

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
Case No.: 1:07-cv-00953

RYAN McFADYEN, MATTHEW )  
WILSON; and BRECK ARCHER )

Plaintiffs, )

vs. )

DUKE UNIVERSITY; DUKE UNIVERSITY )  
POLICE DEPARTMENT; AARON GRAVES; )  
ROBERT DEAN; LEILA HUMPHRIES; )  
PHYLLIS COOPER; WILLIAM F GARBER, )  
II; JAMES SCHWAB; JOSEPH FLEMING; )  
JEFFREY O. BEST; GARY N. SMITH; GREG )  
STOTSENBERG; ROBERT K. STEEL; )  
RICHARD H. BRODHEAD, Ph.D.; PETER )  
LANGE, Ph.D.; TALLMAN TRASK, III, Ph.D.; )  
JOHN BURNES; LARRY MONETA Ed.D.; )  
VICTOR J. DZAU, M.D.; ALLISON HALTON;) )  
KEMEL DAWKINS; SUZANNE WASIOLEK;) )  
STEPHEN BRYAN; PRIVATE DIAGNOSTIC )  
CLINIC; MATTHEW DRUMMOND; DUKE )  
UNIVERSITY HEALTH SYSTEMS, INC, )  
PLLC; JULIE MANLY, M.D.; THERESA )  
ARICO, R.N.; TARA LEVICY, R.N.; THE )  
CITY OF DURHAM, NORTH CAROLINA; )  
MICHAEL B. NIFONG; PATRICK BAKER; )  
STEVEN CHALMERS; RONALD HODGE; )  
LEE RUSS; STEPHEN MIHAICH; BEVERLY )  
COUNCIL; EDWARD SARVIS; JEFF LAMB )  
; MICHAEL RIPBERGER; LAIRD EVANS )  
JAMES T. SOUKUP; KAMMIE MICHAEL; )  
DAVID W. ADDISON; MARK D. GOTTLIEB;) )  
BENJAMIN W. HIMAN; LINWOOD WILSON )  
; RICHARD D. CLAYTON; DNA SECURITY,) )  
INC.; RICHARD CLARK; and BRIAN )  
MEEHAN, Ph.D. )

Defendants. )

DEFENDANTS  
JAMES T. SOUKUP,  
KAMMIE MICHAEL,  
DAVID ADDISON,  
And RICHARD CLAYTON'S  
MOTION TO DISMISS  
(Rule 12(b)(6), F.R.C.P.)

Now come the Defendants, James T. Soukup (hereinafter, “Soukup”), Kammie Michael (hereinafter “Michael”), David Addison (hereinafter, “Addison”), and Richard Clayton (hereinafter, “Clayton”) by and through their counsel of record, and hereby move the Court to dismiss the Plaintiffs’ Complaint for failure to state a claim upon which relief can be granted pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

In support of their Motion to Dismiss, Soukup, Michael, Addison and Clayton are filing the accompanying Memorandum of Law and Citation of Authorities pursuant to Local Rules 7.1(a), 7.2 and 7.3(a), M.D.N.C. Because of the issues raised; the complexity of myriad causes of actions asserted in the Amended Complaint; and the minimal factual allegations made against them, Soukup, Michael, Addison, and Clayton request that oral argument be scheduled on this Motion to Dismiss pursuant to Local Rule 7.3(c)(1).

This the 2<sup>nd</sup> day of July, 2008.

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**Certificate of Service**

I hereby certify that I have served a copy of the foregoing Motion to Dismiss upon the below listed individuals by electronically filing the document with the Court on this date using the CM/ECF system and by placing a copy in the U.S. Mail to Defendant Linwood Wilson.

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