

**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.

PLAINTIFFS' MOTION TO DISMISS

NOW COME Plaintiffs, herein by and through their attorneys, and pursuant to Federal Rule of Civil Procedure 41(a), respectfully move the Court to enter an order of dismissal, dismissing this action with prejudice as to all claims brought against Defendant the City of Durham, North Carolina (the "City"). Plaintiffs request that the order of dismissal state that Plaintiffs and the City shall each bear his or its own costs, attorneys' fees, disbursements, and expenses of any kind.

IN SUPPORT OF THIS MOTION, Plaintiffs respectfully show the Court the following:

1. The Forty-First Cause of Action ("Count 41") set forth in Plaintiffs' Second Amended Complaint is the only claim still pending in this litigation.
2. Count 41 is asserted solely against the City, and the City is the only defendant remaining in this litigation.

3. Plaintiffs do not intend to pursue Count 41 and respectfully request that it be dismissed.

4. The City does not oppose this motion or the dismissal of this action with each party bearing his or its own costs, attorneys' fees, disbursements, and expenses of any kind.

WHEREFORE, Plaintiffs respectfully pray that this action be dismissed with prejudice, with each party bearing his or its own costs, attorneys' fees, disbursements, and expenses of any kind.

This the 22nd day of June, 2014.

EKSTRAND & EKSTRAND, LLP

/s/ Robert C. Ekstrand

By: */s/ Stefanie Sparks Smith*

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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 motion 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 22nd day of June, 2014.

EKSTRAND & EKSTRAND, LLP

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