

# **EXHIBIT 12**

**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.

**DUKE UNIVERSITY'S RESPONSE TO  
PLAINTIFFS' FIRST REQUEST FOR ADMISSIONS**

Defendant Duke University, by and through its undersigned counsel, hereby responds to Plaintiffs' First Request for Admissions as follows:

**FIRST REQUEST FOR ADMISSIONS**

1. Admit that Defendant Duke University never had in its possession, custody, or control an authenticate release signed by Plaintiff Ryan McFadyen on April 5, 2006.

**RESPONSE:**

Duke University objects to this Request for Admission as vague, ambiguous, and confusing insofar as it refers to "an authenticate release". Subject to this objection, denied.

2. Admit that on April 5, 2006 to the present date, Defendant Duke University never had in its possession, custody, or control an authenticate release signed by Plaintiff Ryan McFadyen giving permission to Duke University to release protected information regarding his disciplinary status on April 5, 2006.

**RESPONSE:**

Duke University objects to this Request for Admission as vague, ambiguous, and confusing insofar as it refers to “an authenticate release”. Subject to this objection, denied.

3. Admit that from April 5, 2006 to the present date, Defendant Duke University has never had in its possession, custody, or control an authenticate release signed by Plaintiff Ryan McFadyen giving permission to President Brodhead to release protected information regarding his disciplinary status on April 5, 2006.

**RESPONSE:**

Duke University objects to this Request for Admission as vague, ambiguous, and confusing insofar as it refers to “an authenticate release”. Subject to this objection, denied.

4. Admit that on March 31, 2006, Defendant Gary Smith and Duke Police Lt. Greg Stotsenberg provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Ryan McFadyen to Defendant M.D. Gottlieb.

**RESPONSE:**

Duke University denies that on March 31, 2006, Duke Police Lt. Greg Stotsenberg provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Ryan McFadyen to Defendant M.D. Gottlieb. Duke University has made a reasonable inquiry and the information that it knows or can readily obtain is insufficient to enable it to admit or deny that on March 31, 2006, Defendant Gary Smith provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Ryan McFadyen to Defendant M.D. Gottlieb. Except to the extent that it is expressly stated otherwise, this Request for Admission is denied.

5. Admit that on March 31, 2006, Defendant Gary Smith and Duke Police Lt. Greg Stotsenberg provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Matthew Wilson to Defendant M.D. Gottlieb.

**RESPONSE:**

Duke University denies that on March 31, 2006, Duke Police Lt. Greg Stotsenberg provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Matthew Wilson to Defendant M.D. Gottlieb. Duke University has made a reasonable inquiry and the information that it knows or can readily obtain is insufficient to enable it to admit or deny that on March 31, 2006, Defendant Gary Smith provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Matthew Wilson to Defendant M.D. Gottlieb. Except to the extent that it is expressly stated otherwise, this Request for Admission is denied.

6. Admit that on March 31, 2006, Defendant Gary Smith and Duke Police Lt. Greg Stotsenberg provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Breck Archer to Defendant M.D. Gottlieb.

**RESPONSE:**

Duke University denies that on March 31, 2006, Duke Police Lt. Greg Stotsenberg provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Breck Archer to Defendant M.D. Gottlieb. Duke University has made a reasonable inquiry and the information that it knows or can readily obtain is insufficient to enable it to admit or deny that on March 31, 2006, Defendant Gary Smith provided a key card report for 3/13/06 to 3/14/06 of Plaintiff Breck Archer to Defendant M.D. Gottlieb. Except to the extent that it is expressly stated otherwise, this Request for Admission is denied.

7. Admit that from March 31, 2006 to the present date, Defendant Duke University has never had in its possession, custody, or control an authenticate release signed by Plaintiff Ryan McFadyen giving permission to Duke University to release his key card report for 3/13/06 to 3/14/06 to Defendant M.D. Gottlieb.

