

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:07-CV-00953**

RYAN MCFADYEN, *et al.*,

Plaintiffs,

v.

DUKE UNIVERSITY, *et al.*,

Defendants.

ANSWER TO SECOND AMENDED COMPLAINT

NOW COMES Defendant the City of Durham, North Carolina (the "City"), herein by and through its attorneys, and responds to Plaintiffs' Second Amended Complaint (Doc. 136), as follows:

FIRST DEFENSE

As confirmed by the decisions in this case by this Court (see Memorandum Opinion, filed March 31, 2011, Doc. 186) and the United States Court of Appeals for the Fourth Circuit (see Evans v. Chalmers, 703 F.3d 636 (4th Cir. 2012), cert. denied, 134 S. Ct. 98 (2013)), as well as by decisions of the North Carolina appellate courts, including but not limited to N. C. Farm Bureau Mut. Ins. Co. v. Cully's Motorcross Park, Inc., N.C. ___, 742 S.E.2d 781 (2013), Plaintiffs' Second Amended Complaint (Doc. 136) fails to state a claim against the City upon which relief can be granted, if Plaintiffs' Second

Amended Complaint ever did state a claim against the City, and should therefore be dismissed.

SECOND DEFENSE

The City answers each numbered paragraph in the following correspondingly numbered paragraphs of Plaintiffs' Seconded Amended Complaint. With respect to the table of contents therein and the headings inserted among the numbered paragraphs of Plaintiffs' Second Amended Complaint, and to the extent the table of contents and headings are deemed to constitute allegations of fact, the City denies each and every one of them.

1. Paragraph 1 of Plaintiffs' Second Amended Complaint is a characterization of Plaintiffs' case and reflects Plaintiffs' views and assertions as to the alleged roles of the 50 persons and entities whom or which Plaintiff originally named as Defendants in this action, many of whom are no longer Defendants as a result of the dismissal by this Court and the Court of Appeals of the claims asserted against them. To the extent this paragraph sets forth factual allegations to which a response is required, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of those allegations and therefore denies the same, except that the City denies the allegations of the relationships, if any, between the City and those persons and entities identified in this paragraph. Further, the City respectfully shows this Court that, to the extent that the "police department" to which reference is made in this paragraph is to the City's Police Department (commonly referred to as the "Durham Police Department" and referred to as

such herein), the Durham Police Department is simply an organizational unit of the City, without a separate legal existence, and as such is not a legal entity capable of suing or being sued.

2. Denied as to the City, now-dismissed Defendant Mark D. Gottlieb ("Sgt. Gottlieb"), now-dismissed Defendant Benjamin W. Himan ("Inv. Himan"), all other City personnel named as Defendants, and as to whom this action has been dismissed, and all other City personnel (and Sgt. Gottlieb, Inv. Himan, all other City personnel named as Defendants, and as to whom this action has been dismissed, and all other City personnel are herein referred to collectively as "City Personnel"); otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

3. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

4. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

5. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that the City admits that:

Plaintiffs were never arrested for, charged with, or indicted for with any crime with respect to the acts, omissions, events, incidents, transactions, occurrences, and circumstances that are the subject of this action. On April 11, 2007, the North Carolina Attorney General dismissed all criminal charges then pending against David F. Evans, Collin Finnerty, and Reade Seligmann. Messrs. Evans, Finnerty, and Seligmann are not and never were plaintiffs in or parties to this action. With respect to Messrs. Evans, Finnerty, and Seligmann, and the dismissal of the charges against them, the Attorney General made oral or written statements, although none of those statements is actually quoted in this paragraph. In any event, such oral or written statements speak for themselves.

6. Admitted upon information and belief.
7. Admitted upon information and belief.
8. Admitted upon information and belief.
9. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.
10. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required:

It is admitted that Duke University is an educational institution with facilities in Durham, Durham County, North Carolina and it is admitted that Plaintiffs were students at Duke University. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

11. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required:

It is admitted that Duke University maintains and operates a police department that is a law enforcement agency pursuant to North Carolina law. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

12. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

13. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

14. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

15. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

16. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

17. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

18. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

19. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

20. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

21. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

22. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

23. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

24. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

25. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

26. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

27. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

28. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

29. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

30. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

31. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

32. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

33. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

34. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

36. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

37. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

38. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

39. This paragraph appears to represent Plaintiffs' grouping of certain of the many persons and entities against whom Plaintiffs have brought this action. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

40. This paragraph appears to represent Plaintiffs' grouping of certain of the many persons and entities against whom Plaintiffs have brought this action. No response

to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

41. This paragraph appears to represent Plaintiffs' grouping of certain of the many persons and entities against whom Plaintiffs have brought this action. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

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43. This paragraph appears to represent Plaintiffs' grouping of certain of the many persons and entities against whom Plaintiffs have brought this action. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

44. This paragraph appears to represent Plaintiffs' grouping of certain of the many persons and entities against whom Plaintiffs have brought this action. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

45. This paragraph appears to represent Plaintiffs' grouping of certain of the many persons and entities against whom Plaintiffs have brought this action. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

46. This paragraph appears to represent Plaintiffs' grouping of certain of the many persons and entities against whom Plaintiffs have brought this action. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

47. This paragraph appears to represent Plaintiffs' grouping of certain of the many persons and entities against whom Plaintiffs have brought this action. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City is without knowledge or information

sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

48. Denied, except as hereinafter admitted. It is admitted that the City is a municipal corporation organized and existing under the laws of the State of North Carolina, and that pursuant to law the City operates the Durham Police Department.

49. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that it is admitted that:

Michael Nifong was the District Attorney for the Fourteenth Judicial District, which encompasses Durham County, North Carolina. The office of District Attorney is a separate constitutional officer of the State of North Carolina with the sole authority to decide whether to prosecute a criminal case. As District Attorney, Mr. Nifong was never, and never acted as, official, agent, or employee of the City and never had, never was delegated with, and never exercised any policymaking authority for or on behalf of the City. Mr. Nifong resigned as District Attorney, was disbarred by the North Carolina State Bar and was found guilty of criminal contempt and briefly incarcerated, all with respect to his acts and omissions with respect to criminal charges brought against Messrs. Evans, Finnerty, and Seligmann, who are not and never were plaintiffs in or parties to this action.

50. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the

City admits that Patrick Baker was the City Manager for the City of Durham, North Carolina and Baker is and has been at all times relevant to this action a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

51. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that Steven Chalmers was the Chief of Police for the Durham Police Department and that Chalmers is a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

52. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that Ronald Hodge was the Deputy Chief of Police for the Durham Police Department and that Hodge is a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

53. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that Lee Russ was the Executive Officer to the Chief of Police in the Durham Police Department and that Russ is a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

54. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that, at the relevant time, Stephen Mihaich was employed in the Durham

Police Department and was a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

55. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that Beverly Council was the Commander of the Uniform Patrol Bureau for the Durham Police Department and that Council is a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

56. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that Jeff Lamb was the Commander of the District Two Uniform Patrol of the Durham Police Department and that Lamb is a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

57. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that Michael Ripberger was a Lieutenant in the Durham Police Department and that Ripberger is a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

58. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that, at the relevant time, Laird Evans was employed in the Durham Police Department and was a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

59. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that James T. Soukup was Director of the Durham Emergency Communications Center and that Soukup is a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

60. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that, at the relevant time, Kammie Michael was employed in the Durham Police Department and was a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

61. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that, at the relevant time, David W. Addison was employed in the Durham Police Department and was a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

62. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that Sgt. Gottlieb was a Sergeant employed by the Durham Police Department and is a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

63. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the

City admits that Inv. Himan was an Investigator employed by the Durham Police Department and was a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

64. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required the City admits that:

Defendant Linwood Wilson was employed by the State of North Carolina as an investigator in the Office of the District Attorney for the Fourteenth Judicial District. During the time of Defendant Wilson's employment he was supervised directly or indirectly by Michael Nifong, who had the right to supervise and control him while Mr. Nifong was the District Attorney.

The City denies the remaining allegations in this paragraph.

65. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that, at the relevant time, Richard D. Clayton was employed in the Durham Police Department and was a citizen and resident of North Carolina. The City denies the remaining allegations in this paragraph.

66. This paragraph appears to represent Plaintiffs' grouping of the City and some of the City Personnel against whom Plaintiffs have brought this action and Defendant Linwood Wilson, who was never an official, employee, or agent of the City and who was never supervised or controlled, directly or indirectly, by the City or any City Personnel. No response to this paragraph seems to be required, and further, this

paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City denies the allegations of this paragraph.

67. This paragraph appears to represent Plaintiffs' grouping of some of the City Personnel against whom Plaintiffs have brought this action and Defendant Linwood Wilson, who was never an official, employee, or agent of the City and who was never supervised or controlled, directly or indirectly, by the City or any City Personnel. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City denies the allegations of this paragraph.

68. This paragraph appears to represent Plaintiffs' grouping of some of the City Personnel against whom Plaintiffs have brought this action and Defendant Linwood Wilson, who was never an official, employee, or agent of the City and who was never supervised or controlled, directly or indirectly, by the City or any City Personnel. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City denies the allegations of this paragraph.

69. This paragraph appears to represent Plaintiffs' grouping of some of the City Personnel against whom Plaintiffs have brought this action and Defendant Linwood Wilson, who was never an official, employee, or agent of the City and who was never supervised or controlled, directly or indirectly, by the City or any City Personnel. No response to this paragraph seems to be required, and none is given, except that, to the

extent a response to this paragraph is required, the City denies the allegations of this paragraph.

70. This paragraph appears to represent Plaintiffs' grouping of some of the City Personnel against whom Plaintiffs have brought this action. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City denies the allegations of this paragraph.

71. This paragraph appears to represent Plaintiffs' grouping of some of the City Personnel against whom Plaintiffs have brought this action. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City denies the allegations of this paragraph.

72. This paragraph appears to represent Plaintiffs' grouping of some of the City Personnel against whom Plaintiffs have brought this action. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City denies the allegations of this paragraph.

73. Denied, except as hereinafter admitted. It is admitted upon information and belief that Defendant DNA Security, Inc. ("DSI") is a North Carolina corporation with its primary place of business in Burlington, North Carolina, and it is admitted that:

DSI was engaged by Michael Nifong on behalf of the State of North Carolina, to provide services relating to the criminal charges brought against Messrs. Evans, Finnerty, and Seligmann. Defendant Brian Meehan, an employee of DSI was involved in the performance of such services. DSI was not engaged by the City or any City Personnel. DSI reported to Mr. Nifong, not to the City or any

City Personnel. Such direction and supervision as was provided to DSI and Defendant Meehan was provided by Mr. Nifong, not the City or any City Personnel. With respect to the services for which DSI was engaged, which DSI performed and in which Defendant Meehan was involved, neither the City nor any City Personnel: (a) had the right or authority to direct or supervise DSI; (b) directed or supervised DSI, directly or indirectly; (c) attempted to direct or supervised DSI, directly or indirectly.

74. Denied, except as hereinafter admitted. It is admitted that Defendant Richard Clark is or was the President of DSI and does or did reside in North Carolina.

75. Denied, except as hereinafter admitted. It is admitted that Defendant Brian Meehan served as a Laboratory Director at DSI for some period of time, and was involved in performing the services described in the preceding paragraph 73 of this answer. It is admitted upon information and belief that Defendant Meehan does or did reside in North Carolina.

76. This paragraph appears to represent Plaintiffs' grouping of certain of the many persons and entities against whom Plaintiffs have brought this action. No response to this paragraph seems to be required, and none is given, except that, to the extent a response to this paragraph is required, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

77. This paragraph appears to represent Plaintiffs' grouping of the City and some of the City Personnel against whom Plaintiffs have brought this action and other

Defendants in this action, none of whom or which was ever an official, employee, or agent of the City, none of whom or which was ever supervised or controlled, directly or indirectly, by the City or any City Personnel, and with respect to none of whom or which neither the City nor any City Personnel had any right of supervision or control. No response to this paragraph seems to be required, and further, this paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City denies the allegations of this paragraph. In further response, neither the City nor any City personnel conspired with any person or entity to violate the statutory or constitutional rights of any person. The City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

78. Denied, except as hereinafter admitted. It is admitted that:

Plaintiffs purport to assert claims for damages pursuant to federal and state law. As to the City, all such claims have been dismissed by decisions of this Court and the Court of Appeals, except Plaintiffs' purported claim for alleged violations of the North Carolina Constitution. However, such alleged violations are unspecified, and thus such claim fails to state a claim and is otherwise procedurally defective, as well as substantively deficient.

79. Denied, except as hereinafter admitted. It is admitted that Plaintiff has asserted claims arising under the Constitution and laws of the United States, although all of such claims that were asserted against the City have been dismissed by decisions of this Court and the Court of Appeals.

80. Denied, based on, inter alia, the decisions of this Court and the Court of Appeals, dismissing all federal claims against the City.

