

COMMONWEALTH OF KENTUCKY
FRANKLIN CIRCUIT COURT
DIVISION 1
CASE NO. 26-CI-885

RAMSI A. WOODCOCK

PLAINTIFF

v.

GREGORY VAN TATENHOVE, *et al.*

DEFENDANTS

MOTION TO DISMISS

The University of Kentucky and its Officials President Eli Capilouto, Provost Robert DiPaola, and Dean of the College of Law Gregory Van Tatenhove move this Court to dismiss this action and attaches its supporting Memorandum.

NOTICE

This Motion shall be heard in Franklin Circuit Court, Division 1, on August 31, 2026 at 9:00 am or as soon thereafter as counsel may be heard. This date is identified in the notice in order to complete filing and may be rescheduled at the further direction of the Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2026, the foregoing document was electronically filed using the Court's e-system, which will send notification of such filing to all counsel.

/s/Bryan H. Beauman
*Attorney for Defendants University of
Kentucky, Dr. Eli Capilouto, Dr. Robert
DiPaola, and Gregory Van Tatenhove*

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DEFENDANTS

MEMORANDUM IN SUPPORT OF MOTION TO DISMISS

The University of Kentucky and its Officials, President Eli Capilouto, Provost Robert DiPaola, and Dean of the College of Law Gregory Van Tatenhove (collectively the “University”), file this Memorandum in support of their motion to dismiss the Amended Complaint for lack of jurisdiction¹ and failure to state a claim.²

INTRODUCTION

Employees do not get to choose their supervisors. State Merit System employees do not get to choose the Cabinet Secretary. Public university faculty members do not get to choose the university president or the college’s dean.

But Ramsi Woodcock, an anti-trust scholar who is the Evertt H. Metcalf, Jr. Professor of Law at the University of Kentucky, disagrees.³ He thinks the United States and Kentucky Constitutions give the law school faculty—both collectively and him individually—the right to determine who serves as the law school dean.

¹ CR 12.02(a).

² CR 12.02(f).

³ Prior to July 1, 2026, Woodcock served as the Wyatt Tarrant & Combs Professor of Law. However, the law firm of Wyatt, Tarrant and Combs (now known as Bricker Graydon Wyatt) expressed a desire not to be associated with him. The University accommodated that request. Woodcock was appointed to a different endowed professorship at the same salary.

Purporting to act for the faculty and himself individually, he wants this Court to remove Gregory Van Tatenhove, a former U.S. District Judge for the United States District Court for the Eastern District of Kentucky, as Dean and replace him with a faculty committee to serve as Dean.

Professor Woodcock is wrong. The University of Kentucky belongs not to the faculty, but to the People of the Commonwealth.⁴ To govern the University, the General Assembly established the Board of Trustees,⁵ which “is the final authority in all matters affecting the institution and exercises judgment over its financial, educational, and other policies and its relation with the state and federal governments.”⁶ Recognizing the complexity of the day-to-day operations of a \$9.6 billion dollar institution, the Board has delegated administrative authority to the President,⁷ including the power to appoint deans.⁸ While the faculty certainly should be and are consulted about the hiring of deans,⁹ “there is no constitutional right to participate in academic governance.”¹⁰ Rather, the decision to appoint a dean must be made by those who are directly or indirectly accountable to the People.¹¹

⁴ See, e.g., *McDonald v. Trs. of Indiana Univ.*, _ F.4th __, 2026 WL 2349271, at *10 (7th Cir. Aug. 13, 2026 (Easterbrook, J. concurring) (“Indiana University is not complaining—nor could it. The University is a part of the State of Indiana”).

⁵ KRS § 164.131(1)(a).

⁶ UNIVERSITY OF KENTUCKY GOVERNING REGULATION I—DECLARATION OF PRINCIPLES at A.2, attached as Ex. 1 (all University Regulations cited are publicly available documents at <https://regs.uky.edu/>).

⁷ *Id.* at A.3

⁸ UNIVERSITY OF KENTUCKY GOVERNING REGULATION III—THE PRESIDENT at B, attached as Ex. 2.

⁹ As a matter of policy, the University allows faculty participation in the governance of the institution. See UNIVERSITY OF KENTUCKY GOVERNING REGULATION I—DECLARATION OF PRINCIPLES at B, Ex. 1; University of Kentucky GOVERNING REGULATION IV — THE FACULTY’S PRIMARY RESPONSIBILITY FOR THE CREDIT-BEARING AND NON-CREDIT BEARING CURRICULUM IN ACADEMIC COLLEGES, attached as Ex. 3; UNIVERSITY OF KENTUCKY GOVERNING REGULATION V—SHARED GOVERNANCE BODIES at B, attached as Ex. 4.

¹⁰ *Minnesota State Bd. for Community Colleges v. Knight*, 465 U.S. 27, 288 (1984).

¹¹ *Free Enterprise Fund v. Public Co. Accounting Oversight Bd.*, 561 U.S. 477, 497-99 (2010).

Ignoring these principles, Woodcock began this quixotic quest to have a court remove Dean Van Tatenhove. On July 13, he filed suit in federal court seeking a temporary restraining order, preliminary injunction, and damages.¹² On July 17, before any response from the University, the Court found Woodcock's claims to be deficient, but gave him an opportunity to file a brief clarifying his claims.¹³ Woodcock did so on July 19.¹⁴ On July 20, the Court held a telephonic hearing on the motion for a temporary restraining order and denied the motion.¹⁵ On July 27, Woodcock filed a motion for an expedited preliminary injunction and expedited discovery.¹⁶ On July 31, again before any response from the University, the Court denied all of Woodcock's motions, expressed serious skepticism about his claims surviving the University's soon to be filed Motion to Dismiss, and ordered expedited briefing on the University's Motion to Dismiss.¹⁷

In its ruling, the federal court identified several flaws in Woodcock's case. First, it questioned whether the faculty was a "group" whose scholarly interests could override the University's authority to appoint a dean, whether Woodcock alone could assert claims on behalf of the faculty, and whether his novel First Amendment theory regarding peer review had any legal support.¹⁸ Second, the Court also found it

¹² See Complaint filed in *Woodcock v. Van Tatenhove et al.*, 5:26-cv-00262-BJB (E.D. Ky. July 13, 2026), attached as Ex. 5. Because Woodcock's exhibits to his federal Complaint are over 500 pages and duplicative of those filed here, the federal Complaint's exhibits are not included in Exhibit 5.

¹³ See *Woodcock v. Van Tatenhove et al.*, No. 5:26-cv-00262-BJB (E.D. Ky. July 17, 2026) (text order), attached as Ex. 6.

¹⁴ See Woodcock's Supplemental Brief Regarding Irreparable Harm, *Woodcock v. Van Tatenhove*, No. 5:26-cv-00262-BJB (E.D. Ky. filed July 19, 2026), attached as Ex. 7.

¹⁵ See *Woodcock v. Van Tatenhove et al.*, 2026 WL 2211390 at *1 (E.D. Ky. July 31, 2026), attached as Ex. 8.

¹⁶ See *id.* at *2.

¹⁷ See *id.* at *3.

¹⁸ See *id.* at *3-4.

unlikely that Dean Van Tatenhove's appointment distorted, compelled, or silenced faculty speech.¹⁹ Third and most importantly, it concluded that Woodcock's request for prospective injunctive relief was disconnected from his challenge to the University's hiring decision.²⁰

Recognizing the Court would almost certainly dismiss his complaint and the Sixth Circuit likely would affirm, on August 3, Woodcock voluntarily dismissed his federal suit and on the same day filed this case. He also sought expedited briefing on his motion for temporary injunction and a hearing before August 24. This Court conducted a hearing on the motions to expedite on August 10 and ordered the parties to confer on a schedule for briefing on the motion to dismiss by the University and the University Officials. After receiving the Court's reaction to the motion for expedited relief, Woodcock once again shifted his theory and filed an Amended Complaint.

Indeed, his Complaint in this Court is substantively identical to his federal court complaint and his claims are unchanged except for their federal versus state constitutional labels,²¹ even though the Kentucky Constitution's free-speech provisions²² are generally coextensive with the First Amendment.²³ Having had substantively identical claims implicitly rejected by the federal court, he came here believing this Court will remove Dean Van Tatenhove. Once again not getting immediate relief within a few days, he now shifts his theory and in Count VIII and

¹⁹ See *id.* at *3.

²⁰ See *id.* at *2-3.

²¹ Woodcock knows that if he raises any federal claim the University will remove to federal court.

²² Ky. Const §§ 1, 8.

²³ *McDonald v. Ethics Comm. of the Ky Judiciary*, 3 S.W.3d 740, 743 (Ky. 1999).

IX of the Amended Complaint adds an allegation of his speech being allegedly chilled because Woodcock does not believe the new dean (a former federal judge) worthy of judging his scholarship.

This dismissal-and-refile sequence, following express federal-court skepticism, and seeking emergency relief from the Court only to then again change his focus reflects an effort to obtain a different forum's view of the same dispute and a continual testing of the waters. This Court should dismiss the Amended Complaint and end this judicial challenge to the University's appointment of the new dean of the College of Law.

RELEVANT BACKGROUND

On March 6, 2026, the University announced the appointment of Gregory F. Van Tatenhove as Dean of the University of Kentucky J. David Rosenberg College of Law.²⁴ Having spent his entire career in public service, Dean Van Tatenhove previously served for over twenty years as a judge for the Eastern District of Kentucky, as U.S. Attorney for that same district, as Chief of Staff to a U.S. Congressman, as a trial attorney in the U.S. Department of Justice, a judicial clerk to Judge Eugene Siler, and as an aid to a U.S. Senator.

Woodcock has vocally opposed this appointment. On March 11, he "emailed a report of the [alleged] violations of Standard 203(b) and Interpretation 203-1 to the board."²⁵ On March 12, "he sent a similar report to President Capilouto."²⁶ On April

²⁴ Dean Van Tatenhove started as Dean on July 20, 2026.

²⁵ Am. Compl. ¶ 35.

²⁶ *Id.*

3, he “filed a complaint with the American Bar Association but received no immediate response.”²⁷ And on April 13, he “published an opinion piece in the Louisville Courier Journal stating that Van Tatenhove had been appointed over the objection of the faculty.”²⁸ But Woodcock has not alleged that any of his speech has been compelled or restrained because of his opposition to Dean Van Tatenhove.²⁹

Woodcock, purportedly acting on behalf of the faculty, now wants this Court to do something the federal court would not- remove Dean Van Tatenhove and replace him with a faculty committee.

ARGUMENT

Woodcock’s Amended Complaint seeking the removal of a state university official and monetary damages based on the University’s hiring decision fails to state any viable claim. A faculty member—either individually or collectively—has no *constitutional* right to control who the University hires as a Dean of one of its Colleges. This is so for four reasons.

First, as his allegations are based on hypothetical decisions, speculative changes in public perception, and an imaginary threat of injury, Woodcock lacks standing to bring both his collective and individual constitutional claims. Second, as he has not

²⁷ *Id.*

²⁸ *Id.*

²⁹ While he is currently reassigned pending an investigation of his conduct of earlier complaints about him, the subject of the investigation has nothing to do with his speech relating to the Dean’s appointment. As to the matter under investigation, Professor Woodcock filed suit against the University in the Eastern District of Kentucky seeking to stop the investigation. The district court abstained under the *Younger* abstention doctrine. See *Woodcock v. University of Kentucky*, 820 F. Supp. 3rd 555 (E.D. Ky.), *further proceedings*, 2026 WL 184253 (E.D. Ky.), *appeal docketed*, No. 26-5057 (6th Cir.), *injunction pending appeal denied*, (6th Cir.), *petition for initial hearing en banc denied*. (6th Cir. 2026). The Sixth Circuit heard oral argument on July 28, 2026, and the parties are awaiting a decision.

stated a claim for an on-going violation of the Kentucky Constitution, the *Haydon Bridge* doctrine (i.e., the possible exception to the University's immunity for claims limited to prospective injunctive relief) does not apply, and the injunctive claims must be dismissed.³⁰ Third and similarly, sovereign and qualified official immunity bars all damages claims. Fourth, even without immunity, there is no right of action for damages for a violation of the state constitution, and Woodcock fails to state a claim for breach of contract, civil conspiracy, or tortious interference.

I. As his allegations are based on hypothetical decisions, speculative changes in public perception, and imaginary threats, Woodcock lacks standing to bring his constitutional claims.

The Kentucky Constitution limits circuit-court jurisdiction to “justiciable causes.”³¹ In other words, “if a case is not *justiciable*, specifically because the plaintiff does not have the requisite standing to sue, the circuit court *cannot* hear the case.”³² Kentucky has adopted the federal standing requirements articulated in *Lujan v. Defenders of Wildlife*,³³ requiring a plaintiff to demonstrate (1) injury, (2) causation, and (3) redressability.³⁴

To satisfy the injury requirement, Woodcock must allege a concrete and particularized injury that is “real and not abstract” and reflects “some actual or threatened injury.”³⁵ Abstract, conjectural, or hypothetical injuries are insufficient

³⁰ *Beshear v. Haydon Bridge Co.*, 416 S.W.3d 280, 288 (Ky. 2013).

³¹ *Commonwealth Cabinet for Health & Fam. Servs., Dep’t for Medicaid Servs. v. Sexton by & through Appalachian Reg’l Healthcare, Inc.*, 566 S.W.3d 185, 195 (Ky. 2018) (citing Ky. Const. § 112(5)).

³² *Id.* at 196 (citation modified) (emphasis in original).

³³ *Lujan v. Defs. of Wildlife*, 504 U.S. 555 (1992).

³⁴ *City of Pikeville v. Kentucky Concealed Carry Coal., Inc.*, 671 S.W.3d 258, 263-64 (Ky. 2023)

³⁵ *Id.* 264.

and must be dismissed for a lack of subject matter jurisdiction.³⁶ This analysis is conducted on a claim-by-claim basis as “standing is not dispensed in gross.”³⁷

Woodcock’s allegations fail the injury-in-fact requirement necessary to establish standing under *Lujan* and Kentucky law as they do not rest on any present, concrete injury, but on speculation about how third parties may act in the future.

Count III fails these requirements. Woodcock alleges that Dean Van Tatenhove’s appointment “does not comply with the ABA rules,”³⁸ and therefore violates University policies requiring compliance with ABA accreditation policies.³⁹ But Woodcock’s own Amended Complaint demonstrates that this alleged violation remains unresolved; he acknowledges that the ABA has offered no response to his ABA complaint challenging the appointment.⁴⁰

As a result, Woodcock’s alleged injury depends on a series of contingencies: the ABA must agree with his interpretation of its standards, find noncompliance, and impose corrective action affecting the College of Law’s accreditation. Until those events occur, any injury is merely a prediction of what the ABA *might* do in the future. These “fears of hypothetical future harm” do not constitute a concrete injury sufficient to confer standing.⁴¹

Similarly, Woodcock does not allege a concrete and particularized injury. He does not allege that anyone has prevented him from speaking or associating with

³⁶ *Id.* at 265 (citation modified).

³⁷ *Sexton*, 566 S.W.3d at 196; *Kentucky Concealed Carry Coal.*, 671 S.W.3d at 264.

³⁸ Am. Compl. ¶ 75 (citation modified).

³⁹ *See id.* ¶ 74.

⁴⁰ *See id.* ¶ 35.

⁴¹ *See Sexton*, 566 S.W.3d at 197.

other faculty members, that he has lost any professional opportunity, or that he has suffered any other tangible consequence because of Dean Van Tatenhove's appointment.

