

**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>	)	

**PLAINTIFFS' REPLY REGARDING MOTION FOR EXTENSION  
OF TIME TO FILE REPLY BRIEF**

RYAN MCFADYEN, MATTHEW WILSON, and BRECK  
ARCHER ("Plaintiffs"), respectfully provide the following brief Reply to  
the Court.

1. On October 16, 2012 at 12:35 AM, Plaintiffs filed a Motion (ECF No. 305) requesting an extension of time to file their Reply Brief supporting their motion for a protective order to take their counsel's depositions. Specifically, Plaintiffs requested that the Court set the deadline for the reply brief for October 18, 2012.

2. One of reasons for Plaintiffs' request was so that Plaintiffs' counsel could assess any impact of the recent Memorandum Decision of the Honorable John H. Rich III of the United States District Court for the District of Maine had issued. Plaintiffs' counsel had become aware of the recent Memorandum Decision during the afternoon of October 15, 2012.

3. Because of the timing of when Plaintiffs filed their Motion, Plaintiffs' counsel did not request the Duke Defendants' position *before* filing the Motion. However, in an effort to be able to report the Duke Defendants' position to the Court, Plaintiffs' counsel contacted Mr. Sun and Ms. Wells, counsel for the Duke Defendants, on October 16, 2012. Plaintiffs' counsel received no response from the Duke Defendants' counsel.

4. The Duke Defendants filed their Response (ECF No. 308) to Plaintiffs' Motion requesting an extension of time on October 18, 2012. In their Response, the Duke Defendants stated that they neither consented to nor opposed Plaintiffs' Motion.

5. Since the briefing of Plaintiffs' Motion (ECF No. 305) regarding an extension of time had not been completed until after the date of the proposed extension, October 18, 2012, Plaintiffs have attached a revised proposed order for the Court's consideration.

6. Plaintiffs' Motion for an extension of time was 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 the date on which an order by the Court granting Plaintiffs' Motion  
is entered.

October 19, 2012

Respectfully submitted by:

/s/ Robert C. Ekstrand .  
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Defendants.	)	

**CERTIFICATE OF SERVICE**

On the date electronically stamped below, the foregoing Reply and text of Plaintiffs' revised 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

Stefanie A. Smith

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