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

RYAN McFADYEN, et al., Plaintiffs,)	
v.)	1:07-cv-953-JAB-JEP
DUKE UNIVERSITY, et al., Defendants.)	

PLAINTIFFS' RESPONSE IN OPPOSITION TO DUKE'S PURPORTED "MOTION TO STRIKE" PLAINTIFFS' REPLY

The Duke Defendants have moved improperly "to strike" Plaintiffs' Reply [ECF # 309] in support of Plaintiffs' Motion for an extension of time [ECF # 305]. Duke's Motion to Strike [ECF # 310] has no merit for the obvious reason that the Federal Rules of Civil Procedure do not authorize a motion "to strike"; motions to strike are appropriately directed only to pleadings. Fed. R. Civ. P. 12(f). As this Court previously explained *in this case*:

Motions to Strike are appropriately addressed to pleadings, not to other motions. See Fed. R. Civ. P. 12(f). Therefore, the issues raised in the Motion to Strike ... are not properly the basis for a separate motion.

Order granting Pls' Mot. for Leave to Amend [ECF #135], Feb. 16, 2010.

¹ As part of this Response, Plaintiffs incorporate ECF filings #294, 305, 309, and 312 (including exhibits) to address the Duke Defendants' factual inaccuracies in their Motion to Strike.

CONCLUSION

Duke's motion is meritless, unauthorized, and must be denied.

November 16, 2012

Respectfully submitted,

EKSTRAND & EKSTRAND LLP

Counsel for Plaintiffs, Ryan McFadyen, Matthew Wilson, and Breck Archer

By: /s/ Robert C. Ekstrand

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CERTIFICATE OF SERVICE

On the date electronically stamped below, Plaintiffs' Response in Opposition to Duke's Purported "Motion to Strike" Plaintiffs' Reply 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, and to Defendant Linwood Wilson, who appears *pro se* in this action and is registered with the Court's CM/ECF System for purposes of this action.

Respectfully submitted,

/s/ Robert C. Ekstrand

Robert C. Ekstrand