Instead, Woodcock alleges that he "uses his affiliation with the faculty to send the message that his scholarship is subject to peer review."⁴² He claims that Dean Van Tatenhove's appointment prevents him from communicating that message and will dilute it by signaling a future decline in scholarly standards. He further alleges that the appointment "will *tend*" to attract non-peer faculty candidates and repel peer candidates further diminishing his message.⁴³

These alleged injuries depend upon multiple assumptions: (1) observers understand faculty affiliation to convey the particular message Woodcock attributes to it; (2) they know who serves as dean; (3) they agree Dean Van Tatenhove is unqualified; (4) they infer from the appointment of Dean Van Tatenhove that faculty scholarship is no longer subject to meaningful peer review; and (5) that those perceptions negatively affect Woodcock's reputation or scholarship. Woodcock does not allege that any of these five events have occurred. Rather, he claims injury based on his belief others may someday draw unfavorable conclusions about his scholarship because a retired federal judge was appointed dean. That type of conjectural reputational harm does not constitute a concrete and particularized injury under Kentucky standing doctrine.

⁴² Am. Compl. ¶ 60.

⁴³ *Id.*

To be sure, in the First Amendment context some plaintiffs can establish standing by a sufficient showing of self-censorship that establishes some form of a chilling effect on their free expression. But to meet that test, all of that must be real and objectively reasonable. Woodcock “must have suffered an injury or threat of injury that is “credible,” not “imaginary or speculative.”⁴⁴ “Subjective or speculative accounts of such a chilling effect, however, are not sufficient. Any chilling effect must be *objectively reasonable*.”⁴⁵

Self-censorship is not a bypass road to standing and “not an adequate substitute for a claim of specific present objective harm or a threat of specific future harm.”⁴⁶ In part, that is because “fears of prosecution cannot be merely imaginary or speculative.”⁴⁷ Crucial to this element of standing is that chilling focuses on the governmental act and not the plaintiff’s harm. Indeed, a “First Amendment chill typically constitutes the *reason* why the governmental imposition is invalid rather than the harm which entitles a party to challenge it.”⁴⁸

“A credible threat of enforcement is critical; without one, a putative plaintiff can establish neither a realistic threat of legal sanction if he engages in the speech in question, nor an objectively good reason for refraining from speaking and ‘self-censoring’ instead.”⁴⁹ In order to have standing where Woodcock alleges his speech

⁴⁴ *Babbitt v. United Farm Workers Nat’l Union*, 442 U.S. 289, 298, (1979).

⁴⁵ *Benham v. City of Charlotte*, 635 F.3d 129, 135 (4th Cir. 2011) (emphasis added).

⁴⁶ *Laird v. Tatum*, 408 U.S. 1, 13-14 (1972).

⁴⁷ *Grendell v. Ohio Supreme Court*, 252 F.3d 828, 834 (6th Cir. 2001).

⁴⁸ *Morrison v. Board of Educ. of Boyd Cnty.*, 521 F.3d 602, 609–10 (6th Cir. 2008).

⁴⁹ *Abbott v. Pastides*, 900 F.3d 160, 176 (4th Cir. 2018).

was chilled, he “must still establish that a concrete harm—i.e., enforcement of a challenged statute—occurred or is imminent.”⁵⁰

Put another way, “whether plaintiffs have standing...depends on how likely it is that the government will attempt to use these provisions against them...and not on how much the prospect of enforcement worries them.”⁵¹ “Fear by itself ‘is insufficient to create standing.’”⁵² “If the law were otherwise, an enterprising plaintiff would be able to secure a lower standard for Article III standing simply by making an expenditure based on a nonparanoid fear.”⁵³ All of this is where Woodcock falls woefully short.

In an attempt to manufacture standing, he now alleges he self-censored his scholarship and did not seek review and publication of his latest manuscript because the new dean (i) *might* not have liked it and *might* have taken action against Woodcock in his performance review, and (ii) is not scholarly enough to review Woodcock’s work. Neither reason is “objectively reasonable” or an “objectively good reason,” and both fail to identify any credible threat.

Plus, Woodcock’s belief that a former federal judge (presumably attorneys too in Woodcock’s thinking) is not qualified to review the quality of his legal scholarship raises a host of other questions. Does he not realize that law review publication

⁵⁰ *Morrison*, 521 F.3d at 610.

⁵¹ *Am. Library Ass’n v. Barr*, 956 F.2d 1178, 1193 (D.C.Cir.1992).

⁵² *McDonald*, 2026 WL 2349271, at *8 (quoting *Clapper v. Amnesty International USA*, 568 U.S.398, 417-418 (2013)).

⁵³ *Clapper*, 568 U.S.398, 416.

decisions are made by second- and third-year law students? Surely a distinguished former federal judge is more qualified to evaluate scholarship than someone whose grades or writing after one year of law school earned them a spot on law review. Does Woodcock believe that only law professors can judge the work of another law professor? Is he suggesting that a professor who is a federal courts scholar can evaluate his anti-trust scholarship, but an attorney specializing in anti-trust litigation cannot? Is Woodcock writing for the bench, the bar, the legal academy, and future lawyers or is he writing for a narrow elite that shares his pretentious attitude toward the judiciary and practicing lawyers? Woodcock certainly is entitled to hold such a haughty view toward this profession. But his hubris is not “objectively reasonable” or “credible,” and any alleged harm he points to is “imaginary” and “speculative.”⁵⁴

For all these reasons, Woodcock fails any measure of standing to assert his constitutional claims and Counts I, II, III, IV, VIII and IX should be dismissed.

II. Because the *Haydon Bridge* doctrine does not apply, sovereign immunity bars Woodcock’s injunctive relief claims.

A. The *Haydon Bridge* doctrine requires stating a claim of an on-going violation of Kentucky law.

As an “independent body politic”⁵⁵ within the Executive Branch,⁵⁶ the University has sovereign immunity in the federal courts,⁵⁷ the courts of Kentucky,⁵⁸

⁵⁴ *Grendell v. Ohio Supreme Court*, 252 F.3d 828, 834 (6th Cir. 2001).

⁵⁵ *Commonwealth ex rel. Beshear v. Commonwealth ex rel. Bevin*, 498 S.W.3d 355, 379, 382 (Ky. 2016).

⁵⁶ *Univ. of Kentucky v. Moore*, 599 S.W.3d 798, 806 (Ky. 2019).

⁵⁷ *Hutsell*, 5 F.3d. at 999.

⁵⁸ *Furtula v. Univ. of Kentucky*, 438 S.W.3d 303, 305 (Ky. 2014); *Withers v. Univ. of Kentucky*, 939 S.W.2d 340, 343 (Ky. 1997).

and the courts of other States.⁵⁹ “Sovereign immunity is both broad and exacting and if the sovereign has not waived immunity or consented to suit *an injunction is foreclosed in most circumstances.*”⁶⁰

But *most* circumstances are *not all* circumstances. There are two instances when courts may impose injunctive relief. First, under the *Ex parte Young* doctrine,⁶¹ “when a federal court commands a state official to do nothing more than refrain from violating federal law, he is not the State for sovereign-immunity purposes.”⁶² But that is the extent of the *Ex parte Young* doctrine. It applies only when the “complaint alleges an ongoing violation of federal law and seeks relief properly characterized as prospective.”⁶³ “If the complaint fails to make clear what those ongoing violations are,” the *Ex parte Young* doctrine “does not apply.”⁶⁴ In other words, the plaintiff must actually state a claim for an on-going violation of federal law.

Second, in *Beshear v. Haydon Bridge Co.*,⁶⁵ the Supreme Court of Kentucky, following the reasoning of the *Ex parte Young* doctrine,⁶⁶ declared, “prospective injunctive powers are available to Kentucky courts in cases such as this and those powers include both temporary relief pending a declaration of unconstitutionality under the Kentucky Constitution as well as permanent relief in a final judgment.”⁶⁷

⁵⁹ *Franchise Tax Bd. of California v. Hyatt*, 587 U.S. 230, 236 (2019).

⁶⁰ *Haydon Bridge*, 416 S.W.3d at 288 (emphasis added).

⁶¹ *Ex parte Young*, 209 U.S. 123 (1908).

⁶² *Virginia Off. for Prot. & Advoc. v. Stewart*, 563 U.S. 247, 255 (2011).

⁶³ *Verizon Md. Inc. v. Public Serv. Comm’f of Md.*, 535 U.S. 635, 645 (2002).

⁶⁴ *Morgan v. Board of Professional Responsibility of the Supreme Court of Tennessee*, 63 F.4th 510, 515 (6th Cir. 2023).

⁶⁵ *Haydon Bridge*, 416 S.W.3d at 280.

⁶⁶ *Id.* at 288-89.

⁶⁷ *Id.* at 289.

Thus, “injunctive relief is available to *restrain* an unconstitutional exercise of legislative or executive power.”⁶⁸

Although Kentucky’s *Haydon Bridge* doctrine is not nearly as developed as the federal *Ex parte Young* doctrine, the parameters of the two doctrines are the same. Just as the *Ex parte Young* doctrine requires a plaintiff to actually state a claim for an on-going violation of federal law,⁶⁹ the *Haydon Bridge* doctrine requires a plaintiff to state a claim for an on-going violation of the Kentucky Constitution. If the plaintiff fails to state a claim, sovereign immunity bars the injunctive relief claims.

B. Woodcock fails to state a claim of an on-going violation of the Kentucky Constitution.

Woodcock’s Amended Complaint points to the American Bar Association’s accreditation policy, the faculty’s purported feelings toward the Dean, his personal interpretation of the University’s governing regulations, and his personal belief that his “contract” has been violated. But none of that involves an on-going violation of the Kentucky Constitution.

To be sure, he claims the appointment of Dean Van Tatenhove violates the faculty’s constitutional academic freedom. He also claims the appointment of Dean Van Tatenhove violates the Kentucky Constitution’s ban on arbitrary power.⁷⁰ If he had stated a claim for an on-going violation of the Kentucky Constitution, then he would be able to invoke the *Haydon Bridge* doctrine. But he fails to do so.

⁶⁸ *Id.* at 296 (emphasis original) (citation modified).

⁶⁹ *Morgan*, 63 F.4th at 515.

⁷⁰ Ky. Const. § 2.

To explain, Woodcock claims the appointment of Dean Van Tatenhove somehow violates both the faculty's collective and his personal constitutional academic freedom.⁷¹ He assumes a faculty member's constitutional academic freedom extends far beyond the classroom or research. He believes the faculty has a *constitutional* right to participate in the governance of the University. He thinks the faculty can reject a dean. He imagines faculty can only be evaluated by a "peer" (and believes Dean Van Tatenhove is not a peer). He feels that having a distinguished former federal judge as dean will inhibit the faculty's expression. Although there are a number of law schools with "non-traditional" deans such as Dean Van Tatenhove, Woodcock assumes the appointment of Dean Van Tatenhove jeopardizes the law school's accreditation and, thus, violates the Kentucky Constitution's ban on arbitrary power.⁷² Finally, he supposes he can individually assert whatever collective rights the faculty may have.

Woodcock is simply wrong. He fundamentally misunderstands the scope of the faculty's constitutional academic freedom. To the extent the faculty has a constitutional right to academic freedom, it is limited to professionally competent classroom speech and professionally competent scholarship. There is no constitutional right to participate in academic governance. Nor to allow the faculty to reject a dean. Nor to insulate the faculty from evaluation by "non-peers." Nor does having a distinguished former federal judge as the dean inhibit the faculty's

⁷¹ As explained below, the United States Constitution and the Kentucky Constitution are co-extensive in this area. In the interests of brevity, the University and University officials use "constitutional academic freedom" to refer to limitations imposed by both the federal and state charters.

⁷² Ky. Const. § 2,

expression. Nor does the appointment of Dean Van Tatenhove, after a lengthy and comprehensive selection process, violate the Kentucky Constitution.

1. The Kentucky constitutional provisions at issue are coextensive with comparable federal constitutional provisions.

Woodcock's claims are based on the Kentucky Constitution's free speech provisions and the prohibition on arbitrary power.⁷³ Although the text of the Kentucky constitutional provisions are different from the analogous federal constitutional provisions, the Kentucky Supreme Court consistently has interpreted the free speech provisions to be "coextensive" with the First Amendment.⁷⁴ Because "the freedoms of speech and assembly under the Kentucky Constitution are co-extensive with the First Amendment of the United States Constitution,"⁷⁵ Kentucky courts can—and should—rely on federal authorities where there is no equivalent Kentucky decision.⁷⁶

Similarly, while there is no federal analogue to the prohibition on arbitrary power, the Kentucky Supreme Court has "long interpreted the scope of Section 2 consistently with federal equal protection and due process protections."⁷⁷ Indeed, the arbitrary power provision is "a concept we consider broad enough to embrace both

⁷³ Ky. Const. §§ 1, 2, and 8.

⁷⁴ *McDonald*, 3 S.W.3d at 743.

⁷⁵ *Graham v. Sec'y of State Michael Adams*, 684 S.W.3d 663, 699 (Ky. 2023) (Nickell, J., concurring in part and dissenting in part).

⁷⁶ Of course, the Kentucky Supreme Court did recognize that the Freedom of Association under the Kentucky Constitution extends beyond free speech to include physical touching. *Blue Movies, Inc. v. Louisville/Jefferson County Metro Government*, 317 S.W.3d 23, 29 (Ky. 2010). But that decidedly is not what Woodcock's Complaint about the selection of the dean is about, so the *Blue Movies* exception is inapplicable.

⁷⁷ *Graham*, 684 S.W.3d at 700 (Nickell, J., concurring in part and dissenting in part).

due process and equal protection of the laws, both fundamental fairness and impartiality.”⁷⁸

2. To the extent the faculty has a constitutional right to academic freedom, it is limited to professionally competent classroom speech and professionally competent scholarship.

As *Garcetti v. Ceballos* makes clear, when a public university faculty member speaks as a university employee, his speech is not constitutionally protected.⁷⁹ Indeed, there is no constitutional protection when employees “make statements pursuant to their official duties.”⁸⁰ But *Garcetti* also recognized that “expression related to academic scholarship or classroom instruction” may implicate “additional constitutional interests that are not fully accounted for by this Court’s customary employee-speech jurisprudence.”⁸¹ Nevertheless, the Court declined to “decide whether the analysis we conduct today would apply in the same manner to a case involving speech related to scholarship or teaching.”⁸²

In *Meriwether v. Hartop*, the Sixth Circuit created a narrow academic freedom exception to *Garcetti* for “core academic functions.”⁸³ In *Josephson v. Ganzel*, this academic freedom exception to *Garcetti* was extended to speech at academic conferences *involving the faculty member’s expertise*.⁸⁴ So, in a limited context, public university faculty have greater rights than other university employees.

⁷⁸ *Pritchett v. Marshall*, 375 S.W.2d 253, 258 (Ky. 1963).

⁷⁹ *Garcetti v. Ceballos*, 547 U.S. 410, 417 (2006)

⁸⁰ *Id.* at 421.

⁸¹ *Id.* at 425.

⁸² *Id.*

⁸³ *Meriwether v. Hartop*, 992 F.3d 492, 506 (6th Cir. 2021).

⁸⁴ *Josephson v. Ganzel*, 115 F.4th 771, 786 (6th Cir. 2024).

