

**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-JAB-JEP

**PLAINTIFFS’ MOTION TO EXTEND TIME TO RESPOND TO
DEFENDANTS’ REQUESTS FOR ADMISSIONS**

Plaintiffs Ryan McFadyen, Matthew Wilson, and Breck Archer, respectfully move for an order, pursuant to Rule 36(a)(3) of the Federal Rules of Civil Procedure, enlarging the time for Plaintiffs to respond to Defendants’ Requests for Admissions by six days. Plaintiffs’ responses and objections are currently due on Wednesday, September 19, 2012. This motion is unopposed.

On August 17, 2012, Defendants served by e-mail Requests for Admissions on each of the three Plaintiffs in this case. Thus, Plaintiffs’ counsel must prepare each Plaintiff’s responses and objections individually in consultation with that Plaintiff, one of whom is abroad in

Japan in connection with his employment by the United States.

The six-day extension Plaintiffs request is justified by the importance of the task, the logistical challenges of communicating overseas, and the involvement of Plaintiffs' counsel in oral arguments before the Fourth Circuit Court of Appeals in this case, and numerous depositions in this case throughout the period for responding to the Requests for Admission, restricting the time available to confer with Plaintiffs to formulate responses and objections. The extension will allow Plaintiffs' counsel devote appropriate attention to conferring with Plaintiffs and preparing their responses to Defendants' Requests for Admissions.

Because the discovery period closes on Friday, September 21, 2012, under the Court's Initial Scheduling Order, ECF 244, Plaintiffs' requested six-day extension of Rule 36's 30-day period for responding would extend beyond the close of the discovery. Therefore, although Plaintiffs' requested extension is not opposed, it may be granted only by order of this Court. Fed. R. Civ. P. Rule 29(b).

For these reasons, Plaintiffs respectfully request that this Court enter an order enlarging the time for Plaintiffs to respond to Defendants' Requests for Admissions by six days, up to and including September 25, 2012. Plaintiffs' proposed order is annexed hereto as Attachment No. 1.

September 18, 2011

Respectfully submitted by:

/s/ Robert C. Ekstrand

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CERTIFICATE OF SERVICE

On the date electronically stamped below, the foregoing motion and text of Plaintiffs' proposed order granting the motion was filed with the Court's CM/ECF System, which will send a Notice of Electronic Filing containing a link to download the filing to Defendants' counsel of record, all of whom are registered with the Court's CM/ECF System.

Respectfully submitted,

/s/ Robert C. Ekstrand

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ORDER

Upon Plaintiffs' motion, without opposition from Defendants, and for good cause shown, it is hereby ORDERED that Plaintiffs shall have an additional six days to respond to Defendants' Requests for Admissions, up to and including September 25, 2012.

So ORDERED, this ____ day of September, 2012.

Hon. Joi Elizabeth Peake
United States Magistrate Judge