

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

EDWARD CARRINGTON, et al.,)
)
Plaintiffs,)
)
v.)
)
DUKE UNIVERSITY, et al.,)
)
Defendants.)

1:08CV119

ORDER

This case involves 31 claims set out in a 225-page Complaint by Plaintiffs Edward Carrington, Casey J. Carroll, Michael P. Catalino, Gale Catalino, Thomas Clute, Kevin Coleman, Joshua R. Coveleski, Edward J. Crotty, Edward S. Douglas, Kyle Dowd, Patricia Dowd, Daniel Flannery, Richard Gibbs Fogarty, Zachary Greer, Irene Greer, Erik S. Henkelman, Steven W. Henkelman, John E. Jennison, Ben Koesterer, Mark Koesterer, Joyce Koesterer, Fred Krom, Peter J. Lamade, Adam Langley, Christopher Loftus, Daniel Loftus, Barbara Loftus, Anthony McDevitt, Glenn Nick, Nicholas O’Hara, Lynnda O’Hara, Daniel Oppedisano, Sam Payton, John Bradley Ross, Kenneth Sauer, III, Steve Schoeffel, Robert Schroeder, Devon Sherwood, Daniel Theodoridis, Bret Thompson, Christopher Tkac, Tracy Tkac, John Walsh, Jr., Michael Ward, Robert H. Wellington, IV, William Wolcott, and Michael Young (collectively, “Plaintiffs”), all of whom are former members of the Duke University men’s lacrosse team and their parents, against Defendants Duke University (“Duke”), Duke University Health System, Inc. (“Duke Health”), Duke President Richard Brodhead (“Brodhead”), Duke Provost Peter Lange (“Lange”), Duke Vice President for Student Affairs Larry Moneta (“Moneta”), Duke Senior Vice President for Public Affairs and Government Relations John Burness (“Burness”), Duke

Executive Vice President Tallman Trask (“Trask”), Duke Assistant Vice President for Student Affairs and Dean of Students Suzanne Wasiolek (“Wasiolek”), Head of the Duke Card Office Matthew Drummond (“Drummond”), Duke University Associate Vice President for Campus Safety and Security Aaron Graves (“Graves”), Director and Chief of the Duke Police Department Robert Dean (“Dean”), Duke Health Nurse Tara Levicy (“Levicy”), Duke Health Nurse Theresa Arico (“Arico”), Attorney J. Wesley Covington (“Covington”), Duke Deputy General Counsel Kate Hendricks (“Hendricks”), Duke Chancellor for Health Affairs and President and Chief Executive Officer of Duke University Health Systems Inc. Victor Dzau (“Dzau”), the City of Durham (“the City”), District Attorney’s Office Investigator Linwood Wilson (“Wilson”), Durham Police Department Detective Mark Gottlieb (“Gottlieb”), Durham Police Department Investigator Benjamin Himan (“Himan”), Durham City Manager Patrick Baker (“Baker”), Durham Chief of Police Steven Chalmers (“Chalmers”), Deputy Chief of Police Ronald Hodge (“Hodge”), Executive Officer to the Chief of Police Lee Russ (“Russ”), Durham Police Commander of Investigative Services Stephen Mihaich (“Mihaich”), Durham Police Uniform Patrol Bureau Commander Beverly Council (“Council”), Durham Police District Two Uniform Patrol Commander Jeff Lamb (“Lamb”), Durham Police Department Lieutenant Michael Ripberger (“Ripberger”), and Durham Police Department Spokesman David Addison (“Addison”).

Defendants have collectively filed multiple Motions to Dismiss, specifically, a Motion to Dismiss by Defendant Addison [Doc. #58], a Motion to Dismiss by Defendants Baker, Chalmers, Council, Hodge, Lamb, Mihaich, Ripberger, and Russ [Doc. #60], a Motion to

Dismiss by Defendants Duke, Brodhead, Burness, Dean, Drummond, Dzau, Graves, Hendricks, Lange, Moneta, Trask, and Wasiolek (collectively, the “Duke University Defendants”) [Doc. #62], a Motion to Dismiss by Defendants Duke Health, Arico, and Levicy (collectively, the “Duke SANE Defendants”) [Doc. #64], a Motion to Dismiss by Defendant Himan [Doc. #66], a Motion to Dismiss by Defendant Gottlieb [Doc. #68], a Motion to Dismiss by Defendant Covington [originally filed as part of Doc. #70, refiled as Doc. #74], and a Motion to Dismiss by the City [Doc. #72]. Defendant Linwood Wilson has also filed a Brief in Support of a Motion to Dismiss that will be construed as a Motion to Dismiss [Doc. #80].


All of these pending motions have now been fully briefed and referred to the Court for determination. Having undertaken a preliminary review of these matters, the Court notes that all of the Motions to Dismiss involve overlapping legal issues best addressed by the Court in a single determination that addresses all of the issues raised by the various Defendants. Therefore, the Court enters this preliminary Order for administrative purposes to consolidate all of the pending Motions to Dismiss into a single Motion to Dismiss for determination by the Court. The Court will consider the arguments raised by the parties in their respective briefs as part of the consolidated determination.¹

IT IS THEREFORE ORDERED that for administrative purposes, the various Motions

¹The Court notes that some of the issues raised in the Motions to Dismiss in the present case are similar to certain of the issues raised in two other cases in this District that have been identified by the parties and the Clerk’s Office as “related” to the present case: Evans v. City of Durham, et al. (1:07CV739) and McFadyen et al. v. Duke University, et al. (1:07CV953). Those cases also involve multiple Motions to Dismiss for which briefing has now been completed and which have been referred to the Court for consideration. It is the Court’s intent to resolve the Motions to Dismiss in these cases at the same time, in order to avoid piecemeal consideration of the common issues raised.

to Dismiss [Doc. #58, #60, #62, #64, #66, #68, #70 & #74, #72, and #80] are CONSOLIDATED into a single Motion to Dismiss [designated as Doc. #72] for further review and consideration by the Court.

This, the 30th day of March, 2009.


United States District Court Judge