But the Sixth Circuit’s academic freedom exception does not extend to every responsibility of the faculty member’s job.⁸⁵ Nor does it extend to a faculty member’s complaints about employment practices.⁸⁶ While not explicitly addressing academic freedom, the Sixth Circuit has recognized a public university can change a faculty member’s job duties⁸⁷ and remove a faculty member from an administrative post.⁸⁸

Other Circuits, when adopting their own academic freedom exceptions to *Garcetti*, have emphasized the narrowness of the exception. The Fourth Circuit held the exception does not extend to internal discussions among faculty or a faculty member’s email with other faculty.⁸⁹ The Eleventh Circuit, while emphasizing the academic freedom of faculty within the classroom,⁹⁰ also recognized a public university may exercise “editorial control” over even classroom speech “so long as the university’s actions are reasonably related to legitimate pedagogical concerns.”⁹¹ In fact, a public university is not “powerless” to “exclude” classroom speech “that veers outside of well-understood parameters—personal tangents irrelevant to the subject matter, conspiracy theories, and the like.”⁹² Put differently, “university administrators (and perhaps other government officials too) have a legitimate

⁸⁵ *Savage v. Gee*, 665 F.3d 732, 738–39 (6th Cir. 2012).

⁸⁶ *Kyrkanides v. Kluemper*, 2026 WL 766491 (E.D. Ky. Mar. 18, 2026), *appeal docketed*, No-26—5336 (6th Cir.). *See also Patterson v. Kent State Univ.*, 155 F.4th 635, 649 (6th Cir. 2025) (explaining “complaining about your boss and coworkers is not protected by the First Amendment just because you work for the government”).

⁸⁷ *Cunningham v. Blackwell*, 41 F.4th 530 (6th Cir. 2022).

⁸⁸ *Crosby v. University of Kentucky*, 863 F.3d 545 (6th Cir. 2017).

⁸⁹ *See Porter v. Bd. of Trs. of N.C. State Univ.*, 72 F.4th 573, 582–84 (4th Cir. 2023), *cert. denied*, 144 S. Ct. 693 (2024).

⁹⁰ *Pernell v. Florida Board of Governors of the State University*, 181 F.4th 1135 (11th Cir. 2026).

⁹¹ *Id.* at 1159 (citation omitted and modified).

⁹² *Id.* at 1160.

interest in ensuring that a professor's in-class speech is both 'germane' to the curriculum and 'professionally competent.'"⁹³

In sum, the judicially created academic freedom exception to *Garcetti* protects professionally competent speech in the classroom that is germane to the subject of the class. It also applies to professionally competent scholarship, including an academic conference presentation, which reflects the faculty member's expertise.⁹⁴ But it does not extend to other aspects of a professor's job.

While this Court *may apply* the Sixth Circuit's faculty academic freedom exception to *Garcetti*, the fact remains neither the U.S. Supreme Court nor the Kentucky Supreme Court has recognized such an exception.⁹⁵ Given the lack of a definitive decision, the University does not concede there is a faculty academic freedom exception to *Garcetti* or, if one exists, that the parameters are as broad as the Sixth Circuit may believe. This is so for three reasons. First, nothing in the original public meaning of the First Amendment in 1791 suggests that faculty members have greater rights in the classroom or in speech than other government employees. Second, the neutrality principle—the idea that government should not discriminate between viewpoints or speakers—is violated by giving “special rights”

⁹³ *Id.* (citation omitted).

⁹⁴ But if a faculty member deviated from stated purpose of the conference presentation, that deviation would not be protected by academic freedom.

⁹⁵ Of course, this Court is bound to follow decisions of the U.S. Supreme Court and Kentucky Supreme Court. *Hutto v. Davis*, 454 U.S. 370, 375 (1982) (per curiam).

to faculty.⁹⁶ Third, in constitutional law terms, “academic freedom belongs to the university,” not the faculty either collectively or individually.⁹⁷

Of course, while disputing the existence of faculty academic freedom as a matter of constitutional law, the University reaffirms the importance of academic freedom as a matter of policy. Indeed, the University’s Governing Regulations guarantee academic freedom to all members of the University Community.⁹⁸

3. Because Woodcock’ lacks standing to pursue his self-censorship claims and because those claims are not ripe he fails to state a claim for an on-going violation of his individual academic freedom.

As explained above, Woodcock lacks standing to pursue his claim that Dean Van Tatenhove somehow chills his scholarly activity because his fear is not objectively reasonable. Because he lacks standing, he fails to state a claim for the n on-going violations

The Seventh Circuit’s decision in *McDonald v. Indiana University* reinforces why Woodcock lacks standing to bring his chill claim.⁹⁹ In *McDonald*, public university professors attempted to preemptively challenge Indiana’s “intellectual diversity” law and the institutional policies implementing the statute.¹⁰⁰ The Seventh Circuit concluded the professors had not shown either a credible threat of enforcement or an objectively reasonable chilling effect on their speech.¹⁰¹ Unlike

⁹⁶ Scott R. Bauries, *Individual Academic Freedom: An Ordinary Concern of the First Amendment*, 83 Miss. L.J.677, 731 (2014). Professor Bauries, who now holds an endowed law professorship at the University of South Carolina, was previously at the University of Kentucky.

⁹⁷ *McDonald*, 2026 WL 2349271, at *10 (Easterbrook, J concurring).

⁹⁸ UNIVERSITY OF KENTUCKY GOVERNING REGULATION I—DECLARATION PRINCIPLES at C, Ex. 1.

⁹⁹ *McDonald*, 2026 WL 2349271.

¹⁰⁰ *Id.* at *1.

¹⁰¹ *Id.* at *5-*10.

Woodcock's situation which is pure speculation about what Dean Van Tatenhove might do, the professors in *McDonald* clearly were subject to the state law and the institutional policies. If the *McDonald* professors lacked standing to challenge an actual statute and implementing policies, then Woodcock cannot have standing to challenge what Dean Van Tatenhove might do.

But, standing issues aside, Woodcock's claim also is not ripe because nothing has happened to him.¹⁰² "Ripeness is a threshold issue: because an unripe claim is not justiciable, the circuit court has no subject matter jurisdiction over it."¹⁰³ "The basic rationale of the ripeness requirement is 'to prevent the courts, through the avoidance of premature adjudication, from entangling themselves in abstract disagreements.'"¹⁰⁴ In part, "ripeness involves weighing two factors: (1) the hardship to the parties of withholding court consideration; and (2) the fitness of the issues for judicial review."¹⁰⁵

The issues Woodcock raises about his self-censoring are not "fit" for judicial review. He has no idea what his speech will be, how that will be evaluated by the dean, and what may occur after that. This Court adjudicates cases and claims on a well-developed record "by which we may understand the actual, as opposed to the hypothetical and abstract."¹⁰⁶

¹⁰² Both standing and ripeness originate from principle that there must be a case or controversy, *Susan B. Anthony List v. Dreihaus*, 573 U.S. 149, 157 n. 5 (2014), but the doctrines remain distinct. *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 352-53 (2006).

¹⁰³ *Berger Fam. Real Est., LLC v. City of Covington*, 464 S.W.3d 160, 166 (Ky. App. 2015).

¹⁰⁴ *W.B. v. Commonwealth, Cabinet for Health & Family Servs.*, 388 S.W.3d 108, 114 (Ky. 2012) (quoting *Abbott Labs. v. Gardner*, 387 U.S. 136, 148, 87 S. Ct. 1507, 18 L. Ed. 2d 681 (1967)).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.* at 115.

His lack of standing and ripeness aside, Woodcock misunderstands individual academic freedom. Individual academic freedom does not require that your supervisor share your philosophy or that you get to choose your supervisor. Indeed, conservative deans frequently evaluate progressive scholars and vice versa. Nor does it mean that a dean must have a particular record of legal scholarship. In fact, there are numerous “non-traditional” law school deans who had distinguished records as judges, practitioners, or government officials before becoming a dean.

Rather, individual academic freedom means that a professor is entitled to pursue professionally competent teaching and scholarship in his area of expertise. Woodcock does not—and cannot—allege that the University currently is interfering with his right to write whatever he wants and submit to law reviews for possible publication. Moreover, if the University were doing so, the proper remedy is to order the University to stop. It is not to remove Dean Van Tatenhove and replace him with a faculty committee of Woodcock’s choosing.

4. The Faculty has no constitutional right to participate in academic governance

Regardless of the scope of First Amendment academic freedom in teaching and scholarship, it does not extend to the administration of an individual college or the institution as a whole.¹⁰⁷ Put another way, the faculty’s participation in shared governance is outside the faculty’s *constitutional* academic freedom.

¹⁰⁷ See e.g. *Meriwether*, 992 F.3d at 507 (explaining some classroom speech like non-ideological ministerial tasks would not be protected speech).

As the U.S. Supreme Court observed, “there is no constitutional right to participate in academic governance.”¹⁰⁸ “Even assuming that speech rights guaranteed by the First Amendment take on a special meaning in an academic setting, they do not require government to allow teachers employed by it to participate in institutional policymaking.”¹⁰⁹ Indeed, the “Constitution does not grant to members of the public generally a right to be heard by public bodies making decisions of policy.”¹¹⁰ “Policymaking organs in our system of government have never operated under a constitutional constraint requiring them to afford every interested member of the public an opportunity to present testimony before any policy is adopted.”¹¹¹ Instead, the Court recognized that finding “a constitutional right to participate directly in government policymaking would work a revolution in existing government practices.”¹¹²

This lack of a constitutional right does not mean the University is not committed to faculty involvement in shared governance of the University. As Governing Regulation V—which was adopted by the Board of Trustees—makes clear, shared governance “plays a vital role by informing and influencing the President” and gives the Faculty Senate a role in “advising” the President and Provost.¹¹³ But this policy of the University does not create causes of action.¹¹⁴ As the U.S. Supreme Court

¹⁰⁸ *Knight*, 465 U.S. at 288.

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 283.

¹¹¹ *Id.* at 284.

¹¹² *Id.*

¹¹³ See UNIVERSITY OF KENTUCKY GOVERNING REGULATION V—SHARED GOVERNANCE BODIES at p.1, and B, Ex 4.

¹¹⁴ *Kearney v. University of Kentucky*, 638 S.W.3d 385, 403 (Ky. 2022).

observed, “faculty involvement in academic governance has much to recommend it as a matter of academic policy, but it finds no basis in the Constitution.”¹¹⁵ So, while the faculty—along with students, staff, alumni, and others—offer significant input in choosing a dean, the faculty have no *constitutional* right-or any other legal right-to make the decision. And they cannot file lawsuits seeking relief through the courts’ equitable power, or to collect damages.

5. The Faculty has not joined together to express a message, much less one with a constitutional right to reject a dean.

Private organizations generally have the right to determine who will be a member of the organization. “An individual’s freedom to speak, to worship, and to petition the government for the redress of grievances could not be vigorously protected from interference by the State unless a correlative freedom to engage in group effort toward those ends were not also guaranteed.”¹¹⁶ “This right is crucial in preventing the majority from imposing its views on groups that would rather express other, perhaps unpopular, ideas.”¹¹⁷

“If the government were free to restrict individuals’ ability to join together and speak, it could essentially silence views that the First Amendment is intended to protect.”¹¹⁸ This freedom of association “is not reserved for advocacy groups. But to come within its ambit, a group must engage in some form of expression, whether it be public or private.”¹¹⁹

¹¹⁵ *Knight*, 465 U.S. at 288.

¹¹⁶ *Roberts v. U.S. Jaycees*, 468 U.S. 609, 622 (1984).

¹¹⁷ *Boy Scouts of America v. Dale*, 530 U.S. 640, 647-48 (2000).

¹¹⁸ *See Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47, 68 (2006).

¹¹⁹ *Dale*, 530 U.S. at 648.

“Freedom of association . . . plainly presupposes a freedom not to associate.”¹²⁰

“Freedom of association would prove an empty guarantee if associations could not limit control over their decisions to those who share the interests and persuasions that underlie the association’s being.”¹²¹ “The forced inclusion of an unwanted person in a group infringes the group’s freedom of expressive association if the presence of that person affects in a significant way the group’s ability to advocate public or private viewpoints.”¹²²

Recognizing these principles, the U.S. Supreme Court has upheld statutes requiring civic organizations to admit women,¹²³ but has allowed both parade organizers¹²⁴ and the Boy Scouts to exclude individuals with contrary beliefs.¹²⁵ The cases have turned on whether the enforcement of these policies would “materially interfere with the ideas that the organization sought to express.”¹²⁶

But to claim the government has interfered with an organization, Woodcock must first assert he is part of a group where its members associate to express a message.¹²⁷ To qualify as a protected expressive association, a group must “engage in expressive activity that could be impaired.”¹²⁸ Typically, the U.S. Supreme Court has found associational protections for formal entities “like the Boy Scouts, the NAACP,

¹²⁰ *Roberts*, 468 U.S. at 623.

¹²¹ *Democratic Party of U.S. v. Wisconsin ex rel. LaFollette*, 450 U.S. 107, 122 n.22 (1981).

¹²² *Dale*, 530 U.S. at 648.

¹²³ *Rotary Club*, 481 U.S. at 546-47.

¹²⁴ *Hurley*, 515 U.S. at 572-73.

¹²⁵ *Dale*, 530 U.S. at 655-60.

¹²⁶ *Id.*, 530 U.S. at 657 (citation modified).

¹²⁷ *Blick v. Ann Arbor Pub. Sch. Dist.*, 105 F.4th 868, 882 (6th Cir. 2024).

¹²⁸ *Miller v. City of Cincinnati*, 622 F.3d 524, 538 (6th Cir. 2010) (citation and quotation omitted).

or other charitable organizations,”¹²⁹ as well as recognized student organizations.¹³⁰

The Faculty are nothing like those associations. Although they collectively teach students and perform scholarly research, they were not assembled to promote a common message or advance shared ideas.¹³¹ To the contrary, a law faculty should be defined by intellectual diversity, not ideological unity. Professors routinely disagree about constitutional interpretation, statutory construction, federalism, and the role of the judiciary. Some may favor a Living Constitution approach while others embrace Originalism. The University does not violate the Constitution by employing faculty with differing viewpoints from its current group of professors.

The Faculty exists to carry out the University’s educational mission, not to speak as an independent association. Their relationship exists only because the University created the positions, selected the employees, and administers the College of Law. Woodcock’s theory would require this Court to flip that relationship on its head, and invert the U.S. Supreme Court’s freedom of association jurisprudence.

All of the freedom of association cases involve attempts by the *government* to force *private* groups to include persons that the groups wish to exclude. In contrast, the faculty of the College of Law is not a private group, it is a group of public employees. The public employees are seeking to exclude a leader chosen by those charged with governing the University, a public agency. If Woodcock’s theory is correct, then career civil servants can reject the political appointee chosen to run their

¹²⁹ *Blick v. Ann Arbor Pub. Sch. Dist.*, 105 F.4th 868 (6th Cir. 2024).

¹³⁰ *See Christian Legal Soc. Chapter of the Univ. of California, Hastings Coll. of the L. v. Martinez*, 561 U.S. 661, 680 (2010).

¹³¹ *Cf. Lichtenstein v. Hargett*, 83 F.4th 575, 602 (6th Cir. 2023) (finding plaintiffs were a “group” as they showed the reason for their association was to speak).

particular department. For example, state merit system employees could veto the Governor's choice of a Cabinet secretary. The Kentucky Constitution confers no such right to public employees.

Additionally, in the cases where the Supreme Court of the United States has found the government intruded into the freedom of association, the Court noted these associations dealt with close personal relationships.¹³² Writing for the Court, Justice Brennan explained “as a general matter, only relationships with these sorts of [personal] qualities are likely to reflect the considerations that have led to an understanding of freedom of association as an intrinsic element of personal liberty.”¹³³ This explains why the Court has found that associations “lacking” personal “qualities—such as a large business enterprise—seems remote from the concerns” granting other associations the constitutional protection of the freedom of association.¹³⁴ “Accordingly, the Constitution undoubtedly imposes constraints on the State’s power to control the selection of one’s spouse that would not apply to regulations affecting the choice of one’s *fellow employees*.”¹³⁵ Consequently, if the First Amendment does not bar the government from controlling a private employer’s decisions, it surely cannot bar the government from selecting its own employees.

