

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

No 1:08-cv-119

EDWARD CARRINGTON, et al.

Plaintiffs,

v.

DUKE UNIVERSITY, et al.,

Defendants.

Motion to Dismiss Complaint By “Duke
SANE Defendants”

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) and Local Rules 7.2 and 7.3, the “Duke SANE Defendants”—defined by the Court and the parties for purposes of this motion to comprise the Duke University Health System, Inc. (DUHS), Theresa Arico, and Tara Levicy—hereby move the Court to dismiss all claims asserted against them for failure to state a claim on which relief may be granted and, for certain specified claims, for lack of jurisdiction.¹ A chart identifying the causes of action and the defendants against whom each cause is asserted is attached as an Exhibit (Exhibit 1) to the accompanying Brief in Support of “Duke SANE Defendants” Motion to Dismiss Complaint.

¹ (See Joint Mot. for Leave to File Excess Pages and to Establish a Rule 12 Briefing Schedule, Dkt. 50, at 2 (defining “Duke SANE Defendants”); Order, Dkt. 51 (granting Joint Motion).)

The bases for this Motion are presented in detail in the accompanying Brief in Support of “Duke SANE Defendants” Motion to Dismiss Complaint. For the reasons set forth therein, the “Duke SANE Defendants” respectfully request that the claims asserted against them be dismissed with prejudice. Because of the number of causes of action in the Complaint and the complexity of the issues raised thereby, the “Duke SANE Defendants” request that oral argument be scheduled on their Motion to Dismiss pursuant to Local Rule 7.3(c)(1).

Respectfully submitted, this the 30th day of May, 2008.

/s/ Dan J. McLamb

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CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2008, I electronically filed the foregoing Motion to Dismiss Complaint By “Duke SANE Defendants” 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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As of the date of this filing, no attorney has made an appearance on behalf of the following Defendant. I hereby certify that I served the following Defendant by U.S.

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This 30th day of May 2008.

/s/ Jamie S. Gorelick
Jamie S. Gorelick

Attorney for Duke University, Duke University Health System, Inc., Richard Brodhead, Peter Lange, Larry Moneta, John Burness, Tallman Trask, Suzanne Wasiolek, Matthew Drummond, Aaron Graves, Robert Dean, Tara Levicy, Theresa Arico, Kate Hendricks, Victor Dzau