

EXHIBIT 4

Robert Ekstrand and Ekstrand & Ekstrand LLP
Objections to Subpoenas

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

CARRINGTON, *et al.*,

Plaintiffs,

v.

DUKE UNIVERSITY, *et al.*

Defendants.

1:08 CV 119

**ROBERT C. EKSTRAND AND EKSTRAND & EKSTRAND
LLP'S OBJECTIONS TO DUKE UNIVERSITY'S SUBPOENAS
FOR DOCUMENTS AND SUBPOENA FOR DEPOSITION**

Pursuant to Rule 45, Robert C. Ekstrand and Ekstrand & Ekstrand LLP submit the following objections to the subpoenas to produce documents, information, or objects or to permit inspection of premises in a civil action served on Robert C. Ekstrand and Ekstrand & Ekstrand, LLP on February 14, 2012 and the subpoena for deposition testimony of Robert C. Ekstrand also served on February 14, 2012. Exhibit A attached to both the document subpoena to Robert C. Ekstrand and to Ekstrand & Ekstrand LLP appears to be identical outside of the use of "You" versus the "Firm." To the extent there are differences beyond this, Robert C. Ekstrand and Ekstrand and Ekstrand LLP ("Respondents"), explicitly reserve the right to assert further objections.

GENERAL OBJECTIONS

1. Respondents object to each request to the extent that it seeks information that is protected from disclosure by the attorney-client privilege, the work product doctrine, and/or other applicable privileges or protections.
2. Respondents object to each request to the extent that it does not state with reasonable particularity the information requested.
3. Respondents object to each request to the extent that it seeks information not relevant to any claim or defense asserted in this proceeding, not reasonably calculated to lead to the discovery of admissible evidence, or otherwise beyond the scope of permissible discovery in this proceeding.
4. Respondents object to each request to the extent that it is overly broad, unduly burdensome, oppressive, redundant, vague, and/or ambiguous.
5. Respondents object to each request to the extent that it seeks to impose on Respondents obligations greater than or different from those imposed under the Federal Rules of Civil Procedure, or any other applicable law.
6. Respondents object to each request to the extent it is a premature contention request or otherwise purports to require Respondents to identify all facts or evidence with respect to a particular topic or issue, particularly in connection with Claim 24 in

McFadyen, et al. v. Duke University, et al., where Respondents represent the Plaintiffs.

7. Respondents object to each request to the extent it purports to require Respondents, non-parties to this litigation, to perform an unreasonable search for information, as such a request is unduly burdensome and oppressive, and where such a request may be equally available from a party to the litigation.

8. Respondents object to each request to the extent it calls for information protected from disclosure by Federal Rule of Evidence 408.

9. Respondents object to each request to the extent that it seeks information already within Duke University's knowledge or control, or equally or more easily available to it, on the grounds that such request is unduly burdensome or oppressive.

10. Respondents object to each request to the extent it seeks a response about which Respondents would have to draw a legal conclusion in order to make a proper response.

12. Respondents object to each request to the extent that it purports to require disclosure of information not within Respondents' possession, custody, or control.

13. Respondents object to each request to the extent that it purports to require Respondents to disclose information, which Respondents are required to maintain in confidence pursuant to an agreement or understanding with any third party.

Respondents will not disclose this information without an appropriate release from any such third party.

15. Any response by Respondents will be made without in any way waiving or intending to waive, but rather, to the contrary, by preserving and intending to preserve:

(a) All questions as to the competence, relevance, materiality, and admissibility as evidence for any purpose of the information or the subject matter thereof, in any aspect of this or other judicial proceeding, or other administrative proceeding or investigation;

(b) The right to object on any ground to the use of any such information, or the subject matter thereof, in any aspect of this or other judicial proceeding, or other administrative proceeding or investigation;

(c) The right to object at any time for any further response to this or any other request for information or production of documents;

(d) The right to rely on information discovered or generated subsequent to these responses; and

(e) The right at any time to supplement this response.

17. Any response by Respondents will be made without waiving or intending to waive, but rather preserving and intending to preserve, their right to object to any other discovery including without limitation to any other request.

18. Respondents object to each request because the subpoenas fail to allow a reasonable time to comply.

SPECIFIC OBJECTIONS AS TO THE DOCUMENTS AND TANGIBLE THINGS REQUESTED

REQUEST #1

Respondents incorporate each of their general objections by reference. Respondents further object to this request on the grounds that: (i) it is vague and ambiguous; (ii) it is overbroad and unduly burdensome, particularly in that it is unlimited as to time; (iii) it is unduly burdensome in that it seeks information that is cumulative of other requests or otherwise as accessible to Duke University as it is to Respondents and/or information already known to Duke University; (iv) it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (v) it seeks information not within the possession, custody, or control of Respondents.

REQUEST #2

Respondents incorporate each of their general objections by reference. Respondents further object to this request on the grounds that: (i) it is vague and ambiguous; (ii) it is overbroad and unduly burdensome, particularly in that it is unlimited as to time; (iii) it is unduly burdensome in that it seeks information that is cumulative of other requests or otherwise as accessible to Duke University as it is to Respondents and/or information already known to Duke University; (iv) it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (v) it seeks information not within the possession, custody, or control of Respondents.