6. Constitutional academic freedom does not insulate faculty from evaluation by a “non-peer.”

Woodcock insists that Dean Van Tatenhove is not one of his “peers” and, thus, cannot evaluate the faculty’s performance. Putting aside his assertion that someone

¹³² *Roberts*, 468 U.S. at 620.

¹³³ *Id.*

¹³⁴ *Id.*

¹³⁵ *Id.*

who served as federal judge for twenty years and wrote hundreds of opinions is incapable of judging the teaching and scholarship of a law professor, Woodcock misunderstands the evaluation of faculty at the University of Kentucky.

At the University of Kentucky, it is not unusual for a dean to be from a completely different field from that of a faculty member. For example, the College of Arts and Sciences includes the English Department, the History Department and the Chemistry Department, but Dean Ana Franco-Watkins is a psychologist. While she gets significant input from the various Department Chairs, Dean Franco-Watkins ultimately must approve the evaluations of all faculty within her college regardless of the field.

More importantly, the final decision of whether a faculty member is awarded tenure and promoted to associate or full professor belongs not to the faculty, but to the Board of Trustees—the majority of whom are political appointees of the Governor of the Kentucky.

7. The faculty's constitutional academic freedom does not depend on the identity of the dean.

Contrary to what Woodcock asserts, the faculty's constitutional academic freedom does not depend upon the identity of the Dean. Regardless of whether Dean Van Tatenhove or someone else is the leader of the law school, the faculty's constitutional academic freedom is the same. Specifically, as a matter of both constitutional law and the University's Governing Regulation, all faculty—including Woodcock—have academic freedom to engage in professionally competent classroom

speech that is germane to the subject and to pursue professionally competent scholarship that reflects the faculty member's expertise.

Some of the faculty may not like Dean Van Tatenhove's appointment, but his mere presence as their leader and his association with the law school does not impair the message conveyed by their individual or collective teaching and scholarship.¹³⁶

8. The appointment of Dean Van Tatenhove does not violate the prohibition on arbitrary power.

Woodcock claims that the appointment of Dean Van Tatenhove violates the Kentucky Constitution's prohibition on arbitrary power.¹³⁷ Specifically, he alleges that the University knew a substantial majority of the faculty opposed the appointment of Dean Van Tatenhove.¹³⁸ Consequently, Woodcock alleges the University knew that the appointment of Dean Van Tatenhove may violate ABA policy.¹³⁹ Therefore, proceeding with the appointment of Dean Van Tatenhove was arbitrary and so violates the Kentucky Constitution. But Woodcock's novel theory fails to state a claim for an on-going violation of the Kentucky Constitution. This is so for four reasons.

First, Woodcock's approach to the prohibition on arbitrary power "allows the courts of this Commonwealth to discard traditional standards for evaluating legislation and effectively allows the courts to sit as super-legislative bodies."¹⁴⁰ This Court may or may not agree with Woodcock about the appointment of Dean Van

¹³⁶ See *Rumsfeld*, 547 U.S. at 69-70.

¹³⁷ Ky. Const. §2.

¹³⁸ See Am. Compl. ¶¶ 17, 27.

¹³⁹ See *id.* ¶¶ 72-74.

¹⁴⁰ *Commonwealth Nat. Res. & Env't Prot. Cabinet v. Kentec Coal Co.*, 177 S.W.3d 718, 741 (Ky. 2005) (Roach, J., joined by Cooper & Johnstone, JJ., dissenting).

Tatenhove, but agreement or disagreement about a policy choice does not allow the judiciary to supplant the University's decision.¹⁴¹ Rather, this Court must recognize the Kentucky Supreme Court has "long interpreted the scope of Section 2 consistently with federal equal protection and due process provisions."¹⁴² Applying this standard, Woodcock's Amended Complaint falls far short of alleging a violation.

Second, under Section 2, unequal enforcement of the law, *if* it rises to "conscious violation of the principle of uniformity," is prohibited.¹⁴³ Woodcock erroneously assumes that the appointment of Dean Van Tatenhove is a violation of the ABA accreditation policies. But it is the ABA, not Woodcock, that determines whether there is a violation of the ABA accreditation policies. Woodcock himself cannot initiate the ABA-complaint process, declare an ABA violation, and derive a constitutional violation from his hypothetical ABA violation.¹⁴⁴ If—as the University expects—the ABA disagrees with Woodcock, then his entire arbitrary power theory collapses.

Moreover, in his letter of August 11, 2026, Provost DiPaola provided the University's response to Woodcock's ABA Complaint.¹⁴⁵ First, the Provost explained why there were doubts about whether a substantial majority of the faculty actually opposed Dean Van Tatenhove. Second, he articulated that there were extraordinary

¹⁴¹ See *Lingle v. Chevron*, 544 U.S. 528, 544 (2005) (Judges may "substitute their predictive judgments for those of elected legislatures and expert agencies").

¹⁴² See Aug. 11, 2026 Letter from Dr. Robert DiPaola to the American Bar Association, attached as Ex. 9.

¹⁴³ *Standard Oil Co. v. Boone County Bd. of Sup'rs*, 562 S.W.2d 83, 85 (Ky. 1978).

¹⁴⁴ There does not appear to be any publicly documented instance where an ABA accreditation decision found a school noncompliant because a dean was appointed over the objection of a substantial majority of the faculty.

¹⁴⁵ See Aug. 11, 2026 Letter from Dr. Robert DiPaola to the American Bar Association, Ex. 9.

circumstances justifying his appointment. The validity of those extraordinary circumstances—which include financial pressures, workforce alignment needs, demand for new academic programs, artificial intelligence, and the need for external fundraising—is not available for Woodcock’s interpretation. The determination belongs to the ABA. Because there has been no determination that Dean Van Tatenhove’s appointment failed to follow its own rule or regulation, this argument fails.

Third, Woodcock’s assertion that the appointment “lacks substantial evidentiary support” is simply unsupported by the record.

Fourth, the appointment of Dean Van Tatenhove does not “depart[] from past practice” such that it can be considered arbitrary.

9. Woodcock cannot assert other faculty members’ constitutional academic freedom.

Woodcock stands alone in his challenge to the appointment. None of his faculty colleagues have joined him.¹⁴⁶ He has not filed this suit as a putative class action, and he has not filed this suit on behalf of an incorporated or unincorporated organization. So, the question becomes whether a “lone wolf” has standing to assert the other faculty members’ academic freedom.¹⁴⁷

The clear answer is no for the reasons discussed at length above. Kentucky follows federal law on standing issues and Woodcock falls far short.¹⁴⁸ As discussed

¹⁴⁶ Indeed, Woodcock wants to subpoena some of his faculty colleagues so that they can be questioned under oath and he can discover their feelings toward Dean Van Tatenhove.

¹⁴⁷ *Ames v. LaRose*, 86 F.4th 729, 733 (6th Cir. 2023).

¹⁴⁸ *Sexton*, 566 S.W.3d at 199 (“We adopt the United States Supreme Court’s test for standing as announced in *Lujan v. Defenders of Wildlife*”).

above in Part I of the argument, this Court has “the constitutional responsibility...to consider, even upon their own motion, whether plaintiffs have the requisite standing, a constitutional predicate to a Kentucky court's adjudication of a case, to bring suit.”¹⁴⁹ Second, as also discussed above, applying the standards of both the U.S. Supreme Court and Kentucky Supreme Court,¹⁵⁰ a plaintiff *must* assert his *own* legally protected interests—not generalized institutional grievances or the asserted rights of an organization to which he may belong.¹⁵¹ So where his Amended Complaint focuses on making claims on behalf of the faculty as a whole, he has no standing to do so. As for any claims personalized to Woodcock, any alleged injury is speculative, imaginary, and not concrete.

The Amended Complaint confirms that Woodcock’s true dispute is with the University’s governance decisions regarding the selection of its dean. Courts do not possess jurisdiction simply because a disappointed faculty member recasts that institutional disagreement as a personal constitutional injury.¹⁵² Otherwise, this Court becomes the exclusive jurisdiction for every employee disappointed with any personnel decision made by the Executive Branch challenged as “arbitrary.”

C. The *Haydon Bridge* doctrine does not allow this Court to remove a University of Kentucky dean and replace him with a faculty committee.

Even if Woodcock states a claim for an on-going violation of the Kentucky Constitution, the *Haydon Bridge* doctrine does not allow this Court to remove a

¹⁴⁹ *Id.*

¹⁵⁰ *Id.* (explaining an injury must be particularized to the plaintiff).

¹⁵¹ *See Carney v. Adams*, 592 U.S. 53, 58 (2020) (explaining a generalized and abstract harm to a citizen’s interest that an entity follows the law does not count as an injury in fact).

¹⁵² *TransUnion LLC v. Ramirez*, 594 U.S. 413, 423–24 (2021)

University of Kentucky dean and replace him with a faculty committee. As the Kentucky Supreme Court made clear in *Haydon Bridge*, the judicial power to restrain unconstitutional conduct does not extend to interfering with the constitutional prerogatives of the other two Branches.¹⁵³ This limitation on the *Haydon Bridge* doctrine “does not in any way restrict, surrender or, as it has been colorfully expressed, ‘gut’ judicial authority. Very plainly, the judicial branch cannot give up something it never had.”¹⁵⁴

If this Court were to remove Dean Van Tatenhove and replace him with a faculty committee, then this Court effectively will be giving a group of public employees—the faculty—the ability to determine the leadership of the Rosenberg College of Law. Such a decision would violate the Kentucky Constitution’s separation of powers provisions in two ways.¹⁵⁵

First, an injunction removing the Dean and appointing a faculty committee would interfere with the Legislative Branch’s constitutional prerogatives. The Kentucky General Assembly had the constitutional authority to establish the University of Kentucky in 1865¹⁵⁶ and to create the Board of Trustees to govern the institution.¹⁵⁷ The Board has final authority over all aspects of the University.¹⁵⁸ If this Court removes Dean Van Tatenhove and appoints a faculty committee in his

¹⁵³ *Haydon Bridge Co.*, 416 S.W.3d at 295-98.

¹⁵⁴ *Id.* at 297.

¹⁵⁵ Ky Const. §§ 27; 28.

¹⁵⁶ KRS § 164.125(2); *see also Hutsell*, 5 F.3d at 999.

¹⁵⁷ KRS § 164.131(1)(a).

¹⁵⁸ UNIVERSITY OF KENTUCKY GOVERNING REGULATION I—DECLARATION OF PRINCIPLES at A.2, Ex. 1. The Board, by adopting the University’s Governing Regulations, established a process for the selection of deans. *See* UNIVERSITY OF KENTUCKY GOVERNING REGULATION I—DECLARATION OF PRINCIPLES at A.3, Ex. 1; UNIVERSITY OF KENTUCKY GOVERNING REGULATION III—THE PRESIDENT at B, Ex. 2.

place, it will be interfering with the Legislature's constitutional authority to establish the University and create the Board of Trustees to govern the institution.

Second, an injunction removing the Dean would interfere with the Executive Branch's constitutional prerogatives. The University is part of Executive Branch.¹⁵⁹ The Board, as the final authority for this Executive Branch institution,¹⁶⁰ has delegated administrative authority to the President,¹⁶¹ including the power to appoint Deans.¹⁶² If this Court removes Dean Van Tatenhove and appoints a faculty committee in his place, it will be overruling the choices of an Executive Branch agency concerning who will be a senior leader. Moreover, while all academic administrators serve at will,¹⁶³ the University presumably would not be able to remove the faculty committee.

III. Immunity bars all claims against the University and the University Officials.

A. Governmental immunity bars all claims against the University and the University Officials in their official capacities.

Because Woodcock's claims do not fall within the *Haydon Bridge* doctrine as an exception to immunity, all his injunctive relief claims are barred like his claims for damages. The University of Kentucky is an "independent body politic"¹⁶⁴ within the Executive Branch of the government of the Commonwealth of Kentucky.¹⁶⁵ As

¹⁵⁹ *Moore*, 599 S.W.3d at 806.

¹⁶⁰ UNIVERSITY OF KENTUCKY GOVERNING REGULATION I—DECLARATION OF PRINCIPLES at A.2, Ex. 1.

¹⁶¹ *Id.* at A.3

¹⁶² UNIVERSITY OF KENTUCKY GOVERNING REGULATION III—The President at B, Ex. 2.

¹⁶³ *Crosby*, 863 F.3d at 553.

¹⁶⁴ *Commonwealth ex rel. Beshear*, 498 S.W.3d at 379-82.

¹⁶⁵ *Moore*, 599 S.W.3d at 806.

such, the University has sovereign immunity in the federal courts,¹⁶⁶ the courts of Kentucky,¹⁶⁷ and the courts of other States.¹⁶⁸

The doctrine of sovereign immunity is “deeply implanted in the law of the Commonwealth through Section 231 of the Kentucky Constitution.”¹⁶⁹ Governmental immunity is an “offshoot of sovereign immunity and is premised upon protecting government entities from civil liability.”¹⁷⁰ Governmental immunity extends to state agencies that perform integral governmental (as opposed to proprietary) functions.¹⁷¹ The Kentucky Supreme Court has held that “education is an integral aspect of state government and that activities in direct furtherance of education will be deemed governmental rather than proprietary.”¹⁷²

The Supreme Court has also repeatedly held that “[t]he state universities of this Commonwealth, including the University of Kentucky, are state agencies that enjoy the benefits and protection of governmental immunity....”¹⁷³ As the Court in *Furtula* explained, “to the extent that the agency is performing a governmental function, *as a state university does*, its governmental immunity is functionally the same as sovereign immunity.”¹⁷⁴

¹⁶⁶ *Hutsell*, 5 F.3d. at 999.

¹⁶⁷ *Furtula*, 438 S.W.3d at 305; *Withers*, 939 S.W.2d at 343.

¹⁶⁸ *Hyatt*, 587 U.S. at 236.

¹⁶⁹ *Withers*, 939 S.W.2d at 344 (citing *Kestler v. Transit Auth. Of N. Ky.*, 758 S.W. 2d 38, 39 (Ky. 1988) (superseded by statute)).

¹⁷⁰ *Caneyville Volunteer Fire Dep’t v. Green’s Motorcycle Salvage, Inc.*, 286 S.W.3d 790, 801 (Ky. 2009).

¹⁷¹ *Autry v. W. Ky. Univ.*, 219 S.W.3d 713, 717 (Ky. 2007).

¹⁷² *Breathitt Cty. Bd. of Educ. v. Prater*, 292 S.W.3d 883, 887 (Ky. 2009).

¹⁷³ *Furtula*, 438 S.W.3d at 305; *see also Withers*, 939 S.W.2d at 343 (holding the University is entitled to sovereign immunity); *Autry*, 219 S.W.3d at 717 (holding WKU is entitled to immunity).

¹⁷⁴ *Furtula*, 438 S.W.3d at 305 n.1 (emphasis added).

