

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

RYAN MCFADYEN, <i>et al.</i> ,	)	
<i>Plaintiffs,</i>	)	
	)	
v.	)	1:07-cv-953-JAB-JEP
	)	
DUKE UNIVERSITY, <i>et al.</i> ,	)	
<i>Defendants.</i>	)	

**MOTION FOR EXTENSION OF TIME TO FILE REPLY BRIEF**

RYAN MCFADYEN, MATTHEW WILSON, and BRECK ARCHER (“Plaintiffs”), respectfully request a short extension of 3 days from the Court to file their reply briefs supporting their motion for a protective order and their counsel’s motion to quash the Duke Defendants’ subpoenas to take their counsel’s depositions in *McFadyen, et al. v. Duke University, et al.* and *Carrington, et al. v. Duke University, et al.*, respectively. Specifically, Plaintiffs respectfully request that the Court set the deadline for both reply briefs for October 18, 2012.

In support of this Motion, Plaintiffs show the Court the following:

1. In *McFadyen, et al. v. Duke University, et al.*, Plaintiffs filed their Motion for a Protective Order (DE 294) relating to the Duke Defendants' subpoenas to take the depositions of their counsel Robert Ekstrand and Stefanie Smith on September 3, 2012. The Duke Defendants filed their Response in Opposition to the Motion for a Protective Order (DE 300) on September 27, 2012. The current deadline for the reply brief in *McFadyen, et al. v. Duke University, et al.* is October 15, 2012.
2. In *Carrington, et al. v. Duke University, et al.*, Plaintiffs' counsel filed a Motion to Quash Duke's Subpoenas to Take the Depositions of Litigation Counsel in *McFadyen, et al. v. Duke University, et al.* (DE 258) on September 3, 2012. The Duke Defendants filed their Response in Opposition to the Motion to Quash (DE 261) on September 10, 2012. Plaintiffs' counsel filed a Motion to Extend Time to File Reply Brief (DE 268) on September 25, 2012. The Duke Defendants filed their Response (DE

269) on September 26, 2012. Plaintiffs' counsel's reply to the Duke Defendants' Response to Movants' Motion to Extend Time to File Reply Brief is currently due on October 15, 2012.

3. In *Carrington, et al. v. Duke University, et al.*, Plaintiffs' counsel filed their Motion for Extension of Time to Harmonize Deadlines for Reply Briefs in *Carrington* and *McFadyen* (DE 272) on October 4, 2012. The Duke Defendants filed their Response (DE 275) on October 12, 2012. In their Response, the Duke Defendants neither consented nor opposed Plaintiffs' counsel's request for an extension. Plaintiffs' counsel's reply to the Duke Defendants' Response is currently due on October 29, 2012.
4. On October 12, 2012, the Honorable John H. Rich III of the United States District Court for the District of Maine

entered an order granting in part and denying for the most part Duke's motion to compel the deposition and production of documents of one of the two authors of one of the books the Duke Defendants refer to in their response briefs opposing Plaintiffs' motion for a protective order and Plaintiffs' counsel's motion to quash the Duke Defendants' subpoenas to take Plaintiffs' counsel's depositions. In granting in part Duke's Motion, the District Court of Maine is permitting a very limited inquiry. Plaintiffs' counsel are evaluating whether the District Court of Maine's order has any bearing upon the arguments the Duke Defendants advance in their responses in opposition to the motion to quash and motion for protective order relating to Duke's subpoenas to take the depositions of Plaintiffs' counsel. Plaintiffs' counsel does not require significant time to do so, but may require a modest amount of time to assess the Order and is thus respectfully requesting from the Court a short extension of 3 days. Plaintiffs were made aware of the Memorandum

Decision this afternoon in an email from the Duke Defendants' counsel, which the Memorandum Decision was attached to.

5. The central issues involved with the reply briefs in *Carrington, et al. v. Duke University, et al.* and *McFadyen, et al. v. Duke University, et al.* are essentially the same. Plaintiffs believe that the Court is likely to consider the briefings in *Carrington* and *McFadyen* in tandem and therefore it is appropriate if an extension is being sought in one case to harmonize the deadlines for both reply briefs.
6. Plaintiffs' counsel very recently requested a 3 day extension of time in *Carrington, et al. v. Duke University, et al.* to file their reply brief supporting their motion to quash (DE 276).
7. This Motion is made in good faith and not for purposes of delay.

For the reasons set forth above, Plaintiffs respectfully request an order extending the time within which they may file a reply brief supporting their motion for a protective order regarding the Duke

Defendants' subpoenas to take the depositions of Plaintiffs' counsel to October 18, 2012, the date on which an extension of time is also being sought for the reply brief relating to the Motion to Quash in *Carrington, et al. v. Duke University, et al.*

October 15, 2012

Respectfully submitted by:

/s/ Robert C. Ekstrand  
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                  *Plaintiffs,*                )  
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DUKE UNIVERSITY, *et al.*            )  
                  *Defendants.*                )

**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 counsel of record, all of whom are registered with the Court's CM/ECF System.

Respectfully submitted,

/s/ Stefanie A. Smith

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