

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

RYAN McFADYEN, et al.,

Plaintiffs,

v.

DUKE UNIVERSITY, et al.,

Defendants.

Civil Action No. 1:07-cv-953

**MOTION FOR EXTENSION OF TIME FOR
PLAINTIFFS' TO FILE RESPONSES TO RULE 12 BRIEFS**

Counsel for the Plaintiffs, pursuant to Fed. R. Civ. P. 6(b) and L.R. 6.1(a), respectfully moves the Court to reestablish the deadlines set out in the Court's April 30, 2008 Order setting a briefing schedule for Defendants' Motions to Dismiss, entered on July 2, 2008. Pursuant to L.R. 6.1(a), Plaintiffs' counsel has contacted and attempted to consult with the Defendants' counsel. In support of this Motion, the parties show the Court the following:

1. Plaintiffs filed the Complaint on December 17, 2007. The original Complaint contained 35 causes of action stated in 391 pages, excluding the table of

contents and numerous attachments that consisted of documents as well as electronic media.

2. Due to the length of the original Complaint and the number of causes of action, the parties agreed to the following Rule 12 briefing schedule, which was approved by this Court on March 25, 2008:

- a. Motions or Answers Due: April 25, 2008;
- b. Responses Due: 90 days after the filing of Motions; and
- c. Replies Due: 30 days after the filing of Responses.

3. Plaintiffs filed a First Amended Complaint on April 17, 2008, and upon request of the Court, Plaintiffs filed a Second Amended Complaint on April 18, 2008. The two amended complaints are identical, except for the nature of the filing of the exhibits. On April 30, 2008, the Court approved the parties agreed upon Rule 12 schedule setting the following deadlines:

- a. Motions or Answers Due: July 2, 2008;
- b. Responses Due: no later than 90 days after the date all Defendants' Motions or Answers are filed; and
- c. Replies Due: no later than 30 days after the date Plaintiffs' Responses are filed.

4. Plaintiffs request additional time for their responsive briefs due to the number and style of Rule 12 motions presented to them.

5. Pending this Court's approval, the Plaintiffs' request to reestablish the deadline for their responsive brief by granting an extension of 10 additional days;

Respectfully submitted, this the 1st day of October, 2008.

EKSTRAND & EKSTRAND, LLP

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CERTIFICATE OF SERVICE

I hereby certify that, on October 1, 2008, I electronically filed the foregoing MOTION FOR EXTENSION OF TIME FOR PLAINTIFFS TO FILE RESPONSES TO RULE 12 BRIEFS with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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I further certify that I caused the foregoing document to be served by first-class mail, postage prepaid, to the following non CM/ECF participants:

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