

EXHIBIT 7

Document Subpoena to Stefanie Smith

UNITED STATES DISTRICT COURT
for the

Middle District of North Carolina

CARRINGTON, et al.
Plaintiff
v.
DUKE, et al.
Defendant

Civil Action No. 1:08 v 119
(If the action is pending in another district, state where:)

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION

To: Stefanie Sparks Smith, c/o Ekstrand & Ekstrand PLLC
811 Ninth Street, Suite 260
Durham, NC 27705

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: See Exhibit "A" attached.

Table with 2 columns: Place (Ekstrand & Ekstrand PLLC, 811 Ninth Street, Suite 260, Durham, NC 27705) and Date and Time (September 4, 2012 9:00 a.m.)

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Table with 2 columns: Place and Date and Time (empty)

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: August 17, 2012

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR [Handwritten Signature]
Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) DUKE UNIVERSITY DEFENDANTS, who issues or requests this subpoena, are:

Thomas H. Segars tom.segars@elliswinters.com
Ellis & Winters LLP, 1100 Crescent Green, Suite 200 Cary, NC 27518

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

This subpoena for *(name of individual and title, if any)* Stefanie Sparks Smith
was received by me on *(date)* _____.

I served the subpoena by delivering a copy to the named person as follows:

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

Federal Rule of Civil Procedure 45 (c), (d), and (e) (Effective 12/1/07)

(c) Protecting a Person Subject to a Subpoena.

(1) *Avoiding Undue Burden or Expense; Sanctions.* A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The issuing court must enforce this duty and impose an appropriate sanction — which may include lost earnings and reasonable attorney's fees — on a party or attorney who fails to comply.

(2) *Command to Produce Materials or Permit Inspection.*

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing or sampling any or all of the materials or to inspecting the premises — or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

(i) At any time, on notice to the commanded person, the serving party may move the issuing court for an order compelling production or inspection.

(ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) *Quashing or Modifying a Subpoena.*

(A) *When Required.* On timely motion, the issuing court must quash or modify a subpoena that:

(i) fails to allow a reasonable time to comply;

(ii) requires a person who is neither a party nor a party's officer to travel more than 100 miles from where that person resides, is employed, or regularly transacts business in person — except that, subject to Rule 45(c)(3)(B)(iii), the person may be commanded to attend a trial by traveling from any such place within the state where the trial is held;

(iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or

(iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the issuing court may, on motion, quash or modify the subpoena if it requires:

(i) disclosing a trade secret or other confidential research, development, or commercial information;

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party; or

(iii) a person who is neither a party nor a party's officer to incur substantial expense to travel more than 100 miles to attend trial.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(c)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

(i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and

(ii) ensures that the subpoenaed person will be reasonably compensated.

(d) Duties in Responding to a Subpoena.

(1) *Producing Documents or Electronically Stored Information.* These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) *Claiming Privilege or Protection.*

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

(i) expressly make the claim; and

(ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information to the court under seal for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(e) *Contempt.* The issuing court may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena. A nonparty's failure to obey must be excused if the subpoena purports to require the nonparty to attend or produce at a place outside the limits of Rule 45(c)(3)(A)(ii).

EXHIBIT A

INTRODUCTION

A. The plaintiffs in the Carrington Action (defined below) have brought a claim against Duke (defined below). Through references in documents produced in this litigation, deposition testimony, and publicly-available media and other reports, your name has been mentioned in connection with events that plaintiffs in the Carrington Action maintain are relevant to their claims against Duke and the damages they purportedly suffered.

B. Plaintiffs in the Carrington Action have named you in their August 14, 2012 Supplement to Plaintiffs' Initial Disclosures Pursuant to Rule 26(a)(1) as "likely to have information related to the facts underlying Counts 8, 11, and 19 and the resulting damages suffered by Plaintiffs."

C. Your name appears at least 16 times in the book Until Proven Innocent, authored by K.C. Johnson and Stuart Taylor, and interviews with you are credited as a source for the book at both the websites <http://academic.brooklyn.cuny.edu/history/johnson/notes.htm> and <http://durhamwonderland.blogspot.com/2008/09/paperback-source-notes.html>.

D. Accordingly, documents in your possession appear relevant to the claims, defenses, and/or damages alleged in the Carrington Action.

DEFINITIONS

A. The term "communication" means any writing, or oral conversation, including, but not limited to, telephone conversations and meetings, letters, e-mails, facsimiles, or memoranda.

B. The term “document” or “documents” shall have the broadest meaning accorded that term.

C. The terms “You” and “Your” refer to Stefanie A. Smith, formerly Stefanie A. Sparks, including all persons acting on her behalf.

