

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

RYAN MCFADYEN, *et al.*,
Plaintiffs,

v.

DUKE UNIVERSITY, *et al.*,
Defendants.

1:07-CV-953

**PLAINTIFFS' OPPOSITION TO AND MOTION TO STAY DEFENDANT
LINWOOD WILSON'S MOTION TO DISMISS COUNTS 5 AND 18**

Following the Fourth Circuit's Opinion issued on December 17, 2012 regarding the interlocutory appeal filed by the City of Durham and individual Durham Defendants, Defendant Linwood Wilson filed a Motion to Dismiss ("Motion") (DE 324) requesting that this Court dismiss Counts 5 and 18. Plaintiffs provide the following response to Defendant Wilson's Motion.

On December 31, 2012, Plaintiffs filed a motion for rehearing en banc of the Fourth Circuit's common-law obstruction of justice ruling. Additionally, the time for filing a petition for certiorari to the Supreme Court has not yet run. Thus, Plaintiffs respectfully request that this Court stay the briefing schedule and make no decision on Defendant Wilson's Motion pending the conclusion of the proceedings on Plaintiffs' request for reconsideration by the Fourth Circuit en banc and any further appellate review.

January 11, 2013

Respectfully submitted by:

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CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2013, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System, which will send notice of the filing to counsel of record for Defendants and Defendant Linwood Wilson, all of who are registered CM/ECF users.

Dated: January 11, 2013

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