

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

RYAN MCFADYEN, et al	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 1:07-CV-953
	)	
DUKE UNIVERSITY, et al	)	
	)	
Defendants.	)	

---

**MOTION TO DISMISS OF DEFENDANT HODGE**

---

Defendants Ronald Hodge (“Defendant”) respectfully moves the Court, pursuant to FED. R. CIV. P. 12(b)(6), to dismiss Plaintiffs’ Complaint for failure to state a claim upon which relief can be granted. In support thereof, Defendant submits his accompanying Memorandum in Support of Motion to Dismiss filed pursuant to Local Rules 7.1(a), 7.2 and 7.3(a), M.D.N.C. Because of complexity of the causes of action at issue in this case, Defendant requests oral argument be scheduled on his Motion to Dismiss pursuant to Local Rule 7.3(c)(1).

Respectfully submitted, this the 2d day of July, 2008.

TROUTMAN SANDERS LLP

By: /s/ Patricia P. Kerner

Patricia P. Kerner

N.C. State Bar No. 13005

Hannah G. Styron

N.C. State Bar No. 28824

D. Martin Warf

N.C. State Bar No. 32982

*Attorneys for Defendant Hodge*

434 Fayetteville Street, Suite 1900

Raleigh, North Carolina 27601

Telephone: (919) 835-4100

Facsimile: (919) 829-8714

[tricia.kerner@troutmansanders.com](mailto:tricia.kerner@troutmansanders.com)

[hannah.styron@troutmansanders.com](mailto:hannah.styron@troutmansanders.com)

[martin.warf@troutmansanders.com](mailto:martin.warf@troutmansanders.com)

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

RYAN MCFADYEN, *et al*, )  
 )  
 Plaintiffs, )  
 )  
 v. ) Case No. 1:07-CV-00953  
 )  
 DUKE UNIVERSITY, *et al*, )  
 )  
 Defendants. )

---

**CERTIFICATE OF SERVICE**

---

I hereby certify that the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Robert C. Ekstrand  
EKSTRAND & EKSTRAND, LLP  
811 Ninth Street, Suite 260  
Durham, North Carolina 27705  
[rce@ninthstreetlaw.com](mailto:rce@ninthstreetlaw.com)  
*Attorneys for Plaintiffs*

James D. Cowan, Jr.  
Dixie T. Wells  
Leslie Cooper Harrell  
SMITH MOORE, LLP  
Post Office Box 21927  
Greensboro, NC 27420  
[don.cowan@smithmoorelaw.com](mailto:don.cowan@smithmoorelaw.com)  
[dixie.wells@smithmoorelaw.com](mailto:dixie.wells@smithmoorelaw.com)  
[cooper.harrell@smithmoorelaw.com](mailto:cooper.harrell@smithmoorelaw.com)  
*Attorneys for Defendants Duke  
University, Duke University Health System,  
Inc., Richard Brodhead,  
Peter Lange, Larry Moneta,  
John Burness, Tallman Trask,  
Suzanne Wasiolek, Matthew  
Drummond, Aaron Graves,  
Robert Dean, Tara Levicy, Theresa  
Arico, Kate Hendricks, Victor Dzau*

Dan J. McLamb  
Shirley M. Pruitt  
T. Carlton Younger, III  
YATES, MCLAMB & WEYHER, LLP  
P.O. Box 2889  
Raleigh, NC 27602-2889  
[dmclamb@ymwlaw.com](mailto:dmclamb@ymwlaw.com)  
[spruitt@ymwlaw.com](mailto:spruitt@ymwlaw.com)  
[cyounger@ymwlaw.com](mailto:cyounger@ymwlaw.com)  
*Attorneys for Defendants Duke  
University Health Systems, Inc.,  
Tara Levicy, and Theresa Arico*