81. Denied, except as hereinafter admitted. Venue in this Court is consistent with the allegations of Plaintiffs' Second Amended Complaint, although: (a) such allegations are denied, and (b) all federal claims asserted against the City have been dismissed by decisions of this Court and the Court of Appeals and Plaintiffs' sole remaining claim against the City -- a purported claim for alleged violations of the North Carolina Constitution -- fails to state a claim and is otherwise procedurally defective, as well as substantively deficient.

82. - 193. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City denies them, except that the City admits that documents in electronic form, a digital audio recording, and a digital video recording are referenced therein and designated as attachments to Plaintiffs' Second Amended Complaint. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

194. Denied, except as hereinafter admitted. The City admits that a party was held at 610 North Buchanan Boulevard, Durham, North Carolina on March 13, 2006 and that among those present were members of the Duke University men's lacrosse team.

195. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that it is admitted that arrangements were made for two strippers to perform at the party.

196. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

197. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

198. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

199. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

200. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

201. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

202. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

203. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

204. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

205. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

206. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

207. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

208. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

209. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

210. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

211. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

212. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

213. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

214. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that it is admitted that on April 11, 2007, the North Carolina Attorney General

dismissed all criminal charges then pending against Messrs. Evans, Finnerty, and Seligmann, and in connection therewith, issued a report.

215. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

216. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

217. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

218. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

219. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except to the extent specifically addressed in and confirmed by records of the activity.

220. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

221. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by the transcripts from and records of the Disciplinary Hearing Commission proceeding relating to the disbarment of Michael Nifong.

222. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same

except that it is admitted that a digital video recording is referenced in and designated as "ATTACHMENT 8" to Plaintiffs' Second Amended Complaint.

223. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

224. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

225. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, 911 call center records.

226. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except that it is admitted that a digital audio recording is referenced in and designated as "ATTACHMENT 9" to Plaintiffs' Second Amended Complaint.

227. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, 911 call center records.

228. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

229. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, 911 call center records. It is also admitted that Durham Police Sergeant John Shelton ("Sgt. Shelton) responded to the 911 call and prepared a report intended to document his observations and actions from that evening.

230. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

231. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same

except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

232. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

233. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

234. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

235. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the

following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, 911 call center records.

236. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, 911 call center records. The City further admits that a digital audio recording is referenced in and designated as "ATTACHMENT 10" to Plaintiffs' Second Amended Complaint.

237. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

238. Denied.

239. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

240. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same

except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

241. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

242. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes. The City further admits that a digital audio recording is referenced in and designated as "ATTACHMENT 11" to Plaintiffs' Second Amended Complaint.

243. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

244. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same

except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

245. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

246. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

247. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that, it is admitted upon information and belief that, during the course of the assessment/workup, Mangum stated she had been attacked, assaulted, and/or raped.

248. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that, it is admitted upon information and belief that, during the course of the assessment/workup, Mangum stated she had been attacked, assaulted, and/or raped.

249. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that, it is admitted upon information and belief that, during the course of the assessment/workup, Mangum stated she had been attacked, assaulted, and/or raped.

250. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same,

except that, it is admitted upon information and belief that, during the course of the assessment/workup, Mangum stated she had been attacked, assaulted, and/or raped.

251. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that, it is admitted upon information and belief that, during the course of the assessment/workup, Mangum stated she had been attacked, assaulted, and/or raped.

252. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

253. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

254. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

255. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, 911 call center records.

256. Denied.

257. Denied.

258. Denied.

259. Denied.

260. Denied.

261. Denied.

262. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

263. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes.

264. Denied.

265. Denied.

266. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except that it is admitted that Durham Police Officer Gwen Sutton spoke with Mangum

267. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, other materials constituting the investigative file compiled by Sgt. Gottlieb and Inv. Himan and reflecting the actions taken during the course of the investigation conducted by Sgt. Gottlieb and Inv. Himan ("record of the investigation").

268. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

269. Denied.

270. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

271. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

272. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

273. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

274. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

275. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

276. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

277. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

278. - 328. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City denies the allegations of paragraphs 285 and 290, and with respect to paragraphs 278 - 284, 286 - 289, and 291 - 328, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, records and reports from Duke University Medical Center, records

and reports from UNC Hospitals, records and report from forensic medical examination by Duke University Medical Center of Crystal Mangum. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

329. Denied.

330. Denied.

331. Denied.

332. Denied.

333. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

334. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

335. Denied.

336. Denied.

337. Denied.

338. Denied.

339. Denied.

340. Denied.

341. Denied.

342. Denied, except to the extent that the text of the e-mail is accurately reproduced.

343. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

344. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

345. Denied.

346. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

347. Denied.

348. Denied, except as hereinafter admitted. It is admitted that neither Sgt. Gottlieb nor Inv. Himan was assigned to the Violent Crimes Unit.

349. Denied.

350. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

351. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

352. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

353. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

354. Denied.

355. Denied.

356. Denied.

357. Denied.

358. Denied.

359. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

360. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

361. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

362. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation, record of the investigation.

363. Admitted, except to the extent inconsistent with one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

364. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

365. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

366. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt.

Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

367. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

368. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

369. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

370. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

371. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

372. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt.

Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

373. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegation of "unprecedented vilification" in this paragraph and therefore denies the same. The remaining allegations of this paragraph are denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

374. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

375. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

376. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

377. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt.

Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

378. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

379. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

380. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

381. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

382. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

383. Denied.

384. Denied.

385. Denied.

386. Denied.

387. Denied.

388. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

389. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

390. Denied.

391. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

392. Denied.

393. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

394. Denied.

395. Denied.

395. Denied.

396. Denied.

397. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

398. Denied.

399. Denied.

400. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

401. Denied.

402. Denied.

403. Denied.

404. Denied.

405. Denied.

406. Denied.

407. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

408. Denied.

409. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City admits that applicable statutory and case law speaks for itself.

410. Denied.

411. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

412. Admitted, except to the extent inconsistent with one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

413. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

414. Denied.

415. Denied.

416. Denied.

417. Denied.

418. Denied.

419. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report; Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes: March 23, 2010 nontestimonial identification order, application for same, and supporting affidavit (collectively, "NTO materials").

420. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, NTO materials, record of the investigation.

421. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

422. Denied.

423. Admitted, except to the extent inconsistent with one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, NTO materials, record of the investigation.

424. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

425. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

426. Denied.

427. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

428. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

429. Denied.

430. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

431. Denied.

432. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

433. Denied.

434. Denied.

435. Denied.

436. Denied.

437. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

438. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

439. Denied,

440. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, NTO materials, record of the investigation.

