

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
Case No. 1:07-CV-953**

RYAN MCFADYEN *et al.*,

Plaintiffs,

v.

DUKE UNIVERSITY *et al.*,

Defendants.

**DEFENDANTS DNA SECURITY, INC. AND RICHARD CLARK'S RESPONSE
TO PLAINTIFFS' "REQUEST" FOR LEAVE TO CONDUCT 26(f) DISCOVERY
CONFERENCE**

Come now Defendants DNA Security, Inc. and Richard Clark and offer this Response to Plaintiffs' "request" for leave to conduct a Rule 26(f) discovery conference. In the concluding paragraph of "Plaintiffs' Opposition to the DNASI Defendants' Motion to Dismiss Plaintiffs' First Amended Complaint", Plaintiffs state: "[w]ith respect, Plaintiffs request leave to schedule the Rule 26(f) discovery conference." No explanation is provided for this "request", and neither a separate motion nor a supporting brief has been filed.

DNA Security, Inc. and Richard Clark oppose Plaintiffs' "request". Plaintiffs have failed to comply with the Local Rules, which require the filing of a separate motion and supporting brief. L. R. 7.3. In addition, the conduct of a Rule 26(f) conference and the commencement of discovery while motions to dismiss are pending would be

inappropriate for the reasons set forth in these Defendants' Response to Motion to Compel Defendants to Confer Under Rule 26(f) filed in *Evans, et al. v. City of Durham, et al.*, 1:07-CV-739.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 24, 2008, I electronically filed the foregoing **DEFENDANTS DNA SECURITY, INC. AND RICHARD CLARK'S RESPONSE TO PLAINTIFFS' "REQUEST" FOR LEAVE TO CONDUCT 26(f) DISCOVERY CONFERENCE** 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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