

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NUMBER 1:07-CV-00953**

RYAN McFADYEN, et al.,

Plaintiffs,

v.

DUKE UNIVERSITY, et al.,

Defendants.

**JOINT MOTION TO EXTEND
DISCOVERY PERIOD SOLELY
TO SECURE AN AFFIDAVIT
FROM PLAINTIFF BRECK
ARCHER AND OBTAIN
ATTORNEY BILLING
RECORDS FOR PLAINTIFFS
RYAN MCFADYEN AND BRECK
ARCHER**

The parties, by and through counsel, pursuant to the Rule 6(b) of the Federal Rules of Civil Procedure, Local Rule 6.1, and the Initial Pretrial Order [Dkt. No. 244], respectfully move for an order enlarging the discovery period through and including September 25, 2012 solely for the purposes of the production of Plaintiff Breck Archer's signed affidavit and the production of attorney billing records for Plaintiffs Ryan McFadyen and Matthew Wilson. A proposed order accompanies this Motion.

In support of this Motion, the parties state as follows:

1. Plaintiff Breck Archer was deposed on April 19, 2012.
2. During his deposition, a dispute arose between the parties. Through the meet and confer process, the parties agreed to resolve the dispute by Mr. Archer providing an affidavit.

3. On June 11, 2012, the parties agreed on the text of the affidavit.

4. The parties intended to have the affidavit finalized (and the dispute for the deposition resolved thereby) prior to the close of discovery on September 21, 2012.

5. As described in Plaintiffs' Motion to Extend Time to Respond to Defendants' Requests for Admissions [Dkt. No. 295], Mr. Archer is abroad in Japan in connection with his employment by the United States. Plaintiffs will be in touch with Mr. Archer regarding the discovery responses and hope to secure the affidavit at that time.

6. Plaintiffs also intend on producing the attorney billing records of Plaintiffs Ryan McFadyen and Matthew Wilson in response to Duke's September 2011 document requests. Due to technical issues beyond Plaintiffs' control, Plaintiffs cannot make that production at the present time. Plaintiffs hope to remedy the technical issue and produce the relevant documents on or before September 25, 2012.

7. This Motion is brought in good faith and not for the purposes of delay. The extension of time requested should not materially impact the case. This Motion is made prior to the expiration of the deadline sought to be extended hereby.

8. Accordingly, the parties seek the Court's consent to extend the discovery period through and including September 25, 2012, solely for the purposes of the production of Plaintiff Breck Archer's signed affidavit and the production of attorney billing records for Plaintiffs Ryan McFadyen and Matthew Wilson.

WHEREFORE, the parties respectfully request that the Court enter an Order enlarging the discovery period through and including September 25, 2012 solely for the purposes of the production of Plaintiff Breck Archer's signed affidavit and the production of attorney billing records for Plaintiffs Ryan McFadyen and Matthew Wilson.

Respectfully submitted, this the 21st day of September 2012.

/s/ Stefanie A. Smith

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record and to Mr. Linwood Wilson, who is also registered to use the CM/ECF system.

This 21 day of September, 2012.

/s/ Jeremy M. Falcone
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