441. Denied.

442. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

443. Denied.

444. Denied.

445. - 502. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City denies the allegations of paragraphs 446, 448, 460, 487, 500, and 501, and with respect to paragraphs 445, 447, 449 - 459, 461 - 486, and 488 - 499, and 502, the City is without knowledge or information sufficient to

form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

503. The allegations of this paragraph are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City admits those allegations of this paragraph, that are consistent with the transcripts from and records of the Disciplinary Hearing Commission proceeding relating to the disbarment of Michael Nifong, and the City admits that a digital video recording is referenced in and designated as "ATTACHMENT 12" to Plaintiffs' Second Amended Complaint. The City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

504. Denied.

505. Denied.

506. Denied.

507. Denied, except to the extent that the text of the e-mail/electronic document is accurately reproduced.

508. Denied.

509. Denied.

510. Denied.

511. Denied except as hereinafter admitted. It is admitted that a document in electronic form is referenced in and designated as "ATTACHMENT 13" to Plaintiffs' Second Amended Complaint.

512. Denied, except to the extent that the text of the e-mails are accurately quoted in context.

513. Denied, except to the extent that the text of the e-mails are accurately quoted in context.

514. Denied.

515. Denied.

516. Denied.

517. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City denies the allegations of this paragraph. The City also denies any and all factual allegations of this paragraph.

518. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same.

519. Denied except as hereinafter admitted. It is admitted that a document in electronic form is referenced in and designated as "ATTACHMENT 14" to Plaintiffs' Second Amended Complaint.

520. Denied.

521. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same.

522. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same.

523. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

524. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

525. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

526. - 554. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City denies the allegations of paragraphs 534 and 537, and with respect to paragraphs 526 - 533, 535 - 536, and 538 - 554, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same, except that it is

admitted that a digital video recording is referenced in and designated as "ATTACHMENT 15" to Plaintiffs' Second Amended Complaint. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

555. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

556. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

557. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

558. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

559. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

560. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

561. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

562. Denied.

563. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

564. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

565. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of the investigation.

566. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

567. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

568. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City denies the allegations of this paragraph.

569. Denied.

570. Denied.

571. Denied.

572. Denied.

573. Denied.

574. Denied.

575. Denied.

576. Denied.

577. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

578. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

579. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

580. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

581. - 588. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City is without knowledge or information

sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

589. - 590. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City denies them. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

591. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

592. Denied, except as hereinafter admitted. It is admitted that during the meeting among Sgt. Gottlieb, Inv. Himan, and Michael Nifong on March 27, 2006, Sgt. Gottlieb and Inv. Himan detailed to Mr. Nifong the information they had collected as of that date regarding, and Inv. Himan expressed concerns to Mr. Nifong about Crystal Mangum's credibility.

593. Denied, except as hereinafter admitted. It is admitted that during the meeting among Sgt. Gottlieb, Inv. Himan, and Michael Nifong on March 27, 2006, Mr. Nifong made the statement attributed to him.

594. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of investigation.

595. Denied.

596. Denied.

597. Denied.

598. Denied.

599. Denied.

600. Denied.

601. Denied.

602. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

603. Denied.

604. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

605. Denied.

606. Denied.

607. Denied, except as hereinafter admitted. It is admitted that a photo appears in Plaintiffs' Second Amended Complaint.

608. Denied.

609. Denied.

610. Denied.

611. Denied.

612. Denied.

613. Denied.

614. Denied.

615. Denied.

616. Denied.

617. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, record of investigation.

618. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, record of investigation.

619. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, record of investigation.

620. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt.

Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, record of investigation.

621. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, record of investigation.

622. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, record of investigation.

623. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, record of investigation.

624. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, record of investigation.

625. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

626. The allegations of this paragraph are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant,

immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

627. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City denies the allegations of this paragraph.

628. Denied.

629. Denied.

630. Denied.

631. Denied.

632. Denied.

633. Denied.

634. Denied.

635. Denied.

636. Denied.

637. Denied.

638. Denied.

639. Denied.

640. Denied.

641. The allegations of this paragraph are not relevant to Plaintiff's sole remaining purported claim against the City; such allegations are redundant, immaterial, or impertinent within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure; and this paragraph asserts conclusions of law, to which no response is required, and none is given. In any event, and to the extent a response to this paragraph is required, the City denies the allegations of this paragraph. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

642. The allegations of this paragraph are not relevant to Plaintiff's sole remaining purported claim against the City; such allegations are redundant, immaterial, or impertinent within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure; and this paragraph asserts conclusions of law, to which no response is required, and none is given. In any event, and to the extent a response to this paragraph is required, the City denies the allegations of this paragraph. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

643. The allegations of this paragraph are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, or impertinent within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same. Without limiting the generality of the foregoing, the City denies any and all

allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

644. Denied.

643. - 654. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, or impertinent within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same, except that it is admitted that a digital video recording is referenced in and designated as "ATTACHMENT 16" to Plaintiffs' Second Amended Complaint. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

655. The allegations of this paragraph are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, or impertinent within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the allegations of this paragraph are denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, record of investigation. Without limiting the generality of the foregoing, the City denies any and

all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

656. - 659. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, or impertinent within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

660. The allegations of this paragraph are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, or impertinent within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the allegations of this paragraph are denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, record of investigation. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

661. - 664. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant,

immaterial, or impertinent within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the allegations of this paragraph are denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

665. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of investigation

666. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, Crystal Mangum's statements appearing in the transcript of the April Photo Array and Sgt. Gottlieb's notes from the April Photo Array, record of investigation.

667. Denied.

668. Denied.

669. Denied.

670. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt.

Gottlieb's Supplemental Notes and/or Case Supplemental Notes, Crystal Mangum's statements appearing in the transcript of the April Photo Array and Sgt. Gottlieb's notes from the April Photo Array, record of investigation.

671. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, Crystal Mangum's statements appearing in the transcript of the April Photo Array and Sgt. Gottlieb's notes from the April Photo Array, record of investigation.

672. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, Crystal Mangum's statements appearing in the transcript of the April Photo Array and Sgt. Gottlieb's notes from the April Photo Array, record of investigation.

673. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, Crystal Mangum's statements appearing in the transcript of the April Photo Array and Sgt. Gottlieb's notes from the April Photo Array, record of investigation.

674. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, Crystal Mangum's

statements appearing in the transcript of the April Photo Array and Sgt. Gottlieb's notes from the April Photo Array, record of investigation.

675. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, Crystal Mangum's statements appearing in the transcript of the April Photo Array and Sgt. Gottlieb's notes from the April Photo Array, record of investigation.