This immunity “sweeps broadly” to “shield” public universities which “are such integral parts of state government as to come within regular patterns of administrative organization and structure.”¹⁷⁵ The University of Kentucky, thus, is immune from suit except as authorized by the General Assembly.¹⁷⁶ While the General Assembly has granted a limited waiver of immunity for claims brought upon a written contracts, there is no such waiver for other claims against the University like the ones Woodcock asserts here.¹⁷⁷

“The issue of whether a defendant is entitled to the defense of sovereign or governmental immunity is a question of law.”¹⁷⁸ Governmental immunity is immunity from suit in its entirety—not just immunity from final verdict, judgment, or damages; therefore, it must be applied at the outset of litigation because “unlike other defenses, immunity is meant to shield its possessor not simply from liability but from the costs and burdens of litigation as well.”¹⁷⁹ Since “immunity from suit includes protection against the cost of trial and the burdens of broad-reaching discovery that are peculiarly disruptive of effective government,” delaying dismissal for the purposes of discovery is also prohibited.¹⁸⁰ The right to immunity is so important that denial of that immunity in Circuit Court entitles the defendant to take an immediate appeal.¹⁸¹

¹⁷⁵ *Dep’t. of Corr. v. Furr*, 23 S.W.3d 615, 617 (Ky. 2000).

¹⁷⁶ *Withers*, 939 S.W.2d at 343; *Furtula*, 438 S.W.3d at 305.

¹⁷⁷ *Britt v. Univ. of Louisville*, 628 S.W.3d 1, 5 (Ky. 2021).

¹⁷⁸ *University of Louisville v. Rothstein*, 532 S.W.3d 644, 647 (Ky. 2017).

¹⁷⁹ *Prater*, 292 S.W.3d 883 at 888.

¹⁸⁰ *Lexington-Fayette Urban County Government v. Smolic*, 142 S.W.3d 128, 135 (Ky. 2004).

¹⁸¹ *Prater*, 292 S.W.3d at 886–87.

Similarly, sovereign immunity bars all claims against the University Officials in their official capacities. “The absolute immunity from suit afforded to the state also extends to public officials sued in their representative (official) capacities, when the state is the real party against which relief in such cases is sought.”¹⁸² As the Kentucky Supreme Court has held, “employees sued...in their official capacity are likewise entitled to governmental official immunity.”¹⁸³ Consequently, because the University is immune, the University Officials in their official capacities are also immune.

B. Qualified official immunity bars all damages claims against the University Officials in their individual capacities.

When sued in their individual capacities, public officials of a state agency are immune from liability for their performance of “(1) discretionary acts or functions, *i.e.*, those involving the exercise of discretion and judgment, or personal deliberation, decision, and judgment; (2) in good faith; and (3) within the scope of the employee’s authority.”¹⁸⁴ “Whether Defendants are protected by official immunity is a question of law.”¹⁸⁵ Like governmental immunity, the fundamental purpose of qualified official immunity is “immunity from suit, that is, from the burdens of defending the action, not merely just an immunity from liability.”¹⁸⁶ “Once the defendant raises the immunity bar by motion, the court must proceed expeditiously.”¹⁸⁷

Woodcock cannot satisfy that demanding standard. He identifies no aspect of Kentucky law that imposes ministerial duties on the University officials that a

¹⁸² *Yanero v. Davis*, 65 S.W.3d 510, 518 (Ky. 2001).

¹⁸³ *Autry*, 219 S.W.3d at 716.

¹⁸⁴ *Yanero*, 65 S.W.3d at 522 (internal citations omitted).

¹⁸⁵ *Sloas*, 201 S.W.3d at 475 (citation modified).

¹⁸⁶ *Id.* at 474 (citation omitted).

¹⁸⁷ *Rodgers v. Commonwealth*, 285 S.W.3d 740, 755 (Ky. 2009).

university faculty member possesses a First Amendment right to participate in selecting a dean, to compel a university to follow internal governance procedures through the Kentucky Constitution, to enforce ABA accreditation policies, or to transform alleged departures from university policy into state constitutional violations. Instead, he asks this Court to recognize an unprecedented and novel constitutional theory and then deny qualified official immunity because the University Officials failed to anticipate it. Qualified official immunity exists to prevent precisely that result, and all individual capacity claims against the University officials should be dismissed.

IV. Woodcock has failed to state a claim upon which relief may be granted.

As explained above, all claims must be dismissed. The *Haydon Bridge* doctrine does not apply to the Amended Complaint's injunctive relief claims and immunity bars all other claims. But there is an additional reason to dismiss all claims—Woodcock fails to state a claim.

A. Woodcock fails to state a claim under the Kentucky Constitution (Counts I, II, III, IV, VIII and IX).

For the reasons stated above, Woodcock fails to state a claim under the Kentucky Constitution. While immunity may not bar a claim for declaratory or injunctive relief that the Kentucky Constitution was allegedly violated, that does not mean Woodcock can make a constitutional claim against the University officials in their individual capacities. For example, Section 2 prohibits arbitrary action by the

government.¹⁸⁸ Consequently, a plaintiff makes a viable claim for declaratory relief by asserting “that the *state* or its *agencies*...acted arbitrarily[.]”¹⁸⁹ Here, Counts II, IV, and IX seek to expand the Constitution to regulate the conduct of state employees in their individual capacities. But Section 2’s prohibition is limited to “the state or its agencies.” Additionally, as for Woodcock’s claims for damages under Counts I, II, III, IV, VIII, and IX, the Kentucky Supreme Court has been clear that no cause of action exists for a claim for damages under the Kentucky Constitution.¹⁹⁰

B. Woodcock fails to state a conspiracy claim (Count V).

Woodcock’s “conspiracy” to violate the Kentucky Constitution claim fares no better. A civil conspiracy claim is not an independent source of liability but depends on the existence of an underlying claim about a constitutional violation. “There is no such thing as a civil action for conspiracy” because the claim is “for damages caused by acts committed pursuant to a formed conspiracy.”¹⁹¹ “In the absence of such acts done by one or more of the conspirators and resulting in damage, no civil action lies against anyone since the gist of the civil action for conspiracy is the act or acts committed in pursuance of the conspiracy, not the actual conspiracy.”¹⁹²

¹⁸⁸ See *Com. v. Kentucky Ret. Sys.*, 396 S.W.3d 833, 840 (Ky. 2013) (explaining a claim for declaratory relief based on unconstitutional acts serves to evaluate “the constitutional appropriateness of governmental actions”); *Schell v. Young*, 640 S.W.3d 24, 42 (Ky. App. 2021) (“Government entities are enjoined against arbitrariness by § 2 of the Kentucky Constitution, a concept we consider broad enough to embrace both due process and equal protection of the laws, both fundamental fairness and impartiality.”) (internal quotations and citations omitted) (citation modified).

¹⁸⁹ *Univ. of Kentucky v. Davis*, 551 S.W.3d 443, 448 (Ky. Ct. App. 2017) (emphasis added).

¹⁹⁰ *St. Luke Hosp., Inc. v. Straub*, 354 S.W.3d 529, 536 (Ky. 2011); see also *A.H. v. Louisville Metro Gov't*, 612 S.W.3d 902, 913-14 (Ky. 2020) (affirming the holding in *Straub* that KRS 446.070 does not give a cause of action for constitutional violations nor is it unnecessary to create a new cause of action for a violation of Ky. Const. § 2).

¹⁹¹ *James v. Wilson*, 95 S.W.3d 875, 897 (Ky. App. 2002).

¹⁹² *Id.*

Because Woodcock has failed to state claim for an on-going violation of the faculty's constitutional academic freedom, he has failed to plausibly allege any violation of his *constitutional* rights. Since the Kentucky Constitution does not provide for any claim for damages, such a claim for conspiracy to recover damages does not exist either. Finally, any conspiracy claim is barred by the intracorporate conspiracy doctrine. If "all of the defendants are members of the same collective entity, there are not two separate 'people' to form a conspiracy."¹⁹³ Kentucky law has adopted the intracorporate conspiracy doctrine and in the context of a civil rights claim.¹⁹⁴ Consequently, these defendants are not separate people and all are University officials, and Count V should be dismissed.

C. Woodcock fails to state a breach of contract (Count VI) or tortious interference with contract claim (Count VII).

Woodcock's breach of contract and tortious interference claims fail for the same reasons. A breach of contract claim requires a *breach of the contract*, and KRS 45A.245(1) is clear that claims must be brought "on the contract" to come within the limited waiver of immunity. The term "written contract" has specific meaning within the context of KRS 45A.245 so not just any written document or "contract" will do. Woodcock must instead identify a *written contract* for the *specific benefit or service* he claims was not enforced.¹⁹⁵ To qualify as a "written contract", the document relied

¹⁹³ *Johnson v. Hills & Dales Gen. Hosp.*, 40 F.3d 837, 839–40 (6th Cir. 1994).

¹⁹⁴ *Cowing v. Commare*, 499 S.W.3d 291, 294 (Ky. App. 2016) (the "doctrine is a logical extension of our rules that a corporation can only act through its agents and that a conspiracy involves two or more persons").

¹⁹⁵ *Furtula*, 438 S.W.3d at 306. *See also Huang v. Univ. of Pikeville*, 2019 WL 5929260 at *5 and 11 (E.D. Ky. 2019) (recognizing, "Initially, the Court rejects out-of-hand any complaint theory untethered to an alleged contract provision. Without, at the barest minimum, identifying an allegedly breached provision, no juror could reasonably find in Huang's favor on [his breach of

upon must on its face contain both an express offer and a definite acceptance.¹⁹⁶ In contrast, if one must *infer* offer or acceptance—even when the inference is drawn from or based upon written documents—all that exists is an *implied* contract, which is insufficient as a matter of law to invoke the statute’s limited waiver of immunity.¹⁹⁷

To succeed on a tortious interference claim, Woodcock must allege the “existence of a valid business relationship or expectancy; defendant’s awareness of the relationship or expectancy; defendant interfered intentionally; the motive behind the interference was improper; causation; and special damages.”¹⁹⁸ The analysis focuses “primarily on motive,” and “to prevail under this theory of liability, the party seeking recovery must show malice or some significantly wrongful conduct.”¹⁹⁹ Woodcock may invoke the words “tortious interference,” but that is no shibboleth. The factual allegations bear little resemblance to the elements of that tort. Instead, he tries to contrive a theory by stacking one unsupported inference upon another until he reaches the extraordinary conclusion that Dean Van Tatenhove committed a tort simply by accepting the University’s offer to become the Dean of the College of Law. Not so.

At the outset, Woodcock does not plausibly identify the contract with which Defendants allegedly interfered. It certainly bears no relation to the offer letter that

contract claim] . . . Again, a contracting party cannot breach by engaging in conduct the agreement does not bar or by failing to act in a way the contract does not require”).

¹⁹⁶ *Furtula*, 438 S.W.3d at 308-309; *Victor’s Executor v. Monson*, 283 S.W.2d 175, 177 (1955).

¹⁹⁷ *Furtula*, 438 S.W.3d at 310 (finding the Kentucky General Assembly has not waived sovereign immunity for implied contracts); *Victor’s Executor*, 283 S.W.2d at 177.

¹⁹⁸ *Davenport Extreme Pools & Spas, Inc. v. Mulflur*, 698 S.W.3d 140, 156 (Ky. App. 2024) (citation modified).

¹⁹⁹ *Id.* (citation modified).

he has attached as an Exhibit to his Amended Complaint.²⁰⁰ His written employment agreement contains no promise that the faculty must approve every dean, no promise that every American Bar Association policy becomes a contractual obligation, and no promise that every provision contained somewhere within the University's Governing Regulations or Administrative Regulations is enforceable as a negotiated term of employment. Rather than point to contractual language, Woodcock concocts a contract by stringing together a series of legal conclusions and inferential leaps.

Woodcock begins with his premise that, because his offer letter references the University's Governing Regulation every provision of the University's Governing Regulations became an enforceable term of his employment contract.²⁰¹ He then asserts that an Administrative Regulation, AR-EMPLOYEE CODE, "binds the University to ensure that all its employees, including Capilouto and DiPaola, do not violate accreditation rules."²⁰² He then reasons that, because he believes those standards prohibited Dean Van Tatenhove's appointment, the regulation and related accreditation requirements somehow became enforceable terms of his employment contract.²⁰³ That daisy chain of inferences cannot bear the weight Woodcock places upon it.

²⁰⁰ See Exhibit 21.Plaintiff's Notice of Filing Complaint Exhibits, filed August 7, 2026.

²⁰¹ The University's regulatory structure includes Governing Regulations and Administrative Regulations. The Governing Regulations establish the highest level of institutional governance and authority, are approved by the Board of Trustees, and define the University's mission, governance structure and the powers and responsibilities of its principal officers and bodies (President, Provost, Faculty Senate, Staff Senate, etc.). Governing Regulations outline who has authority and how that authority is exercised. The University's Administrative Regulations are policies adopted by the University President to implement the Governing Regulations and provide for the general administration and oversight of the University. <https://regs.uky.edu/>.

²⁰² Am. Compl. ¶ 108.

²⁰³ The University's regulatory structure includes Governing Regulations and Administrative Regulations. The Governing Regulations establish the highest level of institutional governance

Even accepting every factual allegation as true, the Amended Complaint still does not plausibly allege a contract or intentional interference. Dean Van Tatenhove is alleged to have accepted the University's offer of employment, met with faculty members, attended a Board meeting, responded to reporters, and described his appointment as "an honor" and "exciting." Those are not allegations of tortious interference. They are allegations that he accepted a job and prepared to begin it.

Nor does the Amended Complaint plausibly allege improper motive. Kentucky law requires more than intentional conduct; it requires malice or other significantly wrongful conduct.²⁰⁴ Yet the Amended Complaint identifies none. Instead, Woodcock alleges Dean Van Tatenhove accepted a prestigious position because it was honorable, exciting, and well compensated. Those allegations defeat, rather than support, an inference of malice, let alone malice aimed at interfering with Woodcock's contract.

The claim independently fails because Woodcock does not plausibly allege intentional interference motivated by an improper purpose. The Amended Complaint contains no factual allegations from which the Court could reasonably infer that Dean Van Tatenhove accepted the deanship for the purpose of interfering with Woodcock's contractual rights. Nor does it allege facts showing malice or "some significantly

and authority, are approved by the Board of Trustees, and define the University's mission, governance structure and the powers and responsibilities of its principal officers and bodies (President, Provost, Faculty Senate, Staff Senate, etc.). Governing Regulations outline who has authority and how that authority is exercised. The University's Administrative Regulations are policies adopted by the University President to implement the Governing Regulations and provide for the general administration and oversight of the University. <https://regs.uky.edu/>.

²⁰⁴ *Davenport Extreme Pools & Spas*, 698 S.W.3d at 156.

wrongful conduct.”²⁰⁵ Instead, Woodcock simply asserts, in conclusory fashion, that “Van Tatenhove acted without justification.”²⁰⁶ But Dean Van Tatenhove did no more than accepted a job offer. That is not tortious interference.

Woodcock’s threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not satisfy Rule 8. The “obligation to provide the grounds of his entitlement to relief” requires more than labels and conclusions, and a formulaic recitation of a cause of action’s elements will not do. Factual allegations must be enough to raise a right to relief above the speculative level on the assumption that all of the complaint’s allegations are true.”²⁰⁷ Without well-pleaded facts establishing the existence of a contractual right, intentional interference with that right, and an improper motive, the Amended Complaint fails to state a plausible claim for breach of contract or tortious interference. Count VI and VII should therefore be dismissed.

CONCLUSION

For the reasons above, the Court should dismiss this case.

Respectfully submitted,

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²⁰⁵ *Id.* (citation modified).

²⁰⁶ Am. Compl. ¶ 113.

²⁰⁷ *Durrett v. IKO Indus., Inc.*, 2020 WL 4917915, at *2 (Ky. App. Aug. 21, 2020).

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CERTIFICATE OF SERVICE

I hereby certify that on August 18, 2026, the foregoing document was electronically filed using the Court's e-system, which will send notification of such filing to all counsel.