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

E. 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, and all the allegations contained in the Carrington Complaint. The term “Carrington Complaint” means the First Amended Complaint filed in the Carrington Action. The Carrington Complaint is available online through the PACER website (<https://pacer.login.uscourts.gov/cgi-bin/login.pl>). Alternatively, if you would like a copy of the Carrington Complaint, you may contact the undersigned attorney who will provide you with a copy.

F. For purposes of this subpoena, the phrase “Duke Lacrosse Players” is limited to the following members of the 2005-2006 Duke University men’s lacrosse team only, and does not include Your clients Ryan McFadyen, Breck Archer, and/or Matthew Wilson: Zack Greer, Kyle Dowd, Matt Zash, Matt Danowski, Dan Flannery, Josh Coveleski, Ned Crotty, Bret Thompson, Peter Lamade, Brad, Ross, Gibbs Fogarty, Fred Krom, Collin Finnerty, Chris Loftus, Steve Schoeffel, Michael Young, Mike Catalino, KJ Sauer, Reade Seligmann, Tom Clute, William Wolcott, Ed Douglas, David Evans, Dan Loftus, Rob Schroeder, Dan Theodoridis, Bo Carrington, Michael Ward, Rob Wellington, Tony McDevitt, Dan Oppedisano, Sam Payton, Chris Tkac, Erik Henkelman, John Walsh, Jay Jennison, Kevin Mayer, Nick O’Hara, Casey Carroll, Glenn Nick, and Kevin Coleman.

G. The phrase “DukeCard information” means information associated with the use by any Duke Lacrosse Player of his DukeCard between March 13, 2006 and March 14, 2006 inclusive, as referenced in Count 8 of the Carrington Complaint.

H. 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 University men’s lacrosse team who had been indicted in connection with Ms. Mangum’s allegations.

I. The phrase “2005-2006 Co-Captains” means David Evans, Dan Flannery, Bret Thompson, and Matt Zash.

J. The term “Pending Claims” means information regarding, concerning, discussing, or reflecting any one or more of the following subjects: (a) the disclosure of DukeCard Data to the Durham Police Department, the subsequent subpoena that was issued to Matthew Drummond on May 31, 2006 that sought production of DukeCard Data by Duke, or the responses to that subpoena; (b) communications between Tallman Trask and the 2005-2006 Co-Captains on March 24, 2006, or any subsequent discussions regarding those communications; (c) communications between Richard Brodhead and the 2005-2006 Co-Captains on March 28, 2006, or any subsequent discussions regarding those communications; (d) communications between Suzanne Wasiolek and one or more of the 2005-2006 Co-Captains on March 15, 2006 or thereafter, or any subsequent discussions regarding those communications; or (e) the job performance of Richard Brodhead, Robert Dean, Matthew Drummond, Aaron Graves, Kate Hendricks, Tallman Trask and Suzanne Wasiolek.

INSTRUCTIONS

A. These requests seek only documents created on or before April 11, 2007.

B. In connection with these requests, Duke seeks only non-privileged documents.

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. To the extent that you consider any of the following requests or questions 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.

E. Duke recognizes that many documents You possess would be protected by the attorney-client or work product privileges. Duke does not seek those protected documents. However, Duke also recognizes that to the extent that you communicated with third parties, communicated with Your clients in the presence of third parties present, or engaged in public interviews on behalf of (and presumably with the consent of) Your clients, that any such claim of privilege would be waived as to the issues relevant to those conversations.

F. 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:

- i. The date of the communication;
- ii. 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;

- iii. The subject matter of the document or communication; and
- iv. The basis on which the privilege is claimed.

DOCUMENTS AND TANGIBLE THINGS REQUESTED

1. Please produce all documents that refer to or reflect (a) Your disclosure of any DukeCard information to the Durham Police; (b) Your attempts to obtain DukeCard information from any person; (c) Duke's disclosure of DukeCard information to the Durham Police; (d) the subpoena issued by the State of North Carolina seeking DukeCard information for the Duke Lacrosse Players from Duke; and (e) the efforts by any of the Duke Lacrosse Players to quash the subpoena referenced in the preceding clause.

2. Please produce all documents that refer to or constitute communications made on or after March 13, 2006, between You, on the one hand, and K.C. Johnson or Stuart Taylor, on the other hand, in which You discussed or referred to the facts underlying the Pending Claims.

3. Please produce all documents You gave or discussed with K.C. Johnson or Stuart Taylor at any time on or after March 13, 2006 that referred to the facts underlying the facts underlying the Pending Claims.

4. Please produce all documents referred to in the communications made on or after March 13, 2006, between You, on the one hand, and K.C. Johnson or Stuart Taylor, related to the facts underlying the facts underlying the Pending Claims.

5. Please produce all documents evidencing the dates of any communications concerning Ms. Mangum's Allegations or the facts underlying the facts underlying the Pending Claims between You and any Duke Lacrosse Player between March 13, 2006 and March 21, 2006.