676. Denied.

677. This paragraph asserts conclusions of law, to which no response is required, and none is given, except that, to the extent a response to this paragraph is required, the City denies the allegations of this paragraph. The City also denies any and all factual allegations of this paragraph.

678. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, Crystal Mangum's statements appearing in the transcript of the April Photo Array and Sgt. Gottlieb's notes from the April Photo Array, record of investigation.

679. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

680. Denied.

681. Denied.

682. Denied.

683. Denied.

684. Denied.

685. Denied.

686. Denied.

687. Denied.

688. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

689. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

690. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of investigation.

691. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of investigation.

692. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

693. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of investigation.

694. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

695. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

696. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

697. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

698. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

699. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that it is admitted that a digital video recording is referenced in and designated as "ATTACHMENT 17" to Plaintiffs' Second Amended Complaint.

700. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

701. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

702. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

703. - 745. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City denies the allegations of paragraph 711, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, Crystal Mangum's statements appearing in the transcript of the April Photo Array and Sgt. Gottlieb's notes from the April Photo Array, record of investigation; and with respect to paragraphs 703 - 710 and 712 - 745, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

746. - 778. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City denies the allegations of paragraphs 749,

751, 755, 756, and 765, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, written report produced by DSI and DSI's records of the actions it took, record of investigation; and with respect to paragraphs 746 - 748, 750, 752 - 754, 757 - 764, and 766 - 778, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same. It is admitted that digital video recordings are referenced in and designated as "ATTACHMENT 18" and "ATTACHMENT 20" to Plaintiffs' Second Amended Complaint, and a document in electronic form is referenced in and designated as "ATTACHMENT 19" to Plaintiffs' Second Amended Complaint. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

779. Denied.

780. Denied.

781. Denied, except to the extent that the quote is accurate and in context.

782. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that it is admitted that digital video recordings are referenced in and designated as "ATTACHMENT 21" and "ATTACHMENT 22" to Plaintiffs' Second Amended Complaint."

783. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

784. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

785. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, records and reports from Duke University Medical Center, records and report from forensic medical examination by Duke University Medical Center of Crystal Mangum, record of investigation.

786. Denied.

787. Denied.

788. Denied.

789. Denied.

790. Denied.

791. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

792. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

793. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same,

except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, records and reports from Duke University Medical Center, records and report from forensic medical examination by Duke University Medical Center of Crystal Mangum, record of investigation.

794. Denied.

795. Denied.

796. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

797. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, records and reports from Duke University Medical Center, records and report from forensic medical examination by Duke University Medical Center of Crystal Mangum, record of investigation.

798. Denied.

799. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

800. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, written report produced by DSI and DSI's records of the actions it took, record of investigation.

801. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, written report produced by DSI and DSI's records of the actions it took, record of investigation.

802. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, written report produced by DSI and DSI's records of the actions it took, record of investigation.

803. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, SBI report of analysis of evidence gathered from the rape kit, written report produced by DSI and DSI's records of the actions it took, record of investigation.

804. Denied.

805. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

806. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

807. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same,

except that it is admitted that a digital video recording is referenced in and designated as "ATTACHMENT 23" to Plaintiffs' Second Amended Complaint.

808. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

809. Denied, except to the extent that the quote is accurate and in context.

810. Denied.

811. Denied.

812. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that it is admitted that a document in electronic form is referenced in and designated as "ATTACHMENT 24" to Plaintiffs' Second Amended Complaint.

813. Denied.

814. Denied.

815. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that it is admitted that a digital video recording is referenced in and designated as "ATTACHMENT 25" to Plaintiffs' Second Amended Complaint.

816. Denied, except as hereinafter admitted. It is admitted that Inv. Himan made the statement attributed to him and that Inv. Himan was concerned that it could not be proven that Mr. Seligmann had attended the party.

817. Denied.

818. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

819. The City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

820. Denied.

821. Denied, except to the extent specifically addressed in and confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, record of investigation.

822. Denied.

823. Denied.

824. Denied.

825. Denied, except to the extent that the quote is accurate and in context.

826. Denied, except to the extent that the quote is accurate and in context.

827. - 889. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City denies the allegations of paragraphs 844, 851, 858 - 861, 865 - 867, and 870; and with respect to paragraphs 827 - 843, 855 - 850, 852 - 857, 862 - 864, 868, 869, and 871 - 889, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same, except that it is admitted that digital video recordings are referenced in and designated as "ATTACHMENT 26" and

"ATTACHMENT 28" to Plaintiffs' Second Amended Complaint, and a document in electronic form is referenced in and designated as "ATTACHMENT 27" to Plaintiffs' Second Amended Complaint. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

890. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

891. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

892. - 896. The allegations of these paragraphs are not relevant to Plaintiff's sole remaining purported claim against the City, and further, such allegations are redundant, immaterial, impertinent, or scandalous within the meaning of Rule 12(f) of the Federal Rules of Civil Procedure. In any event, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, and therefore denies the same. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

897. Denied, except to the extent specifically addressed in and confirmed by the report of the North Carolina Attorney General with respect to the dismissal of all criminal charges then pending against Messrs. Evans, Finnerty, and Seligmann.

898. Denied.

899. Denied.

900. Denied, except to the extent that the quote is accurate and in context.

901. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same.

902. Denied as to the City and City Personnel; otherwise, the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph, and therefore denies the same, except that it is admitted that Michael Nifong was held in criminal contempt.

903. Denied, except to the extent that the quote is accurate and in context.

904. - 985. The First Cause of Action through the Seventh Cause of Action set forth in paragraphs 904 through 985 of Plaintiffs' Second Amended Complaint (also referred to by this Court as Counts 1, 2, 3, 4, 5, 6, 7) have been dismissed as to the City by this Court or the Court of Appeals, or both, and therefore no response to these paragraphs is required. To the extent a response is necessary, the allegations of paragraphs 904 through 985 are all denied, or are denied because the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, except that:

Paragraphs 905, 907, 908, 919, 920, 921, 942, 943, 944, 955, 969, and 979 are denied, except to the extent: (a) they are directed to the City, and (b) they do not assert conclusions of law, and (c) they are specifically addressed in and

confirmed by one or more of the following: Inv. Himan's Investigator Notes, case notes and report, Sgt. Gottlieb's Supplemental Notes and/or Case Supplemental Notes, records and reports from Duke University Medical Center, records and report from forensic medical examination by Duke University Medical Center of Crystal Mangum, records and reports from UNC Hospitals, NTO materials, SBI report of analysis of evidence gathered from the rape kit, written report produced by DSI and DSI's records of the actions it took, Crystal Mangum's statements appearing in the transcript of the April Photo Array and Sgt. Gottlieb's notes from the April Photo Array, transcripts from and records of the Disciplinary Hearing Commission proceeding relating to the disbarment of Michael Nifong, record of the investigation.

