

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
No. 1:08-cv-119

EDWARD CARRINGTON, CASEY J.)
CARROLL, MICHAEL P. CATALINO,)
GALE CATALINO, THOMAS V.)
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, LYNND A O'HARA, DANIEL)
OPPENDISANO, SAM PAYTON, JOHN)
BRADLEY ROSS, KENNETH SAUER,)
III, STEVE SCHOEFFEL, ROBERT)
SCHROEDER, DEVON SHERWOOD,)
DANIEL THEODORIDUS, BRET)
THOMPSON, CHRISTOPHER TKAC,)
TRACY TKAC, JOHN WALSH, JR.,)
MICHAEL WARD, ROBERT H.)
WELLINGTON, IV, WILLIAM)
WOLCOTT, and MICHAEL YOUNG,)

Plaintiffs,)

v.)

DUKE UNIVERSITY, DUKE)
UNIVERSITY HEALTH SYSTEM, INC.,)
RICHARD BRODHEAD, PETER)
LANGE, LARRY MONETA, JOHN)
BURNES, TALLMAN TRASK,)

Motion for Continuance

SUZANNE WASIOLEK, MATTHEW)
DRUMMOND, AARON GRAVES,)
ROBERT DEAN, TARA LEVICY,)
THERESA ARICO, J. WESLEY)
COVINGTON, KATE HENDRICKS,)
VICTOR DZAU, CITY OF DURHAM,)
LINWOOD WILSON, MARK)
GOTTLIEB BENJAMIN HIMAN,)
PATRICK BAKER, STEVEN)
CHALMERS, RONALD HODGE, LEE)
RUSS, STEPHEN MIHAICH, BEVERLY)
COUNCIL, JEFF LAMB, MICHAEL)
RIPBERGER, and DAVID ADDISON,)
)
)
Defendants.)

In accordance with Local Rule 6.1(b), counsel for Plaintiffs respectfully request that the Court reschedule the hearing on the Duke Defendants' pending Motion Regarding Attorney-Initiated and Attorney-Sanctioned Contact with the Media (Doc. No. 12), which is currently set for March 20, 2008. In support of this motion, Plaintiffs state as follows.

1. Lead counsel for the Plaintiffs in this action, Charles J. Cooper, is also lead counsel in a case, *John B. v. Goetz*, No. 98-0168, originating in the Middle District of Tennessee that is now on appeal to the Sixth Circuit. Oral argument in the Sixth Circuit is scheduled for March 20, 2008, the same day as the scheduled hearing on the Duke Defendants' Motion in this case. Mr. Cooper had already made arrangements to be in Cincinnati on March 20, 2008 to assist in the Sixth Circuit argument.

2. In addition to the Sixth Circuit argument scheduled for March 20, 2008, Mr. Cooper is also lead counsel in the case of *Ambase v. United States*, No. 93-531,

which is currently in trial in the United States Court of Federal Claims. That trial is currently scheduled to conclude on March 21, 2008.

3. Given that Mr. Cooper's actions are being called into question by the Duke Defendants' Motion, and that Mr. Cooper is the lead counsel in this matter, it is important that he be able to attend the hearing. Moving the hearing to a convenient date after March 21, 2008 would permit Mr. Cooper to do so.

4. The Duke Defendants have authorized the undersigned to represent that they do not object to this motion. The Plaintiffs therefore respectfully request that the hearing be rescheduled to Monday, March 24, 2008, or as soon thereafter as meets with the convenience of the Court.

March 6, 2008

Respectfully submitted,

COOPER & KIRK, PLLC

By: /s/ Nicole Jo Moss

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David H. Thompson*

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Attorneys for Plaintiffs

(* motion for special appearance
has been filed)

-and-

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CERTIFICATE OF SERVICE

I hereby certify that on March 6, 2008, I electronically filed the foregoing Motion for a Continuance with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following counsel:

Counsel for Defendants Duke University, Richard H. Brodhead, Peter Lange, Larry Moneta, John Burness, Tallman Trask, Suzanne Wasiolek, Matthew Drummond, Aaron Graves, Robert Dean, Kate Hendricks and Victor Dzau

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As of the date of this filing, no attorney has made an appearance on behalf of the following Defendants. Based on information and belief, the following Defendants are represented by counsel as indicated below and are being served by email:

Counsel for Beverly Council, Ronald Hodge, Jeff Lamb, Stephen Mihaich, Michael Ripberger, Lee Russ, and Patrick Baker

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As of the date of this filing, no attorney has made an appearance on behalf of any of the following Defendants. I hereby certify that I served the following Defendants by U.S. Mail:

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J. Wesley Covington
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This 6th day of March 2008.

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