/s/Bryan H. Beauman

*Attorney for Defendants University of
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EXHIBIT 1

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Governing Regulation I — Declaration of Principles

The University of Kentucky is a promise — a promise to the people of the Commonwealth to advance the state through education, service, research and care. The *Governing Regulations*, along with its implementing *Administrative Regulations*, articulate principles for how policy is created, how authority and responsibilities for executing those policies are distributed and, ultimately, how they are operationalized to ensure the successful management of the institution.

To those ends, the Board of Trustees declares these principles to guide all aspects of the governance of the University.

A. The Board of Trustees Holds the Final Authority for the University

1. The Board of Trustees Is the Representative Body of the People

The General Assembly, as the People's agents, created the University as an independent body politic of the Executive Branch. Complying with the federal mandate to establish a land grant institution,¹ the General Assembly defined the powers, mission and scope of the University.² Through the democratic process, the Legislature or the People themselves may alter the University or its mission.

To ensure accountability to the People, the General Assembly established the Board of Trustees to serve as the People's Representatives.³ Sixteen Trustees are appointed by the Governor — an elected constitutional officer — and confirmed by the state Senate, elected representatives of the People.⁴ Four of the 20 Trustees are chosen through democratic elections involving various parts of the University community.⁵ To continue accountability after the appointment or election, in certain circumstances, the Governor may remove any Trustee or all appointed Trustees.⁶

2. The Board Has Final Policymaking Authority and Final Administrative Authority

Subject to the limitations by the Constitutions and the law, the Board — as the People's Representatives — has final authority over all matters including financial, educational and other policies of the University. This reflects the original understanding of the Board's role. Indeed, the original *Governing Regulation I*, adopted in 1917, declared the Board “is the final authority in all matters affecting the institution and exercises jurisdiction over its financial, educational and other policies, and its relation with the state and federal governments.”⁷

The Board's final authority encompasses both policymaking authority and administrative authority. The Board decides the policies for the University, and it delegates responsibility for the implementation of those policies to the President.⁸

In adopting this *Governing Regulation*, the Board explicitly withdraws all earlier delegations of its policymaking authority.

Consistent with the principles of the institution's accrediting body, the Board, after hearing recommendations from the President, will decide the policies of the University. In formulating recommendations, the President shall consult with students, faculty and staff as the President deems appropriate.

3. The Board Delegates Administrative Authority to the President

As the University is complex, it is necessary for the Board to delegate administrative authority over day-to-day operations to the President.⁹ In exercising administrative authority, the President is accountable to the Board. The Board may remove the President at any time in accordance with the President's contract.

It is necessary for the President to further delegate some administrative authority to the President's subordinates. These individuals will have significant authority but will always be subject to the ongoing supervision of the President.

This delegation of administrative authority to the President is consistent with the University's accrediting body. Indeed, "[t]he chief executive officer has ultimate responsibility for, and exercises appropriate control over, the institution's educational, administrative, and fiscal programs and services."¹⁰ Furthermore, "[the chief executive officer] oversees an organizational structure that includes key academic and administrative officers and decision makers with credentials appropriate to their respective responsibilities."¹¹ "Generally this oversight is done through a structural arrangement whereby key officers of the institution report directly to the [chief executive officer], or to a chief operating officer who in turn reports to the chief executive officer."¹²

B. Shared Governance

Shared governance is a bedrock principle and a value of the University. It is critical to how the University meets its mission. The Board shall set the policy direction for the institution. The President shall implement policy. In doing so, the President shall seek the counsel of students, faculty and staff, particularly within their respective domains of expertise.

More specifically, subordinate to the Board, governance of the institution is best understood as the President of the University managing the operations of the institution and setting forth a long-term direction for the University, based on the policies established by the Board. To ensure success, the President, directly or through delegated subordinates, will regularly consult with the students as represented in the Student Government Association, the faculty as represented in the Faculty Senate and the staff as represented in the Staff Senate.

Such shared governance is a system of mutual responsibility in which students, faculty and staff take part in the decision-and-policy-making process through advice and counsel to the President. A structure and ethos of shared governance exist to provide avenues for voices to be heard and represented in ways that establish a sense of mutual respect and collaboration aimed at University improvement and productivity, centered on the mission of advancing the Commonwealth and the students of the University.

A part of shared governance is the primary role of the faculty — particularly at the department, schools and college levels — in the review, development and implementation of the institution's credit-bearing and non-credit bearing curriculum in academic colleges. As such, the University's educational programs must reflect appropriate input and participation of constituencies. Faculty members should have a substantive role in the development and review of academic policies.

C. Academic Freedom

The University “is deeply committed to safeguarding academic freedom, which is of transcendent value” for the entire institution.”¹³ *All* members of the University community “must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise, our civilization will stagnate and die.”¹⁴ An intellectually vibrant academic community is one that fosters civil dialogue and respectful debate, irrespective of ideology, identity, perspective or point of view.

While all members of the University community have academic freedom, it is particularly important to faculty members. Regardless of tenure status or tenure eligibility, faculty academic freedom covers all speech in a formal instructional setting related to the subject of the course and all scholarly speech related to the faculty member's area or expertise.¹⁵

Yet, as sacrosanct as the value of academic freedom is, it is important to also delineate what it is not. During formal instruction, faculty members should be free — and must be free — to express their views and perspectives on issues relating to their academic expertise. Formal instruction does not allow for faculty members to impose their personal viewpoints on students or engage in promotion of ideas outside their domains of expertise. Formal instruction is for learning and discussion, not indoctrination. Nevertheless, students must be prepared to accept that the subject matter of a course may challenge their beliefs and even cause them discomfort.

D. All Members of the University Community Have Equal Dignity

The University follows both the federal and state Constitutions as well as all applicable federal and state laws on nondiscrimination. The University provides equal opportunities for qualified persons in all aspects of institutional operations,

and does not discriminate on the basis of race, color, national origin, ethnic origin, religion, creed, age, physical or mental disability, veteran status, uniformed service, political belief, sex, sexual orientation, gender identity, gender expression, pregnancy, marital status, genetic information, social or economic status or whether the person is a smoker or nonsmoker, as long as the person complies with University regulation concerning smoking.

E. The University Must Operate with Ethical Principles

Exemplary ethical conduct is critically important. To that end, the President, in consultation with the appropriate shared governance bodies, will develop applicable codes of conduct and promulgate as *Administrative Regulations*.

The decisions and behaviors of members of the University community shall be guided by the core values of integrity, excellence, mutual respect and human dignity, academic freedom, personal and institutional responsibility and accountability, shared governance, a sense of community, work-life sensitivity, civic engagement, social responsibility and bringing together many people, one community.

F. Supremacy of the Governing Regulations

Subject to the limitations imposed by the federal and state Constitutions as well as federal and state law, the *Governing Regulations* are the supreme policy of the University.

Conclusion and Adoption of these Principles

The University of Kentucky is a promise, an enduring oath established at the institution's founding in 1865 to advance the Commonwealth that is its namesake.

That promise has never changed but it has necessarily evolved.

The institution has grown, and the needs of the Commonwealth and the world have increased in both scale and complexity.

A multi-faceted mission for the University of Kentucky is now embodied in a commitment to service and engagement that occupies a presence in every county of the state, that extends access to specialty care to more people, that conducts research and ignites discovery into the challenges that most confront communities and in which students are educated in ways that prepare them to thrive in an interdependent, complex world.

The *Governing Regulations* enumerated above and in the pages that follow establish guiding principles — and the basis for clear rules and regulations — for a University

community that continually seeks to inform and enliven that promise, today and into the future.

The Board adopts these principles on this ____ day of ____ in the year two thousand twenty-four and of the University the one hundred and sixtieth.

¹ [7 U.S.C. §§ 301 et seq.](#)

² [KRS §§ 164.100 et seq.](#)

³ See [KRS § 164.131\(1\)\(a\)](#).

⁴ [KRS § 164.131\(1\)\(e\)](#).

⁵ [KRS § 164.131\(1\)\(e\)](#).

⁶ [KRS § 164.131\(1\)\(d\)](#). The statute allows removal of an individual Trustee for cause under [KRS § 63.080\(2\)](#); one or more Trustees for non-compliance with statutory requirements concerning membership under [KRS § 63.080\(3\)](#); and the entire appointed board membership for cause under [KRS § 63.080\(4\)](#).

⁷ [1917 Governing Regulation I](#) (reprinted in the Board of Trustees Minutes for December 10, 1917).

⁸ [SACSCOC Principle 4.2.b](#).

⁹ See [KRS § 164.220\(1\)](#).

¹⁰ [SACSCOC Principle 5.2.a](#).

¹¹ *Rationale and Notes for SACSCOC Principle 5.2.a*, in [SACSCOC RESOURCE MANUAL FOR THE PRINCIPLES OF ACCREDITATION 35 \(4th ed. 2024\)](#) (alteration in original).

¹² *Id.*

¹³ [Keyishian v. Board of Regents of Univ. of State of New York](#), 385 U.S. 589, 603 (1967).

¹⁴ [Sweezy v. New Hampshire](#), 354 U.S. 234, 250 (1957).

¹⁵ See [Meriwether v. Hartop](#), 992 F.3d 492, 507 (6th Cir. 2021).

EXHIBIT 2

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EXH : 000007 of 000092

Governing Regulation III — The President

A. Appointment and Evaluation of the President

The Board — in consultation with students, faculty, staff, alumni and leaders throughout the Commonwealth and the nation — shall appoint a President.¹ The Board shall set the President's compensation and appropriate terms and conditions of employment including performance expectations. The Board shall annually evaluate the President.

B. Authority of the President

The University is a complex institution, making it necessary for the Board to delegate administrative authority for day-to-day operations to the President. The President will further delegate some administrative authority to subordinates.

The President is the chief executive officer of the University and has full authority and responsibility over its administration. It is the duty of the President to make recommendations relating to the general policies of the institution. It is the duty of the President directly — or through the President's delegates — to supervise and administer all phases of the University and to perform all other functions necessary for the successful operation of the institution.

By virtue of the Board's delegation, the President has the authority to: (1) appoint a President's cabinet and all employees subordinate to the President's cabinet; (2) take all measures necessary to comply with state and federal law as well as the requirements of all accrediting bodies; (3) promulgate and implement *Administrative Regulations*; (4) consult with the Student Government Association, Faculty Senate and Staff Senate on matters affecting the University; (5) appoint committees and work groups to provide recommendations to the President; (6) develop a proposed institutional budget for approval by the Board; (7) determine the University's position on matters pending before governmental bodies and agencies; (8) speak for — or designate someone to speak for — the University in all external and internal communications; (9) authorize the commencement of litigation and settlement of litigation as well as any appeal or effort to seek discretionary review; and (10) take any other action necessary and proper to implement the Board's policies.

The President has the authority to interpret the *Governing Regulations* and *Administrative Regulations*. The President's interpretation is binding on all members of the University community, unless otherwise prescribed by Board.

The President does not have the authority to suspend rules concerning admissions or the number of credits and quality points required for graduation.

C. Vacancy or Disability of the President

In case of a vacancy of the President or disability of the President, the Provost shall exercise the functions of the President until the Board of Trustees takes further action.

¹ [KRS § 164.220\(1\)](#).

EXHIBIT 3

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Governing Regulation IV — The Faculty's Primary Responsibility for the Credit-Bearing and Non-Credit Bearing Curriculum in Academic Colleges

Subject to the approval of the Board and in keeping with the shared governance principles established in these *Governing Regulations*, the faculty has primary responsibility for the content, quality and effectiveness of the credit-bearing and non-credit bearing curriculum in academic colleges.¹

Because faculty members at the department, school and college levels have the greatest expertise as to what is needed within respective disciplines, these faculty members should make recommendations to the Provost, the President and the Board of Trustees on credit-bearing and non-credit bearing curricula, degrees, courses, certificates and diplomas in academic colleges offered at the University. The Provost — or that official's designee — shall consult with the Faculty Senate on credit-bearing and non-credit bearing curriculum issues in academic colleges to ensure academic quality and further transdisciplinary collaboration, including disputes between and among colleges to mitigate against unnecessary duplication and establishment or closure of degree-granting academic programs.

A. Role of the Faculty, at the College Level, in the Conferral of Degrees

Before conferring an academic degree, the Kentucky Revised Statutes requires the Board to obtain a recommendation from the faculty.² The President shall establish procedures for obtaining the recommendation of the faculty of the college that is granting the degree and that is most familiar with the student's work.

The Board may grant degrees to graduates of the university, prescribe the conditions upon which postgraduate honors may be obtained, and confer such honorary degrees, upon the recommendation of the faculty of the university, as it thinks proper.³

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¹ See, *Rationale and Notes for SACSCOC Principle 10.4*, in [SACSCOC RESOURCE MANUAL FOR THE PRINCIPLES OF ACCREDITATION 96 \(4th ed. 2024\)](#).

² [KRS § 164.240](#).

³ *Id.*

EXHIBIT 4

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Governing Regulation V — Shared Governance Bodies

As set forth in *Governing Regulation I*, the Board of Trustees has final authority over all aspects of the University. Further, as set out in *Governing Regulation I*, the Board delegates administrative authority to the President. Nevertheless, the President shall regularly and consistently seek counsel from the University's students, faculty and staff in keeping with the fundamental commitment to shared governance as described in *Governing Regulation I*.

To facilitate this consultation, the Board establishes shared governance bodies for the students, the faculty and the staff, respectively. Each shared governance body plays a vital role by informing and influencing the President.

The shared governance bodies (Student Government Association (SGA), Faculty Senate and Staff Senate) may establish policies pertaining to the internal organizational structure and operation of its particular body and such policies shall be promulgated as an *Administrative Regulation*. Policymaking and administrative responsibilities of the University fall to the respective and appropriate offices as determined by the President.

A. The Student Government Association

The Student Government Association is the official representative body of the students at the University. Subject to the limitations imposed by the law, the *Governing Regulations* or *Administrative Regulations*, the Student Government Association, through the SGA President, shall on an ongoing basis: (1) represent the views of the student body to the President and other shared governance bodies; (2) be formally engaged in and consulted about relevant matters important to students such as tuition, the student code of conduct, student services, student fees, attendance and absence policies, student employment and student life matters; (3) promote the general well-being of students within the University; (4) foster mutual respect, collaboration and cooperation between students, faculty and staff; and (5) provide services to the students, faculty and staff.

The administrative liaison to the Student Government Association shall be the Vice President for Student Success or that officer's designee.

B. The Faculty Senate

The Faculty Senate is the official representative body of the faculty of the University. Subject to the limitations imposed by the law, the *Governing Regulations* or *Administrative Regulations*, the Faculty Senate shall on an ongoing basis: (1) be formally engaged in and consulted about relevant matters important to faculty to ensure the credit-bearing and non-credit bearing curriculum in academic colleges aligns with the University's mission, which would include academic degree-program

reviews, approvals and closures, attendance and absence policies, as well as the general education program requirements; (2) advise the Provost on University-wide criteria, policies and procedures for performance review, appointments, reappointments, promotions, granting of tenure, career progression, compensation and benefits to faculty in the University; (3) advise the President on measures necessary to preserve and protect the University's deep commitment to free speech and academic freedom as set forth in *Governing Regulation I*; (4) advise the President as to the ethical and professional standards applicable to members of the University's faculty; and (5) represent the views of the faculty to the President and other shared governance bodies.

The administrative liaison to the Faculty Senate shall be the Provost or that officer's designee.

