

UNITED STATE DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
DURHAM DIVISION

File 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. HENCKELMAN,  
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 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, MICHAEL  
YOUNG,

Plaintiffs,

vs.

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

**DEFENDANT MARK GOTTLIEB'S MOTION TO DISMISS**

Defendant Mark Gottlieb, appearing through the undersigned counsel, hereby moves the Court, pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, to dismiss all claims asserted in the Complaint against him (specifically, counts 8, 10, 20-26, and 28-30) on grounds that these claims, as they apply to Defendant Gottlieb, fail to state a claim upon which relief can be granted. This Motion is supported by the Memorandum Supporting Defendant Mark Gottlieb's Motion to Dismiss, which is being filed simultaneously herewith.

This the 30th day of May, 2008.

**POYNER & SPRUILL LLP**

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**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on May 30 2008, I electronically filed the foregoing Motion to Dismiss with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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This the 30th day of May, 2008.

/s/Edwin M. Speas, Jr.  
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