

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
CIVIL ACTION NO. 1:08-CV-119

EDWARD CARRINGTON, <i>et al.</i> ,)
)
Plaintiffs,)
)
vs.)
)
DUKE UNIVERSITY, <i>et al.</i> ,)
)
Defendants.)

**MOTION FOR VOLUNTARY DISMISSAL WITH PREJUDICE OF
PLAINTIFFS' CLAIMS AGAINST MARSHA COVINGTON, AS THE
EXECUTRIX OF THE ESTATE OF JOHN WESLEY COVINGTON**

Plaintiffs respectfully file this motion pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure and move the Court for an order voluntarily dismissing with prejudice Plaintiffs' claims against Marsha Covington, as the executrix of the Estate of John Wesley Covington in the above captioned matter. In support of this motion Plaintiffs state as follows:

1. Plaintiffs, 38 members of the Duke University lacrosse team and several parents of certain members, duly commenced this action on February 21, 2008. Plaintiffs filed and served their First Amended Complaint on February 22, 2010.
2. John Wesley Covington was a named Defendant in Plaintiffs' original Complaint and Plaintiffs' First Amended Complaint. Mr. Covington passed away on February 2, 2010.
3. Plaintiffs filed a Motion for Substitution asking the Court to order that Marsha Covington, as the executrix of the Estate of John Wesley Covington be

substituted as a party in this action in place of the deceased John Wesley Covington. The Court granted Plaintiffs' Motion for Substitution in a written order signed May 10, 2010.

4. Due to the untimely death of John Wesley Covington, Plaintiffs no longer desire to proceed in this action against the Estate of John Wesley Covington.

5. Marsha Covington, as executrix of the Estate of John Wesley Covington has consented to this Motion.

For the foregoing reasons, Plaintiffs respectfully request the Court to issue an order voluntarily dismissing with prejudice Plaintiffs' claims against Marsha Covington, as the executrix of the Estate of John Wesley Covington.

This the 14th day of October 2010.

Respectfully submitted,

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(* motion for special appearance has been filed)

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CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following counsel as required by Rule 5 of the Federal Rules of Civil Procedure:

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