C. The Staff Senate

The Staff Senate is the official representative body of the staff of the University. Subject to the limitations imposed by the law, any *Governing Regulation* or any *Administrative Regulation*, the Staff Senate shall on an ongoing basis: (1) recommend and advise the President of the University on the broad personnel policies of the University, including University-wide policies that are required by governmental or accreditation agencies; (2) be formally engaged and consulted about relevant matters important to staff such as career progression, compensation, benefits, infrastructure, purchasing, travel, budget and human resources; (3) advise the President as to the ethical and professional standards applicable to members of the University's staff; and (4) represent the views of the staff to the President and other shared governance bodies.

The administrative liaison to the Staff Senate shall be the Executive Vice President for Finance and Administration or that officer's designee.

EXHIBIT 5

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EXH : 000016 of 000092

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION
CASE NO. _____

Ramsi A. Woodcock,

Plaintiff,

v.

Gregory Van Tatenhove,
Eli Capilouto (in his official and individual capacities),
Robert DiPaola (in his official and individual capacities),
University of Kentucky;

Defendants.

VERIFIED COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF

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INTRODUCTION

1. Unique among all professionals, a scholar's professional identity depends entirely on his membership in his professional community and disappears the moment that community shatters. What makes him a scholar as opposed to a researcher is that his professional advancement depends upon the judgment of the quality of his work by other scholars and that his research is therefore influenced by and indeed the collaborative product of a community of scholars—and that community alone. This is called “peer review”. It is this exclusive dependence on the esteem of other scholars that gives his work a claim to credibility and expertise because it signals that his conclusions have not been influenced by special interests but only by the judgment of other people who have dedicated their lives to the search for truth. Ex. 27. The competence of no other professional is derivative of his association with other professionals in this way. A football player may be just as good at tackling whether he has been picked for the team or not. A surgeon may be just as good at surgery whether he is licensed or not. If the football player is cut or the surgeon deprived of his license, he is merely prevented from practicing his art. But a scholar stripped of membership in a community of scholars stops being able to perform at all. His work is no longer subject to peer review and so whatever he writes thereafter will not be the product of the collaborative search for truth that we trust as “scholarship”.¹ His claim to credibility on the basis of peer review will be nil.

Defendant the University of Kentucky (“University”), through its president, Defendant Eli Capilouto, and provost, Defendant Robert DiPaola, just stripped the faculty of the University’s J. David Rosenberg College of Law (“law school”) of their ability to claim credibility for their work on the basis of peer review. On March 6, 2026, DiPaola announced that Defendant Gregory Van

¹ Independent scholars lay claim to being scholars only to the extent that their research is vetted by other scholars, such as through publication in peer reviewed journals.

Tatenhove would be the law school's next dean. Ex. 17. His start date is July 15, 2026. Ex. 11. Van Tatenhove is a non-scholar whom the faculty had rejected in February as "unacceptable" for the position due to his lack of "the necessary qualifications (including a record of scholarship)" to lead the faculty. Exs. 7, 8. As dean, Van Tatenhove's job will be to rate the performance of faculty based on the quality of their scholarship. AR 3:10 Perf. Rev. § A.1, Ex. 23; Admin. Rev. — Univ. Org. §§ F.2.c, F.2.e, Ex. 22. He will have the power to recommend termination of a faculty member for nonperformance regardless of the views of the rest of the faculty and regardless of whether the faculty member has tenure. *Id.* at § F.2.c; Ky. Rev. Stat. § 164.230(5). As a result of his appointment, no member of the faculty, including Plaintiff Ramsi A. Woodcock, can continue to claim that his professional advancement depends in substantial part upon judgments of the quality of his research by those determined by the faculty to be fit to make them. The faculty has been deprived of its ability to claim that it is engaged in scholarship.

2. A faculty is the ultimate expressive association because, as already noted, its members are unable to express themselves as scholars other than through their association with each other in a collaborative search for truth. And the First Amendment provides robust protection for the right of Americans to associate to express a message, such as the faculty's message that its work is subject to peer review. The University's appointment of Van Tatenhove over the objection of the faculty dilutes the faculty's message of peer review and indeed compels the faculty to send the opposite message—that their research is subject to the judgment of someone whom they have collectively determined to be unfit to review their work. As such, it violates Woodcock's First Amendment right to expressive association.

3. The appointment of Van Tatenhove also violates Woodcock's employment agreement, which states that the University and its employees, including Capilouto and DiPaola, "must comply with . . . accreditation requirements". Exs. 20, 21. The American Bar Association

(ABA), which accredits the law school, prohibits the appointment of a dean over the objection of the faculty. ABA Standards Interp. 203-1, Ex. 19. The ABA further requires that a dean be a tenured member of the faculty. *Id.* at Standard 203(b). In effective acknowledgment of Van Tatenhove's lack of a scholarly record, the University has said that it will not put Van Tatenhove up for tenure. Ex. 14 at 7. The ABA provides an exception to these rules for "good cause" or in "extraordinary circumstances". Ex. 19. But the faculty approved three other University-selected finalists who, unlike Van Tatenhove, met the qualification for the dean role and on information and belief the University did not make offers to any of them before selecting Van Tatenhove. Ex. 8; Woodcock Decl. ¶ 22. (One of the other finalists has said that she would have accepted an offer. Ex. 28.) As a Judge on the U.S. Court of Appeals for the Eastern District of Kentucky, Van Tatenhove recently presided over a case involving an alleged violation of the same rule requiring compliance with accreditation requirements that is part of Woodcock's contract. Ex. 42. And during the application and interview processes, he should have also familiarized himself with the University and law school's policies and faculty contracts. Despite this, Van Tatenhove forged ahead with his candidacy for dean and then defended his appointment against public outcry. Exs. 13, 43. In doing so, he tortiously interfered with Woodcock's employment agreement.

PARTIES

4. ***Ramsi A. Woodcock*** is Edward H. Metcalf Jr. Professor of Law at the J. David Rosenberg College of Law ("law school") of the University of Kentucky ("University"). Woodcock associates with the law faculty in order to send the message that his professional advancement depends upon the judgment of his scholarship by people determined by the faculty to be qualified to render such judgments. He joined the faculty as an Assistant Professor in 2018. Based on a review of his scholarship, teaching, and service, the faculty recommended him for promotion to Associate

Professor with tenure in 2022 and to Full Professor in 2025. The University duly granted him tenure and appointed him to those positions.

5. **Gregory Van Tatenhove** is a Judge in the United States District Court for the Eastern District of Kentucky. Ex. 7. Prior to his appointment to the bench in 2006, he was United States Attorney for the Eastern District of Kentucky for four years, chief of staff to a U.S. congressman for six years, and a trial attorney for three years in the U.S. Department of Justice. *Id.* He has no experience in academic administration, has never held a full-time job as a law professor, and lists no scholarly publications on his CV. *Id.* On March 6, 2026, the University announced that he would be the next dean of the law school. His start date is July 15, 2026. Ex. 17.

6. **Eli Capilouto** is the President of the University of Kentucky. The University of Kentucky Board of Trustees (“board”) has delegated to him “the authority to . . . appoint . . . all employees”, “promulgate and implement *Administrative Regulations*”, “supervise and administer all phases of the University”, and “take all measures necessary to comply with state and federal law as well as the requirements of all accrediting bodies.” Governing Reg. III —The President § B, Ex. 37. Jointly with DiPaola, Capilouto reviews feedback regarding dean candidates and selects deans. Ex. 14, 6–7.

7. **Robert DiPaola** is the Provost of the University of Kentucky. As Provost, DiPaola “is the chief academic officer for the University”, “is responsible for faculty employee functions”, and “has the authority to manage the employment” of “the faculty.” Admin. Reg. 1:1 § IV.F, Ex. 66 (possibly superseded by Admin. Reg. — Univ. Org, Ex. 22.). He “reviews and recommends to the President and the Board of Trustees on faculty appointment, reappointment, and tenure matters.” *Id.* DiPaola “appoint[s]” “[s]earch committees for deans of colleges”. Admin. Reg. — Univ. Appts. (Formerly GR VIII) § A.3. Jointly with Capilouto, DiPaola reviews feedback regarding dean candidates and selects deans.

8. **University of Kentucky** (“University”) is the Commonwealth of Kentucky’s flagship public university and a top-tier research university in the United States. Its mission is to “[e]xpand[] knowledge through . . . scholarship[.]” Ex. 18. It is governed by a Board of Trustees that has delegated its authority to appoint deans to Capilouto in his capacity as president of the University. Governing Reg. III —The President § B, Ex. 37.

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction over Woodcock’s federal constitutional claims pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343(a)(3). This Court has supplemental jurisdiction over Woodcock’s state law claim pursuant to 28 U.S.C. § 1367(a) because the state law claim is “so related to” the federal constitutional claims “that they form part of the same case or controversy”.

10. This district is an appropriate venue for this action under 28 U.S.C. § 1391 because the defendants are located here and the actions that Woodcock alleges occurred in this district.

FACTUAL ALLEGATIONS

11. As outgoing University board member Hollie Swanson observed in remarks to the board on June 30, 2026, Capilouto has governed the University in a “top-down” fashion.² Until this spring, the most notable example of this approach was his successful 2024 push to dissolve the University’s faculty senate. Exs. 67, 68. In the wake of the senate’s dissolution, the University sought to learn the identity of the faculty senators who had passed a vote of no confidence in Capilouto, forced out the senate’s last president, and, in exchange for settling her employment claims, insisted that she promise not to exercise her right to seek records regarding her ouster. Exs. 67, 68.

² Jesse Fraga, *A Critical UK Trustee is Leaving. How Does She Feel about the University on Her Way Out?*, Lexington Herald Leader (Jul. 2, 2026), <https://www.kentucky.com/news/local/education/article316342536.html>.

12. It is against this backdrop that the University undertook a search for a new dean of the law school over the past academic year. At least for the past half century, the University had never appointed a dean of the law school over the objection of the faculty. Ausness Decl. ¶ 3. And, with the single exception of the outgoing interim dean, who served from 2025 to 2026, deans of the law school had, at least for the past half century, always pursued a career as a law professor prior to becoming dean. Ausness Decl. ¶¶ 1, 3, 6. That changed earlier this year.

13. Between January 16, 2026 and February 3, DiPaola brought four University-selected finalists for the position of dean of the law school to campus to participate in open fora with the University community. Exs. 1, 2. The final candidate to visit was Van Tatenhove, who was described by the University during the search process as “Candidate D”. Woodcock Decl. ¶ 25. On February 4, after the conclusion of the campus visits, Joshua Douglas and Beau Steenken, acting in their capacity as Associate Deans of the law school, sent an email to DiPaola, copying George Wright, who is “Senior Advisor to the President”. Ex. 8, 10; Woodcock Decl. ¶ 26. The email stated that “[t]he views expressed here are the collective views of the faculty”. The email informed DiPaola that a “substantial majority of the faculty found” three of the finalists to be “acceptable.” Ex. 8. The email stated that these finalists “all possess” “academic [administrative] experience” and “a strong scholarly record.” *Id.* The email further stated, however, that a “substantial majority of the faculty found Candidate D to be unacceptable to be our next Dean.” *Id.* The email explained that

[f]aculty expressed that Candidate D does not exhibit “progressive and broad academic administrative leadership experience arising from a senior-level administrative role such as department chair, center director, associate dean, or dean.” Additionally, a substantial majority of the faculty expressed concern that Candidate D does not possess the necessary qualifications (including a record of scholarship) to be granted tenure under the Rosenberg College of Law's current rules, such that their appointment would fail to satisfy ABA Rule 203(b), which calls for the Dean of a law school to be appointed as a member of the faculty with tenure.

Id.

14. Capilouto and DiPaola jointly review feedback on dean candidates and jointly select deans. Ex. 14 at 6–7. On information and belief, they did not make an offer to any of the three finalists approved by the faculty. Woodcock Decl. ¶ 22. They also did not solicit individual “written statements from at least the tenured members of the college” regarding the appointment, as required by University regulations. Admin. Reg. — Univ. Appts. (Formerly GR VIII) § A.3.³ Instead, on February 27, they made an offer to Van Tatenhove to become the next dean of the law school. Ex. 11. The offer letter, which was signed by DiPaola, stated that Van Tatenhove would be the “chief academic . . . officer” of the law school. *Id.* It further stated that Van Tatenhove would be required to “[c]reate and implement clear” “research priorities” “agree[d] upon” with DiPaola and that these “priorities” “should be established within [his] first year.” *Id.* In exchange, Van Tatenhove would receive a salary of \$442,000 per year. *Id.* In the event that the University were to remove him “without cause” in the first three years of his six-year contract, he would continue to receive his salary for three years, amounting to a golden parachute of \$1.3 million. *Id.* This appears to be the first time that the University had ever promised a golden parachute to a law school dean. *See* Exs. 63–65. Van Tatenhove’s salary was also \$62,000 higher than the salary of the previous dean. Ex. 65. And it came on top of the \$249,000 annual pension that Van Tatenhove would receive from the federal government upon retiring from the bench.⁴ Van Tatenhove accepted the offer on or before March 3 and DiPaola publicly announced the appointment on March 6. *Id.*; Ex. 17.

15. Woodcock associates with the law faculty in order to send the message that his professional advancement depends upon the judgment of his scholarship by people determined by the faculty to be qualified to render such judgments, a process known as “peer review”. Woodcock

³ <https://regs.uky.edu/sites/default/files/2026-04/administrative-regulation-university-appointments.pdf>.

⁴ A federal judge who retires after his years on the bench and his age sum to eighty receives a pension at a rate equal to his annual salary. 28 U.S.C. § 371(a), (c). Van Tatenhove was born in 1960 and appointed to the bench in 2006. Exs. 7, 50. The current annual salary of a federal district judge is \$249,000. Ex. 49.

Decl. ¶¶ 1–8. This message of peer review certifies to the public that his research conclusions have been subject only to the influence of other people who, like him, have dedicated their lives to the search for truth. *Id.*; Ex. 27. Absent that certification, his writing cannot command the special respect and attention directed by the public toward the conclusions of academics. *Id.* It is, in other words, the platform that permits Woodcock to command the attention of the public. *Id.* Without it, his research conclusions are accorded no more value or respect by the public than the conclusions of researchers in industry, thinktanks, or advocacy organizations. *Id.* As the American Association of University Professors (“AAUP”) noted in the 1915 Declaration of Principles on Academic Freedom and Academic Tenure, “[t]he lay public is under no compulsion to accept or to act upon the opinions of the scientific experts whom, through the universities, it employs” except “to the extent” that the “conclusions” of those experts are “motiv[ated]” by “a desire for the respect of their fellow experts”. *Id.* at 294. To the extent that Woodcock’s conclusions are not subject to peer review, but instead are subject to the review of “the individuals who endow or manage universities”, his “proper influence” “upon public opinion is diminished and vitiated[.]” *Id.* at 295–95. The faculty, including Woodcock, send this message of autonomy when the faculty declare their mission to be to “engage in robust exploration and dissemination of ideas” and to “advanc[e]” “legal knowledge” through “scholarship.” Ex. 29; L. Fac. R. & Pol’y § 13.B, Ex. 30. As the AAUP has noted, whenever a faculty declares that its “purpose is” “to advance knowledge”, it seeks to convey the message to the public that the scholarship and teaching of its members has or will be “tested” by people “trained for, and dedicated to, the quest for truth” rather than by “the opinions or prejudices of men who have not been set apart or expressly trained for the scholar’s duties.” Ex. 27 at 294–95, 300.