REQUEST #3

Respondents incorporate each of their general objections by reference. Respondents further object to this request on the grounds that: (i) it is vague and ambiguous; (ii) it is overbroad and unduly burdensome, particularly in that it is unlimited as to time; (iii) it is unduly burdensome in that it seeks information that is cumulative of other requests or otherwise as accessible to Duke University as it is to Respondents and/or information already known to Duke University; (iv) it seeks information that is neither

relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (v) it seeks information not within the possession, custody, or control of Respondents.

REQUEST #4

Respondents incorporate each of their general objections by reference. Respondents further object to this request on the grounds that: (i) it is vague and ambiguous; (ii) it is overbroad and unduly burdensome, particularly in that it is unlimited as to time; (iii) it is unduly burdensome in that it seeks information that is cumulative of other requests or otherwise as accessible to Duke University as it is to Respondents and/or information already known to Duke University; (iv) it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; (v) it seeks information not within the possession, custody, or control of Respondents; and (vi) it seeks information protected by the attorney-client privilege and/or the attorney work product doctrine, or another applicable privilege or doctrine.

REQUEST #5

Respondents further object to this request on the grounds that: (i) it seeks information not within the possession, custody, or control of Respondents and (ii)

that to Respondents' knowledge documents responsive to this request do not exist.

REQUEST #6

Respondents incorporate each of their general objections by reference. Respondents further object to this request on the grounds that: (i) it is vague and ambiguous; (ii) it is overbroad and unduly burdensome, particularly in that it is unlimited as to time; (iii) it is unduly burdensome in that it seeks information that is cumulative of other requests or otherwise as accessible to Duke University as it is to Respondents and/or information already known to Duke University; (iv) it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; (v) it seeks information not within the possession, custody, or control of Respondents; and (vi) it seeks information protected by the attorney-client privilege and/or the attorney work product doctrine, or another applicable privilege or doctrine.

REQUEST #7

Respondents incorporate each of their general objections by reference. Respondents further object to this request on the grounds that: (i) it is vague and ambiguous; (ii) it is overbroad and unduly burdensome, particularly in that it is unlimited as to time; (iii) it is unduly burdensome in that it seeks information that is cumulative of other

requests or otherwise as accessible to Duke University as it is to Respondents and/or information already known to Duke University; (iv) it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; (v) it seeks information not within the possession, custody, or control of Respondents; and (vi) it seeks information protected by the attorney-client privilege and/or the attorney work product doctrine, or another applicable privilege or doctrine.

REQUEST #8

Respondents incorporate each of their general objections by reference. Respondents further object to this request on the grounds that: (i) it is vague and ambiguous; (ii) it is overbroad and unduly burdensome, particularly in that it is unlimited as to time; (iii) it is unduly burdensome in that it seeks information that is cumulative of other requests or otherwise as accessible to Duke University as it is to Respondents and/or information already known to Duke University; (iv) it seeks information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence; and (v) it seeks information not within the possession, custody, or control of Respondents.

SPECIFIC OBJECTIONS AS TO THE SUBPENA FOR DEPOSITION TESTIMONY

Respondent Robert C. Ekstrand incorporates each of the general objections by reference. Respondent further objects to this subpoena for testimony on the grounds that the subpoena: (i) subjects Respondent to undue burden where other less burdensome means are available under the Federal Rules of Civil Procedure including, but not limited to, Rule 31; (ii) seeks information that is cumulative of other requests or otherwise as accessible to Duke University as it is to Respondent, and/or information already known to Duke University or other parties in this litigation; (iii) is a premature contention or otherwise purports to require Respondent to identify all facts or evidence with respect to a particular topic or issue, particularly in connection with Claim 24 in *McFadyen, et al. v. Duke University, et al.*, where Respondent represents the Plaintiffs; (iv) seeks information protected by the attorney-client privilege and/or the attorney work product doctrine, or another applicable privilege or doctrine; (v) is premature and does not meet the requirement of good cause as this point in discovery; and (vi) is wholly improper in light of Respondent's role in *McFadyen, et al. v. Duke University, et al.*. Additionally, the proposed fee for Respondent will not accommodate Respondent for his time.

Dated: March 14, 2012

Respectfully submitted by:

EKSTRAND & EKSTRAND LLP

/s/ Robert Ekstrand

Robert C. Ekstrand (N.C. Bar No. 26673)

811 Ninth Street, Suite 260

Durham, North Carolina 27705

rce@ninthstreetlaw.com

Tel: (919) 416-4590

Fax: (919) 416-4591

EKSTRAND & EKSTRAND LLP

/s/ Stefanie A. Smith

Stefanie A. Smith (N.C. Bar. No. 42345)

811 Ninth Street, Suite 260

Durham, North Carolina 27705

sas@ninthstreetlaw.com

Tel: (919) 416-4590

Fax: (919) 416-4591

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CERTIFICATE OF SERVICE

I hereby certify that on March 14, 2012, I served a copy of Robert C. Ekstrand and Ekstrand & Ekstrand, LLP's Objections to Duke University's Subpoenas for Documents and Subpoena for Deposition via electronic mail, pursuant to agreement by the parties, to counsel for both the Plaintiffs and Defendant Duke University.

Dated: March 14, 2012

Respectfully submitted by:

EKSTRAND & EKSTRAND LLP

/s/ Stefanie A. Smith

Stefanie A. Smith (NC Bar No. 42345)
Robert C. Ekstrand (NC Bar No. 26673)
811 Ninth Street
Durham, North Carolina 27705
E-mail: sas@ninthstreetlaw.com
E-mail: rce@ninthstreetlaw.com
Tel: (919) 416-4590; Fax: (919) 416-4591