQUEST FOR ADMISSIONS

Pursuant to Fed. R. Civ. P. 36, please admit or deny the following:

1. Admit that Defendant Duke University never had in its possession, custody, or control an authenticate release signed by Plaintiff Ryan McFadyen on April 5, 2006.

ADMIT: _____ **DENY:** _____

2. Admit that on April 5, 2006 to the present date, Defendant Duke University never had in its possession, custody, or control an authenticate release signed by Plaintiff Ryan McFadyen giving permission to Duke University to release protected information regarding his disciplinary status on April 5, 2006.

ADMIT: _____ **DENY:** _____

3. Admit that from April 5, 2006 to the present date, Defendant Duke University has never had in its possession, custody, or control an authenticate release signed by Plaintiff Ryan McFadyen giving permission to President Brodhead to release protected information regarding his disciplinary status on April 5, 2006.

ADMIT: _____ **DENY:** _____

¹ Because the word "release" in Kennedy Exhibit 16 is partially covered due to the whole punch in the original, attached is a copy of the same statement from Duke TODAY. The attachment will be bate-stamped and produced with Plaintiffs' next supplemental production.

² Videos of these television interviews have been provided to Defendants in discovery.

4. Admit that on March 31, 2006, Defendant Gary Smith and Duke Police Lt. Greg Stotsenberg provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Ryan McFadyen to Defendant M.D. Gottlieb.

ADMIT: _____ **DENY:** _____

5. Admit that on March 31, 2006, Defendant Gary Smith and Duke Police Lt. Greg Stotsenberg provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Matthew Wilson to Defendant M.D. Gottlieb.

ADMIT: _____ **DENY:** _____

6. Admit that on March 31, 2006, Defendant Gary Smith and Duke Police Lt. Greg Stotsenberg provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Breck Archer to Defendant M.D. Gottlieb.

ADMIT: _____ **DENY:** _____

7. Admit that from March 31, 2006 to the present date, Defendant Duke University has never had in its possession, custody, or control an authenticate release signed by Plaintiff Ryan McFadyen giving permission to Duke University to release his key card report for 3/13/06 to 3/14/06 to Defendant M.D. Gottlieb.

ADMIT: _____ **DENY:** _____

8. Admit that from March 31, 2006 to the present date, Defendant Duke University has never had in its possession, custody, or control an authenticate release signed by Plaintiff Matthew Wilson giving permission to Duke University to release his key card report for 3/13/06 to 3/14/06 to Defendant M.D. Gottlieb.

ADMIT: _____ **DENY:** _____

9. Admit that from March 31, 2006 to the present date, Defendant Duke University has never had in its possession, custody, or control an authenticate release signed by Plaintiff Breck Archer giving permission to Duke University to release his key card report for 3/13/06 to 3/14/06 to Defendant M.D. Gottlieb.

ADMIT: _____ **DENY:** _____

Dated: December 8, 2011

Respectfully submitted by:

EKSTRAND & EKSTRAND LLP

/s/ Stefanie A. Sparks

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CERTIFICATE OF SERVICE³

I hereby certify that on December 8, 2011, a copy of the foregoing Plaintiffs' Second Request for Production of Documents & Things and First Request for Admissions was served via electronic mail, pursuant to agreement, to the following counsel of record:

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³ Pursuant to the Court's Order, Plaintiffs' counsel in Carrington, et al. v. Duke University, et al., 1:08-cv-119, have been provided with these discovery requests via electronic mail.

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Dated: December 8, 2011

Respectfully submitted by:

/s/ Stefanie A. Sparks

Stefanie A. Sparks (NC Bar No.42345)