In response to paragraph 904, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 903 as if fully stated herein.

In response to paragraph 918, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 917 as if fully stated herein.

In response to paragraph 929, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 928 as if fully stated herein.

In response to paragraph 941, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 940 as if fully stated herein.

In response to paragraph 954, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 953 as if fully stated herein.

In response to paragraph 969, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 968 as if fully stated herein.

In response to paragraph 978, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 977 as if fully stated herein.

Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

986. - 991. The Eight Cause of Action set forth in paragraphs 986 through 991 of Plaintiffs' Second Amended Complaint (also referred to by this Court as Count 8) does not purport to assert a claim for relief against the City or has been dismissed by this Court or the Court of Appeals, or both, and therefore no response to these paragraphs is required. To the extent a response is necessary, the allegations of paragraphs 986 through 991 are all denied, or are denied because the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs,

except that, in response to paragraph 986, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 985 as if fully stated herein. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

992. - 1222. The Ninth Cause of Action through the Twentieth Cause of Action set forth in paragraphs 992 through 1222 of Plaintiffs' Second Amended Complaint (also referred to by this Court as Counts 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20) have been dismissed as to the City by this Court or the Court of Appeals, or both, and therefore no response to these paragraphs is required. Further, paragraphs 993, 1003, 1008, 1038, 1108, 1148, 1157, and 1171 assert conclusions of law, to which no response is required for that additional reason. To the extent a response is necessary, the allegations of paragraphs 992 through 1222 are all denied, or are denied because the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, except that:

In response to paragraph 992, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 991 as if fully stated herein.

In response to paragraph 1002, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1001 as if fully stated herein.

In response to paragraph 1008, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1007 as if fully stated herein.

In response to paragraph 1037, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1036 as if fully stated herein.

In response to paragraph 1107, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1006 as if fully stated herein.

In response to paragraph 1141, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1140 as if fully stated herein.

In response to paragraph 1147, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1146 as if fully stated herein.

In response to paragraph 1156, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1155 as if fully stated herein.

In response to paragraph 1170, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1169 as if fully stated herein.

In response to paragraph 1189, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1188 as if fully stated herein.

In response to paragraph 1203, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1202 as if fully stated herein.

In response to paragraph 1213, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1212 as if fully stated herein.

Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

1223. - 1234. Neither the Twenty-First Cause of Action nor the Twenty-Second Cause of Action, set forth in paragraphs 1223 through 1234 of Plaintiffs' Second Amended Complaint (also referred to by this Court as Counts 21, 22), purport to assert a claim for relief against the City, and the Twenty-Second Cause of Action has been dismissed by this Court. Therefore, no response to these paragraphs is required. To the extent a response is necessary, the allegations of paragraphs 1223 through 1234 are all denied, or are denied because the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, except that:

In response to paragraph 1223, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1222 as if fully stated herein.

In response to paragraph 1229, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1228 as if fully stated herein.

Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

1235. - 1248. The Twenty-Third Cause of Action set forth in paragraphs 1235 through 1248 of Plaintiffs' Second Amended Complaint (also referred to by this Court as Count 23) has been dismissed by this Court or the Court of Appeals, or both, and therefore no response to these paragraphs is required. Further, paragraph 1236 asserts a conclusion of law, to which no response is required for that additional reason. To the extent a response is necessary, the allegations of paragraphs 1235 through 1248 are all denied, or are denied because the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, except that, in response to paragraph 1235, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1234 as if fully stated herein. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

1249. - 1260. The Twenty-Fourth Cause of Action set forth in paragraphs 1249 through 1260 of Plaintiffs' Second Amended Complaint (also referred to by this Court as Count 24) does not purport to assert a claim for relief against the City, and therefore no response to these paragraphs is required. To the extent a response is necessary, the allegations of paragraphs 1249 through 1260 are all denied, or are denied because the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, except that, in response to paragraph 1249, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1248 as if fully stated herein. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

1261. - 1288. The Twenty-Fifth Cause of Action through the Twentieth-Eighth Cause of Action set forth in paragraphs 1261 through 1288 of Plaintiffs' Second Amended Complaint (also referred to by this Court as Counts 25, 26, 27, 28) have been dismissed by this Court or the Court of Appeals, or both, and therefore no response to these paragraphs is required. Further, paragraphs 1262, 1263, and 1269 assert conclusions of law, to which no response is required for that additional reason. To the extent a response is necessary, the allegations of paragraphs 1261 through 1288 are all denied, except that:

In response to paragraph 1261, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1260 as if fully stated herein.

In response to paragraph 1268, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1267 as if fully stated herein.

In response to paragraph 1277, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1276 as if fully stated herein.

In response to paragraph 1283, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1282 as if fully stated herein.

Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

1289. - 1317. The Twenty-Ninth Cause of Action through the Thirty-First Cause of Action set forth in paragraphs 1289 through 1317 of Plaintiffs' Second Amended Complaint (also referred to by this Court as Counts 29, 30, 31) do not purport to assert any claim for relief against the City, and all have been dismissed by this Court. Therefore, no response to these paragraphs is required. Further, paragraphs 1291, 1293, 1294, 1302, 1310, and 1312 assert conclusions of law, to which no response is required for that additional reason. To the extent a response is necessary, the allegations of

paragraphs 1289 through 1317 are all denied, or are denied because the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, except that:

In response to paragraph 1289, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1288 as if fully stated herein.

In response to paragraph 1301, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1300 as if fully stated herein.

In response to paragraph 1309, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1308 as if fully stated herein.

Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

1318. - 1325. The Thirty-Second Cause of Action set forth in paragraphs 1318 through 1325 of Plaintiffs' Second Amended Complaint (also referred to by this Court as Count 32) does not purport to assert a claim for relief against the City, and therefore no response to these paragraphs is required. Further, paragraph 1319 asserts a conclusion or conclusions of law, to which no response is required for that additional reason. To the extent a response is necessary, the allegations of paragraphs 1318 through 1325 are all denied, or are denied because the City is without knowledge or information

sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, except that, in response to paragraph 1318, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1317 as if fully stated herein. Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

1326. - 1381. The Thirty-Third Cause of Action through the Fortieth Cause of Action set forth in paragraphs 1326 through 1381 of Plaintiffs' Second Amended Complaint (also referred to by this Court as Counts 33, 34, 35, 36, 37, 38, 39, 40) do not purport to assert any claim for relief against the City, and all have been dismissed by this Court or by settlement between Plaintiffs and DSI, and therefore no response to these paragraphs is required. Further, paragraphs 1333, 1343, 1355, 1356, 1362, and 1376 assert conclusions of law, to which no response is required for that additional reason. To the extent a response is necessary, the allegations of paragraphs 1326 through 1381 are all denied, or are denied because the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of these paragraphs, except that:

In response to paragraph 1326, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1325 as if fully stated herein.

