

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

**RYAN MCFADYEN, *et al.*,
Plaintiffs,**

v.

**DUKE UNIVERSITY, *et al.*,
Defendants,**

1:07cv953

**DEFENDANT WILSON'S BRIEF ON MOTION TO EXPIDITE BRIEFING ON
DEFENDANT'S MOTION FOR JUDGMENT OF THE PLEADINGS AND
DISMISS UNCONTESTED RENEWED MOTION TO DISMISS.**

NOW COMES Defendant Linwood E. Wilson, pro se, requesting the Court to Expedite Defendant's Motion for Judgment on the Pleadings and Motion to Dismiss Uncontested Renewed Motion to Dismiss (389). Plaintiffs' have had over 5 months of time to respond.

QUESTION PRESENTED

Whether there is good cause to expedite briefing on Defendant's Motion for Judgment on the Pleadings and Motion to Dismiss Plaintiffs' Uncontested Renewed Motion to Dismiss.

ARGUMENT

Under the Local Rules, Plaintiffs would ordinarily be required to file any response to Defendants' Motion for Judgment on the Pleadings and Motion to Dismiss Uncontested Renewed Motion to Dismiss within twenty-one days after service of the

motion. LR 7.3(f). However, “[f]or good cause appearing therefor, a respondent may be required to file any response and supporting documents, including brief, within such shorter period of time as the Court may specify.” *Id.*

In light of the Court’s stated intention to resolve pending motions during the sixty day abeyance, and the need for the parties to complete discovery efficiently, good cause exists for expediting the deadline for Plaintiffs to respond to Defendant’s motion for judgment on the pleadings and Motion to Dismiss Uncontested Renewed Motion to Dismiss, and for Defendant to reply to any such response.

The sixty-day abeyance period will end on 16 May 2014. [DE 357]. Under the default briefing schedule, Plaintiffs’ response to Defendants’ motion to strike would not come due until 22 May 2014. *See* LR 7.3(f). Defendant’s reply to Plaintiffs’ response would not come due, and thus the motion for judgment on the pleadings and motion to dismiss uncontested renewed motion to dismiss would not be fully briefed, until 1 June 2014. *See* LR 7.3(h). As set forth in Defendant’s brief in support of the motion for judgment on the pleadings and Motion to Dismiss Plaintiffs’ Uncontested Renew Motion to Dismiss.

As stated in Duke Defendants Motion to Expedite (363), given the 6 October 2014 trial date, the parties require a clear picture of all remaining claims to inform their trial preparation strategy. Until the status of Count 18 is resolved, the parties cannot proceed effectively with discovery and trial preparation. Therefore, good cause exists for expedited briefing on Defendant’s motion to For Judgment on the Pleadings and Plaintiffs’ Uncontested Motion to Dismiss Defendant’s Renewed Motion to Dismiss, which will facilitate the Court’s consideration of both the uncontested renewed motion to

dismiss and the pending motion for judgment on the pleadings within the sixty-day abeyance period.

CONCLUSION

For the reasons stated above, Defendant respectfully requests that the Court grant Defendant's motion to expedite briefing on Defendant's motion for Judgment on the Pleadings and Motion to Dismiss Uncontested Renewed Motion to Dismiss and order an expedited briefing schedule as set forth in the accompanying Motion to Expedite Briefing.

This the 29th Day of April, 2014

Respectfully,

/s/ Linwood E. Wilson
Linwood E. Wilson

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 29th day of April, 2014.

By: /s/ Linwood E. Wilson
Linwood E. Wilson
Pro Se