

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
CIVIL ACTION NUMBER 1:07-CV-00953**

RYAN McFADYEN, et al.,

Plaintiffs,

v.

DUKE UNIVERSITY, et al.,

Defendants.

**PLAINTIFFS'  
UNCONTESTED MOTION  
TO SEAL**

Pursuant to Rule 5.2 of the Federal Rules of Civil Procedure, Plaintiffs respectfully move the Court for an Order sealing Exhibit 1 to Defendant Duke University's 1 March 2012 reply brief in support of its motion for a protective order concerning a Rule 30(b)(6) deposition. [DE 270-1]. In support of this Motion, Plaintiffs show the Court the following:

1. In support of its reply brief, Defendant Duke University filed with this Court a copy of an Undergraduate Judicial Board Hearing Report ("Hearing Report") concerning Plaintiff Matthew Wilson's private disciplinary hearing from 21 August 2006, that Mr. Wilson had produced in discovery. (Id.).

2. Because the Hearing Report was not filed in connection with a dispositive motion, no First Amendment right of access attaches to this document.

*Bayer CropScience Inc. v. Syngenta Crop Prot., LLC*, -- F. Supp. 2d --, 2013 WL

5703212, at \*1-2 (M.D.N.C. 2013). Under the common law, a district court “has supervisory power over its own records and may, in its discretion, seal documents if the public’s right of access is outweighed by competing interests.” *In re Knight Publ’g Co.*, 743 F.2d 231, 235 (4th Cir. 1984).

3. Mr. Wilson’s Hearing Report – compiled as part of a closed-session disciplinary procedure nearly eight years ago – presents no valid interest for public access. On the other hand, Mr. Wilson’s interests in keeping the Hearing Report private would be served by sealing this document.

4. Defendant Duke University does not oppose Plaintiffs’ motion to seal the Hearing Report.

5. Defendant City of Durham does not oppose Plaintiffs’ motion to seal the Hearing Report.

For the foregoing reasons, and for those stated in the accompanying brief, the Plaintiffs respectfully request that this Court enter an Order sealing Mr. Wilson’s Hearing Report.

This the 19<sup>th</sup> day of June 2014.

Respectfully submitted by:

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**CERTIFICATE OF SERVICE**

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I hereby certify that on June 19, 2014, I electronically filed the foregoing with the Clerk of Court using the CM/ECF System, which will send notice of the filing to counsel of record for Defendants and Defendant Linwood Wilson, all of who are registered CM/ECF users.

Respectfully submitted by:

EKSTRAND & EKSTRAND LLP

/s/ Stefanie Sparks Smith

Stefanie Sparks Smith  
*Counsel for Plaintiffs*