**RESPONSE:**

Duke University objects to this Request for Admission as vague, ambiguous, and confusing insofar as it refers to “an authenticate release”. Subject to this objection, Duke University admits that from March 31, 2006 to the present date, Duke University has never had in its possession, custody, or control a release signed by Plaintiff Ryan McFadyen giving permission to Duke University to release his key card report for 3/13/06 to 3/14/06 to Defendant M.D. Gottlieb. Except to the extent that this Request for Admission is expressly admitted, this Request for Admission is denied.

8. Admit that from March 31, 2006 to the present date, Defendant Duke University has never had in its possession, custody, or control an authenticate release signed by Plaintiff Matthew Wilson giving permission to Duke University to release his key card report for 3/13/06 to 3/14/06 to Defendant M.D. Gottlieb.

**RESPONSE:**

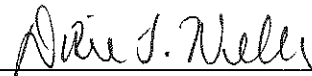
Duke University objects to this Request for Admission as vague, ambiguous, and confusing insofar as it refers to “an authenticate release”. Subject to this objection, Duke University admits that from March 31, 2006 to the present date, Duke University has never had in its possession, custody, or control a release signed by Plaintiff Matthew Wilson giving permission to Duke University to release his key card report for 3/13/06 to 3/14/06 to Defendant M.D. Gottlieb. Except to the extent that this Request for Admission is expressly admitted, this Request for Admission is denied.

9. Admit that from March 31, 2006 to the present date, Defendant Duke University has never had in its possession, custody, or control an authenticate release signed by Plaintiff Breck Archer giving permission to Duke University to release his key card report for 3/13/06 to 3/14/06 to Defendant M.D. Gottlieb.

**RESPONSE:**

Duke University objects to this Request for Admission as vague, ambiguous, and confusing insofar as it refers to “an authenticate release”. Subject to this objection, Duke University admits that from March 31, 2006 to the present date, Duke University has never had in its possession, custody, or control a release signed by Plaintiff Breck Archer giving permission to Duke University to release his key card report for 3/13/06 to 3/14/06 to Defendant M.D. Gottlieb. Except to the extent that this Request for Admission is expressly admitted, this Request for Admission is denied.

This the 10th day of January, 2012.



Richard W. Ellis  
N.C. State Bar No. 1335  
Email: dick.ellis@elliswinters.com  
Paul K. Sun, Jr.  
N.C. State Bar No. 16847  
Email: paul.sun@elliswinters.com  
Jeremy M. Falcone  
N.C. State Bar No. 36182  
Email: jeremy.falcone@elliswinters.com  
Ellis & Winters LLP  
1100 Crescent Green, Suite 200  
Cary, North Carolina 27518  
Telephone: (919) 865-7000  
Facsimile: (919) 865-7010

Dixie T. Wells  
N.C. State Bar No. 26816  
Email: dixie.wells@elliswinters.com  
Ellis & Winters LLP  
333 N. Greene Street, Suite 200  
Greensboro, North Carolina 27401  
Telephone: (336) 217-4193  
Facsimile: (336) 217-4198

*Counsel for Duke University*

**CERTIFICATE OF SERVICE**

I hereby certify that on January 10, 2012, I served the foregoing **Duke University's Response to Plaintiffs' First Request for Admission** by electronic transmission as provided in Rule 5(b)(2)(E) and by depositing a copy thereof in a depository under the exclusive care and custody of the United States Postal Service in a postage prepaid envelope and properly addressed as follows:

Robert C. Ekstrand  
Stefanie A. Sparks  
EKSTRAND & EKSTRAND LLP  
811 Ninth Street, Suite 260  
Durham, NC 27705  
*Counsel for Plaintiffs*

This 10th day of January, 2012.



---

Dixie T. Wells  
N.C. State Bar No. 26816  
Email: dixie.wells@elliswinters.com  
Ellis & Winters LLP  
333 N. Greene Street, Suite 200  
Greensboro, North Carolina 27401  
Telephone: (336) 217-4193  
Facsimile: (336) 217-4198

*Counsel for Duke University*