Jamie S. Gorelick  
Jennifer M. O'Connor  
Paul R.Q. Wolfson  
William F. Lee  
WILMER, CUTLER, PICKERING,  
HALE, and DORR, LLP  
1875 Pennsylvania Ave., NW  
Washington, DC 20006  
[jamie.gorelick@wilmerhale.com](mailto:jamie.gorelick@wilmerhale.com)  
[jennifer.oconnor@wilmerhale.com](mailto:jennifer.oconnor@wilmerhale.com)  
[paul.wolfson@wilmerhale.com](mailto:paul.wolfson@wilmerhale.com)  
[william.lee@wilmerhale.com](mailto:william.lee@wilmerhale.com)  
*Attorneys for Defendants Duke  
University, Duke University Health  
System, Inc., Richard Brodhead,  
Peter Lange, Larry Moneta,  
John Burness, Tallman Trask,  
Suzanne Wasiolek, Matthew  
Drummond, Aaron Graves,  
Robert Dean, Tara Levicy, Theresa  
Arico, Kate Hendricks, Victor Dzau*

Robert A. Saar  
Nicholas J. Sanservino, Jr.  
OGLETREE DEAKINS NASH SMOAK  
& STEWART, PC  
2301 Sugar Bush Rd., Suite 600  
Raleigh, NC 27612  
*Attorneys for DNA Security*

Robert J. King, III  
Kearns Davis  
BROOKS, PIERCE, McLENDON,  
HUMPHREY & LEONARD, LLP  
Post Office Box 26000  
Greensboro, NC 27420  
*Attorneys for Defendants DNA Security,  
Inc. and Richard Clark*

Paul R. Dickinson, Jr.  
LEWIS & ROBERTS, PLLC  
590 Fairview Rd., Suite 102  
Charlotte, NC 28210  
*Attorneys for Brian Meehan*

Edwin M. Speas  
Eric P. Stevens  
POYNER & SPRUILL, LLP  
3600 Glenwood Avenue  
Raleigh, NC 27612  
*Attorneys for Defendant Gottlieb*

James B. Maxwell  
MAXWELL, FREEMAN & BOWMAN,  
P.A.  
Post Office Box 52396  
Durham, NC 27717  
*Attorneys for Defendant Addison*

James A. Roberts, III  
LEWIS & ROBERTS, PLLC  
1305 Navaho Drive, Suite 400  
Raleigh, NC 27605  
*Attorneys for Brian Meehan*

Reginald B. Gillespie, Jr.  
FAISON & GILLESPIE  
Post Office Box 51729  
Durham, NC 27717  
[rgillespie@faison-gillespie.com](mailto:rgillespie@faison-gillespie.com)  
*Attorneys for Defendant City of Durham*

Joel M. Craig  
Henry W. Sappenfield  
KENNON, CRAVER, BELO, CRAIG &  
MCKEE, PLLC  
Post Office Box 51579  
P.O. Box 51579  
Durham, NC 27717-1579  
*Attorneys for Defendant Himan*

I further certify that a copy of the foregoing was served today upon each of the following non CM/ECF participants by United States mail, postage prepaid, addressed as follows:

Linwood Wilson  
6910 Innesbrook Way  
Bahama, NC 27503-9700  
*Pro Se*

Roger E. Warrin  
Michael A. Vatis  
John P. Nolan  
Leah M. Quadrino  
STEPTOE & JOHNSON, LLP  
1330 Connecticut Ave. N.W.  
Washington, DC 20036  
*Attorneys for Defendant City of Durham*

This the 2nd day of July, 2008.

Respectfully submitted,

By: /s/ Patrica P. Kerner

Patricia P. Kerner  
N.C. State Bar No. 13005  
*Attorneys for Defendants Baker, Chalmers,  
Council, Evans, Hodge, Lamb, Mihiach,  
Ripberger, and Russ*  
434 Fayetteville Street, Suite 1900  
Raleigh, North Carolina 27601  
Telephone: (919) 835-4100  
Facsimile: (919) 829-8714  
[tricia.kerner@troutmansanders.com](mailto:tricia.kerner@troutmansanders.com)