

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

RYAN MCFADYEN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	<u>STIPULATED SUPPLEMENT TO</u>
)	<u>PROTECTIVE ORDER</u>
)	<u>ON CONFIDENTIALITY</u>
)	
DUKE UNIVERSITY, <i>et al.</i> ,)	
)	
Defendants.)	
)	

Pursuant to the Court's pretrial and scheduling order entered May 27, 2014 (Doc. 409), the Protective Order on Confidentiality entered July 24, 2012 (Doc. 284) (the "Protective Order") is hereby supplemented as follows:

A. Defendant the City of Durham, North Carolina (the "City"), is hereby added to Paragraph 1 of the Protective Order as a party to the Protective Order, and all references to the "Parties" or the "parties" therein shall be deemed to include the City. Consequently, and for purposes of Paragraph 13 of the Protective Order, City personnel who require access to material designated as Confidential Information in order to assist in or evaluate this Litigation may have access to such material, and counsel of record to the City and their associated personnel, as associated personnel are described in Paragraph 13.c of the Protective Order, may have access to material designated as Confidential Information, provided that such persons orally agree to abide by the terms and provisions of the Protective Order. By gaining access to documents and other materials that are maintained and made available solely for review by other parties in or witnesses to this

Litigation, neither the City nor any of its agents become custodians of such documents or materials. The Parties agree and acknowledge that all documents and other materials that are made available for review to the City by other parties or witnesses during the course of this Litigation shall be deemed to remain in the custody of the producing party or witness.

B. Although the City is not a "newly-added party", to the extent the provisions of Paragraph 20 of the Protective Order are applicable to the circumstances surrounding the entry of this Supplement to Protective Order on Confidentiality, the signature below of counsel to the City shall constitute any signature of the City or its counsel that is required pursuant to Paragraph 20 of the Protective Order.

C. Documents, as defined in Paragraph 2 of the Protective Order, that reflect or contain any of the following information are hereby added to the specific examples of Confidential Information set forth in Paragraph 3 of the Protective Order: criminal investigative records and files; employee personnel records as defined by N.C. Gen. Stat. § 160A-168; and records and information not deemed public records under the North Carolina Public Records Act, N.C. Gen. Stat. § 132-1 et seq. The inclusion of the foregoing specific examples of Confidential Information shall not be construed to preclude designation of other information contemplated by Fed. R. Civ. P. 26(c) and/or Paragraph 3 of the Protective Order to be Confidential Information, as Confidential Information pursuant to the Protective Order.

D. Paragraph 12 is hereby supplemented by the addition of the following as the last sentence thereof:

Notwithstanding the foregoing, no information that is not a public record prior to production or disclosure shall become a public record by reason of its production or disclosure, under any circumstance and regardless of whether such

production or disclosure is in compliance with this Protective Order or not; and under no circumstance may any person, including any person associated with the City, disclose or produce any information that is not a public record to any other person, and thereby change the status of such information to a public record, regardless of whether such production or disclosure is in compliance with this Protective Order or not.

This the 30th day of May, 2014.

EKSTRAND & EKSTRAND, P.A.

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ORDER

The foregoing Stipulated Supplement to Protective Order on Confidentiality is hereby approved and this Court's Protective Order on Confidentiality entered July 24, 2012 (Doc. 284) is hereby deemed supplemented as set forth above.

This the ____ day of June, 2014.

United States Magistrate Judge