In response to paragraph 1332, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1331 as if fully stated herein.

In response to paragraph 1341, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1340 as if fully stated herein.

In response to paragraph 1348, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1347 as if fully stated herein.

In response to paragraph 1354, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1353 as if fully stated herein.

In response to paragraph 1360, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1359 as if fully stated herein.

In response to paragraph 1366, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1365 as if fully stated herein.

In response to paragraph 1372, the City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1371 as if fully stated herein.

Without limiting the generality of the foregoing, the City denies any and all allegations of any improper actions, conduct, motives, and/or intentions on the part of the City or any City Personnel.

1382. The City hereby reaffirms and adopts and incorporates herein by reference its responses to paragraphs 1 through 1381 as if fully stated herein.

1383. Denied.

1384. Denied.

1385. Denied.

1382. - 1385. In further answer to paragraphs 1382 through 1385 of Plaintiffs' Second Amended Complaint, the City respectfully shows this Court that:

(a) Despite its 428 pages, exclusive of exhibits, and 1,388 numbered paragraphs, Plaintiffs' Second Amended Complaint, fails to give fair notice of the nature of their claim under the North Carolina Constitution and the grounds on which the claim rests.

(b) Plaintiffs have failed to allege, and in any event cannot satisfy their burden of establishing, that there is no alternate remedy for their purported claim based on the North Carolina Constitution. In this regard, but without limiting the generality of the foregoing, Plaintiffs asserted claims against DSI, settled their claims against DSI, and upon information and belief, received payment from DSI in compensation for their claims.

1386. The allegations of this paragraph do not appear to be directed to the City, and therefore no response to this paragraph is required. Further, this paragraph is

premised on a conclusion of law, in consequence of which no response is required for that additional reason. To the extent a response is necessary, the allegations of this paragraph are denied, or are denied because the City is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations of this paragraph.

1387. Denied, except as hereinafter admitted. It is admitted that Plaintiffs demand a trial by jury on all claims and issues so triable.

1388. As to Paragraph 1388 of Plaintiffs' Second Amended Complaint, any allegations of fact set forth therein are denied, and all prayers, requests, and/or demands for relief therein should be rejected.

* * *

Any other allegation of Plaintiffs' Second Amended Complaint that is not directly, specifically, expressly, and unequivocally admitted is denied. A denial of a paragraph having subparagraphs is a denial of that paragraph and each and every one of its subparagraphs. All allegations of fact in Plaintiffs' Second Amended Complaint in this action that correspond to allegations of fact in the Second Amended Complaint filed in Evans v. City of Durham et al., No. 1:07-CV-00739 (Doc. 116 in 1:07-CV-00739) are denied herein to the same extent and in the same fashion as such allegations are denied in the City's answer to the Second Amended Complaint in Evans v. City of Durham et al. (see Doc. 212 in 1:07-CV-00739). Any response or averment herein that is in conflict with or inconsistent with a response or averment set forth in the City's answer in Evans v. City of Durham et al., is intended to be construed so as not to be in conflict with or inconsistent with the City's answer to the Second Amended Complaint in Evans v. City of Durham et al.

(see Doc. 212 in 1:07-CV-00739), and such harmonious construction is required by Rule 8(e) of the Federal Rules of Civil Procedure.

STATEMENT CONCERNING PLAINTIFFS'
ALLEGATIONS OF ACTUAL INNOCENCE

Plaintiffs' allegations of actual innocence, of the actual innocence of David Evans, Collin Finnerty, and Reade Seligmann, or of the actual innocence of any other member of the lacrosse team are not relevant to the subject matter involved or the purported claims asserted in the pending action, and in any event, to the extent that Crystal Mangum's allegations that she had been the victim of a crime were false and/or that Plaintiffs, Messrs. Evans, Finnerty, and Seligmann, and every other member of the lacrosse team were/are actually innocent as alleged in Plaintiffs' Second Amended Complaint, such falsity or actual innocence was not known by any City Personnel at the time the indictments of Messrs. Evans, Finnerty, and Seligmann were issued, or during the time when the investigation by Sgt. Gottlieb and Inv. Himan that is the subject of this action was being conducted, or at any other time relevant to this action.

THIRD DEFENSE

The prosecution of David Evans, Collin Finnerty, and Reade Seligmann and the investigation by Sgt. Gottlieb and Inv. Himan that is the subject of this action were supported by probable cause.

FOURTH DEFENSE

David Evans, Collin Finnerty, and Reade Seligmann were indicted after a properly convened and conducted grand jury returned true bills of indictment, for which probable cause existed and the investigation by Sgt. Gottlieb and Inv. Himan that is the subject of this action was properly conducted in connection therewith.

FIFTH DEFENSE

Sgt. Gottlieb, Inv. Himan, and City police personnel had an affirmative duty to investigate claims of sexual assault and kidnapping made by anyone within the City's jurisdiction, and in particular, Sgt. Gottlieb, Inv. Himan, and City police personnel had an affirmative duty to conduct the investigation that is the subject of this action, and performed that duty.

SIXTH DEFENSE

Any injury or damage sustained by Plaintiffs was the result of intervening and/or superseding acts or omissions of others, such as Michael Nifong, over and as to whom Sgt. Gottlieb, Inv. Himan, and/or the City had no control or responsibility. In addition or in the alternative, Plaintiffs' own conduct was a superseding/intervening cause of any injury or damage sustained by Plaintiffs, and bars all of Plaintiffs' purported claims.

SEVENTH DEFENSE

Sgt. Gottlieb and Inv. Himan satisfied any duty owed to David Evans, Collin Finnerty, and Reade Seligmann and to Plaintiffs by disclosing all evidence, including exculpatory evidence, to the prosecutor, who made an independent decision to seek the indictments of Messrs. Evans, Finnerty, and Seligmann.

EIGHTH DEFENSE

Sgt. Gottlieb and Inv. Himan are immune from liability for any alleged injury or damage to Plaintiffs arising out of Sgt. Gottlieb's and Inv. Himan's testimony before the grand jury that issued the indictments of David Evans, Collin Finnerty, and Reade Seligmann; such immunity extends to Plaintiffs' purported claims and inures also to the benefit of the City, and thereby precludes any purported claims asserted by Plaintiffs against the City.

NINTH DEFENSE

Plaintiffs' purported claims are barred to the extent they are based on allegations regarding grand jury testimony, in that N.C. Gen. Stat. § 15A-623(e) prohibits the disclosure of anything that transpires during such proceedings.

TENTH DEFENSE

N.C. Gen. Stat. § 15A-623(e) provides that grand jury proceedings are secret, and prohibits the disclosure of anything that transpires during such proceedings. Further,

Rule 606(b) of the Federal Rules of Evidence and Rule 606(b) of the North Carolina Rules of Evidence prohibit a grand juror from testifying regarding any matter or statement occurring during the course of the grand jury's deliberations, the effect of anything upon any grand juror's vote, or any grand juror's mental processes. Consequently, all allegations in Plaintiffs' Second Amended Complaint, including but not limited to those in paragraphs 867 and 1150.J thereof, relating to testimony or evidence presented, deliberations that occurred, grand jurors' votes or their decision, or anything else that transpired during the grand jury proceedings with respect to which the indictments of Plaintiffs that are the subject of this action were issued, and any comments from grand jurors regarding any of the foregoing, are incompetent, inadmissible, and should be disregarded, if not stricken.

ELEVENTH DEFENSE

Plaintiffs should have taken action to minimize or eliminate damages, and therefore are precluded from recovering damages, or their damages are reduced, by operation of the doctrine of avoidable consequences.

TWELFTH DEFENSE

Plaintiffs failed to mitigate their alleged damages, in consequence of which Plaintiffs are precluded from any recovery.

THIRTEENTH DEFENSE

As set forth supra in the City's further answer to paragraphs 1382 through 1385 of Plaintiffs' Second Amended Complaint, Plaintiffs settled with DSI, and upon information and belief received from DSI compensation, with respect to the same acts, omissions, events, incidents, transactions, occurrences, and circumstances that are the subject of this action. Although Plaintiffs may assert, and have asserted, multiple purported claims, they are entitled, if at all, to but one recovery. The City is entitled to a set-off or credit in the amount of any settlement or compromise heretofore or hereafter reached by Plaintiffs with any other party for any of Plaintiffs' purported claims and alleged damages.

FOURTEENTH DEFENSE

The obligation to turn over exculpatory evidence under *Brady v. Maryland*, 373 U.S. 83 (1963) is solely the prosecutor's.

FIFTEENTH DEFENSE

Plaintiffs' purported claim asserted against the City is barred by the public duty doctrine.

SIXTEENTH DEFENSE

The City expressly reserves, asserts, and pleads any and all applicable common law defenses and privileges in defense and bar of Plaintiffs' purported claims, including but not limited to, consent, implied consent, and legal justification.

SEVENTEENTH DEFENSE

To the extent that, notwithstanding the Court's March 31, 2011 Memorandum Opinion (Doc. 186) at page 219, note 95 ("As with the § 1983 claims, Plaintiffs may not recover punitive damages against the City on these state claims"), Plaintiffs continue to seek punitive damages, the City is absolutely immune from liability for punitive damages. Any continuing or remaining assertion of or demand for punitive damages as to the City is contrary to well-established law, including but not limited to, Long v. City of Charlotte, 306 N.C. 187, 189, 206-08 (1982); Ripellino v. N.C. Sch. Bds. Ass'n, 158 N.C. App. 423, 427 (2003); Houpe v. City of Statesville, 128 N.C. App. 334 (1998); Efird v. Riley, 342 F. Supp. 2d 413, 430 (M.D.N.C. 2004); and N.C. Motorcoach Ass'n v. Guilford County Bd. of Educ., 315 F. Supp. 2d 784, 810 (M.D.N.C. 2004). Therefore, any continuing or remaining assertion of a demand for punitive damages against the City is not well grounded in fact and is completely unwarranted by existing law or a good faith argument for the extension, modification, or reversal of existing law, and further there is a complete absence of any justiciable issue of either law or fact raised by any continuing or remaining assertion of a demand for punitive damages against the City.

EIGHTEENTH DEFENSE

Notwithstanding the assertion in paragraph 1388 of the Second Amended Complaint of a "substantial risk of irreparable injury" to others, Plaintiffs have failed to allege adequately, and in any event cannot satisfy, their burden of establishing a basis for or entitlement to equitable or injunctive relief.

NINETEENTH DEFENSE

The City expressly reserves, asserts, and pleads any and all equitable defenses to any equitable or injunctive relief that may be sought by Plaintiffs.

STATEMENT OF NON-WAIVER OF DEFENSES

The assertion of any defense is not intended to be, nor shall such assertion be construed as, a waiver of any other defense.

RESERVATION OF ADDITIONAL DEFENSES

The City reserves the right to plead such additional defenses as may become known through research, investigation, discovery, or otherwise.

JURY TRIAL DEMAND

The City respectfully demands a trial by jury on all issues so triable in this action.

WHEREFORE, Defendant the City of Durham, North Carolina, having fully responded to Plaintiffs' Second Amended Complaint, and responding further to paragraph 1388 of Plaintiffs' Second Amended Complaint, respectfully prays for the following relief:

1. That Plaintiffs' Second Amended Complaint, together with all remaining purported claims asserted therein, be dismissed with prejudice;
2. That Plaintiffs' Prayer for Relief be denied in every respect;

3. That the City be awarded its costs and expenses incurred in or with respect to this action, including reasonable attorneys' fees; and

4. That the Court grant the City such other and further relief to which the City may be entitled based on the averments herein, or as may be just, proper, and equitable.

Respectfully submitted, this the 17th day of April, 2014.

WILSON & RATLEDGE, PLLC

OFFICE OF THE CITY ATTORNEY, CITY
OF DURHAM, NORTH CAROLINA

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Attorneys for Defendant City of Durham, North Carolina

CERTIFICATE OF ELECTRONIC FILING AND SERVICE

The undersigned hereby certifies that, pursuant to Rule 5 of the Federal Rules of Civil Procedure and LR5.3 and LR5.4, MDNC, the foregoing pleading, motion, affidavit, notice, or other document/paper has been electronically filed with the Clerk of Court using the CM/ECF system, which system will automatically generate and send a Notice of Electronic Filing (NEF) to the undersigned filing user and registered users of record, and that the Court's electronic records show that each party to this action is represented by at least one registered user of record (or that the party is a registered user of record), to each of whom the NEF will be transmitted.

This the 17th day of April, 2014.

WILSON & RATLEDGE, PLLC

By: /s/ Reginald B. Gillespie, Jr.

Reginald B. Gillespie, Jr.

North Carolina State Bar No. 10895