16. DiPaola’s announcement of Van Tatenhove as the next dean immediately impaired Woodcock’s ability to leverage his association with the law faculty to send his message of peer review. Woodcock Decl. ¶¶ 10–13. From that moment onward, he could reasonably expect that in

substantial part his professional advancement would depend upon the judgment of his scholarship by someone determined by the faculty to be unqualified to render such judgments. *Id.* The public could have such a reasonable expectation as well. *Id.* Although the public may not have learned that the faculty had rejected Van Tatenhove until April 13, when Woodcock published an opinion piece in the Louisville Courier Journal opposing the appointment, the public knew from the career highlights listed in DiPaola's March 6 announcement that the University had hired a new dean lacking any academic administrative experience or scholarly record.⁵ Ex. 17. From that point on, the public could reasonably expect that Woodcock's writing and speaking would be influenced by a desire to please a non-scholar incoming dean. Woodcock Decl. ¶¶ 10–13. Woodcock's writing and speaking after the announcement included the uploading of three new or revised papers on the economic analysis of law to the Social Science Research Network (SSRN) public repository of legal research and his remarks as a participant in a scholarly roundtable at the Law and Society Annual meeting in San Francisco. Woodcock Decl. ¶ 13.

17. Woodcock would have every reason to distort his research conclusions to please Van Tatenhove because a law school dean can destroy a faculty member's career by making a negative evaluation of his scholarship. According to University regulations, the dean is ipso facto a "member[]" and "chair of the college faculty[,] and an ex officio member of all college committees", including the Retention, Promotion and Tenure Committee. Admin. Reg. — Univ. Org. §§ E.3.a, F.2.c, Ex. 22; L. Fac. R. & Pol'ys § 14.A, Ex. 30. Because the law school does not have departments, the dean exercises the powers of a department chair in addition to those of dean, which include "the periodic evaluation of" faculty members. Admin. Reg. — Univ. Org. at §§ F.2.c, F.2.e, Ex. 22. Such evaluations include "a qualitative judgment of the faculty employee's . . . scholarship[.]" AR 3:10

⁵ Ramsi A. Woodcock, *UK Law School is Ignoring Faculty, Risking Its Accreditation*, The Courier-Journal, <https://www.courier-journal.com/story/opinion/contributors/2026/04/13/uk-law-school-dean-judge-greg-van-tatenhove-accreditation-faculty-objection-andy-barr/89550365007/>.

Perf. Rev. § A.1, Ex. 23. Based on this evaluation, the dean is “responsible for recommendations” to Capilouto on “salaries”, “appointments”, “promotions”, and “decisions not to reappoint”. Admin. Reg. — Univ. Org. at § F.2.c, Ex. 22. Under Kentucky law, “[f]ailure to meet performance” “requirements may result in removal of a” “professor regardless of” tenure “status.” Ky. Rev. Stat. § 164.230(5). The dean may “depart from recommendations of [the rest] of the college faculty” and “speaks for the college.” Admin. Reg. — Univ. Org. § F.2.c, Ex. 22.

18. The impairment of Woodcock’s ability to send the message of peer review has inflicted economic loss on Woodcock. He left a job at WilmerHale, a top corporate law firm, to go into academia, taking a 50% pay cut at the time. Woodcock Decl. ¶ 1. And he took another pay cut (he believes) to move to University of Kentucky from a position on the tenure track at Georgia State University because the provost at Georgia State at the time had a record of interfering in the promotion decisions of the faculty at that school. Woodcock Decl. ¶ 7–8. These pay cuts were a net gain for Woodcock because the University promised him a number of valuable services in return, one of which was the platform for his scholarly conclusions that the ability to send the message of peer review provides. *Id.* at ¶¶ 7–9. Woodcock requested information regarding the extent of University interference in faculty decisionmaking before he accepted his offer. *Id.* at ¶ 8. The announcement of Van Tatenhove’s appointment deprived Woodcock of the benefit of that bargain.

19. The loss inflicted on Woodcock was particularly large, and included mental emotional, reputational, and dignitary harm, because Woodcock was already living with the consequences of the appointment of a non-scholar dean. *Id.* at ¶ 23. The University appointed James Duff as interim dean in early July, 2025, on information and belief without consulting the faculty. Ex. 56; Woodcock Decl. ¶ 22. On July 18, 2025, Duff suspended Woodcock from teaching and banned him from the law school building. *Id.* In sworn testimony, Duff later explained that he had made a “judgment call” to suspend Woodcock based on Woodcock’s speech about Palestine

because, in Duff's opinion, the speech "wasn't" "academic work" and he felt that "the taxpayers of Kentucky should not have to fund someone's personal viewpoints". Ex. 52 at 184, 194. Like Van Tatenhove, Duff had no prior academic administrative experience and was not a scholar. Ex. 54. By contrast, the interim dean who immediately preceded Duff was a longtime member of the University faculty. Woodcock Decl. ¶ 22. Like Duff (a pallbearer at Chief Justice Rehnquist's funeral) and Van Tatenhove (nominated for the bench by U.S. Senator Mitch McConnell, the former Senate Republican Leader), Salamanca was well connected in Republican circles, having served in the first Trump Administration. *Id.* But he did not retaliate against Woodcock's speech regarding Palestine. *Id.* Instead, he defended Woodcock's right to speak about Palestine at faculty meetings. *Id.* The effect of Duff's actions on Woodcock's platform was severe, but the temporary nature of Duff's appointment imposed a limit on the harm. *Id.* at ¶ 23. The appointment of a man with the same lack of scholarly experience as Duff as permanent dean removes that temporal limit. *Id.*

20. In their email to DiPaola, the faculty had noted that his appointment violated accreditation standards of the American Bar Association (ABA). Ex. 8. ABA accreditation plays a key role in the viability of the law school. Students cannot obtain federal student loans to attend law school unless the school is accredited by the ABA. 20 U.S.C §§ 1001(a)(5), 1070(a). And, short of petitioning the Kentucky Board of Bar Examiners for an exemption, a law school graduate cannot obtain a license to practice law in Kentucky without having graduated from an ABA-approved law school. Ky. R. Sup. Ct. 2.014(1), (3).

21. The ABA's Standard 203(b) (contained in the ABA's 2025-2026 Standards and Rules of Procedure for Approval of Law Schools) provides that "[e]xcept in extraordinary circumstances, a dean shall also hold appointment as a member of the faculty with tenure." Ex. 19. In his announcement of the appointment, DiPaola stated that the appointment was "pending approval of the Board of Trustees". Ex. 17. Because such appointments require board approval but the

appointment of administrators does not, that implied that Capilouto and DiPaola were planning on granting Van Tatenhove a tenured position on the faculty notwithstanding the faculty's view that Van Tatenhove "does not possess the necessary qualifications (including a record of scholarship) to be granted tenure under the Rosenberg College of Law's current rules". Governing Reg. II — The Board of Trustees § H.2.⁶ But the University later backtracked, stating that Van Tatenhove did not seek a tenured appointment. Ex. 14 at 7.

22. Another provision of the ABA rules, Interpretation 203-1, provides that "[e]xcept for good cause, a dean should not be appointed or reappointed to a new term over the stated objection of a substantial majority of the faculty." Ex. 19. In their email, the faculty had stated that a "substantial majority of the faculty found [Van Tatenhove] to be unacceptable to be our next Dean." Ex. 8.

23. AAUP statements provide guidance about what counts as "good cause" and "extraordinary circumstances" under ABA rules. The AAUP's 2006 Statement on Faculty Evaluation of Administrators makes clear that administrators must (1) provide "compelling" reasons why they have chosen to "overrid[e]" "the faculty[']s judgment" that other candidates should have been chosen and (2) "state[]" those reasons "in detail." Ex. 32 at 129.

24. The only reasons that DiPaola's announcement provided for the appointment of Van Tatenhove were that Van Tatenhove had served on "various organizational committees" while a judge, taught a course as an adjunct instructor at the law school, and had "experience advancing strategic goals and engaging with broad groups of internal and external stakeholders". Ex. 17. These reasons did not appear to Woodcock to describe the "good cause" or "extraordinary circumstances" necessary to set aside ABA Interpretation 203-1 or ABA Standard 203(b). The faculty had approved

⁶ <https://regs.uky.edu/sites/default/files/2026-04/gr-ii-the-board-of-trustees.pdf>.

three other University-selected finalists for the position and on information and belief Capilouto and DiPaola had not made an offer to any of them before selecting Van Tatenhove.⁷ Ex. 8.

25. The University and its employees, including Capilouto and DiPaola, have an incentive to follow ABA rules because noncompliance can lead the ABA to impose sanctions on the law school, including the withdrawal of accreditation.⁸ The University's own governing and administrative regulations also specifically command the University, Capilouto, and DiPaola to follow ABA rules independently of whether the ABA imposes a sanction for their violation. The administrative regulation titled "Employee Code" promulgated by Capilouto and binding on him and DiPaola as University employees states that "employees must comply with . . . accreditation requirements." Admin. Reg. — Employee Code § D, Ex. 20. The ABA standards and interpretations are "accreditation requirements" for the law school. And the governing regulation issued by the board that directs the president of the University to "develop" "codes of conduct" such as the Employee Code declares that "[t]he decisions and behaviors of members of the University community shall be guided by the core value[] of" "personal and institutional responsibility and accountability". Governing Reg. I — Decl. Princs. § E, Ex. 26.

26. The governing and administrative regulations legally bind the University to abide by accreditation requirements because the governing and administrative regulation are part of Woodcock's employment contract. The offer letter that Woodcock and the law school dean signed when Woodcock joined the faculty in 2018 describes the position to which the University appointed

⁷ This was not the first time that Capilouto and DiPaola had placed the law school in violation of ABA rules. After Capilouto and DiPaola imposed what was described as a debt obligation on the law school that effectively diverted large shares of law student tuition away from law school operations, the ABA concluded in early 2023 that the University was "not in compliance with [ABA] Standard 202(a)", which provides that "anticipated financial resources available to the law school shall be sufficient for it to" "carry out its program of legal education." Ex. 70. After the University backtracked, the ABA ruled later that year that the University had come back into compliance. Ex. 71.

⁸ Rules of Procedure for Approval of Law Schools 2025-2026, https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2025-2026/2025-2026-rules.pdf.

Woodcock using terms that are only defined in University regulations (e.g., it appoints him “Assistant Professor” in “our Regular Title Series”, two terms that are defined only in Administrative Regulation 2.1-1 § V.A. and Administrative Regulation 2.2-1 § III.B.1(a)) and states that his “responsibilities” are “as outlined in the . . . University of Kentucky rules and regulations.” Ex. 21. Both the offer letter and the governing and administrative regulations concern the rights and duties of employees. Woodcock has worked continuously for the University since 2018 while various iterations of the governing and administrative regulations, including Governing Regulation I, with its promise of institutional accountability, and the Employee Code, with its requirement of compliance with accreditation requirements, have remained in effect. The language of the governing and administrative regulations uses phrases such as “shall be” and “must comply”. Moreover, the Faculty Handbook refers to “the contract between the faculty member and the institution” and states that “[s]pecific questions regarding the rights and duties of University employees - including faculty employees - can only be resolved by reference to the appropriate official documents”, which the Faculty Handbook describes as including “the Governing Regulations, and the Administrative Regulations[.]” Ex. 40. And Woodcock was granted tenure under this agreement in 2022.

27. Van Tatenhove was aware that law faculty such as Woodcock had a binding contractual right to the University’s compliance with accreditation requirements. His role as Judge on the U.S. District Court for the Eastern District of Kentucky required him to be aware of it. Starting in 2020, Van Tatenhove presided over a lawsuit filed against the University by a tenured professor who had been charged by the University with violating the section of a predecessor of the University’s current Employee Code that required compliance with accreditations rules. Ex. 42; Governing Regulation XIV § B, Ex. 41. If those rules were not part of the professor’s contract, his violation of the rules could not serve as a basis for terminating him. One of Van Tatenhove’s six separate opinions in the case discussed a University governing regulation and the tenured faculty

member's contract in detail. *Cunningham v. Blackwell*, 568 F. Supp. 3d 799, 813–16 (E.D. Ky. 2021).

Van Tatenhove was also aware of the Kentucky legal doctrine recognizing personnel policies, such as the Employee Code, as contracts binding on employers because he had applied the doctrine in another case. *Fbk Partners, Inc. v. Thomas*, No. Civil No. 09-292-GFVT, slip op. 11-12 (E.D. Ky. Nov. 30, 2010) (discussing *Parts Depot v. Beiswenger*, 170 S.W.3d 354, 362–63 (Ky. 2005)).

28. Faculty reaction to Van Tatenhove's appointment was predictably negative. Douglas Michael, who is Thomas P. Lewis Professor of Law and a former Associate Dean of the law school, wrote to DiPaola: "Good people will leave. You have made us a laughingstock among law schools. New candidates – faculty, staff, and students – will be repelled. And who can blame them?" Ex. 36.

29. All University employees have a duty to "report incidents that may constitute a violation of any . . . accreditation requirements." Admin. Reg. — Employee Code § E.1, Ex. 20. Failure to do so can result in termination. *Id.* at § E.2. Accordingly, on March 11, Woodcock emailed a report of the violations of Standard 203(b) and Interpretation 203-1 to the board. Ex. 61. On March 12, he sent a similar report to Capilouto. Ex. 62. He received no response. On April 3, Woodcock filed a complaint with the ABA but received no immediate response.⁹ Ex. 59. On April 13, Woodcock published an opinion piece in the Louisville Courier Journal stating that Van Tatenhove had been appointed over the objection of the faculty.¹⁰ He wrote that

[t]he ABA requires that law schools respect the faculty's views for a reason. Scholars are in the business of producing knowledge. And freedom of thought is an essential input into the production of knowledge. But there's only one group in a university that

⁹ According to the ABA, if the ABA "concludes that the complaint does not raise issues relating to an approved law school's compliance with the Standards, the matter will be closed." Ex. 58. In this case, however, the ABA chose to investigate. On June 9, the ABA wrote to Woodcock that "[a]fter a thorough review of your complaint the [ABA] Council [of the Section of Legal Education and Admissions to the Bar] has determined that the complaint may raise issues relating to the Law School's compliance with the Standards. The Managing Director's Office will send the complaint to the Law School and request that the school provide a response[.]" Ex. 60. Woodcock does not know the status of the ABA's investigation because, according to the letter, "all matters relating to the accreditation of a law school are confidential" and the letter is "the final communication [he] will receive in response to [his] complaint." *Id.*

¹⁰ Ramsi A. Woodcock, *UK Law School is Ignoring Faculty, Risking Its Accreditation*, The Courier-Journal, <https://www.courier-journal.com/story/opinion/contributors/2026/04/13/uk-law-school-dean-judge-greg-van-tatenhove-accreditation-faculty-objection-andy-barr/89550365007/>.

is likely to stand up to the incessant demands from pressure groups that professors adhere to the ideological orthodoxy du jour: the professors themselves. Professors cannot resist outside pressure, however, if they cannot choose their own leaders.¹¹

30. On April 21, Kentucky Governor Andy Beshear expressed “concern[]” on Facebook that “the new dean of law was the only candidate not recommended by law school faculty”. Ex. 12. He wrote that “I’ve been told that despite previously saying the dean must be approved by UK’s Board of Trustees, the university has shifted and now states that approval is not needed.” *Id.* He urged the University community to “ask” “tough questions” at the next board meeting. *Id.* After the Kentucky Republican Party and the Republican speaker of the Kentucky House, for whom Van Tatenhove’s wife serves as general counsel, publicly defended the appointment, Beshear followed up the next day on X, writing that “[s]ince yesterday I have received countless calls and messages agreeing that the University of Kentucky needs to reconsider its recent actions.” Ex. 47. He continued: “[t]he fact that a political party defended the law school dean’s appointment is telling. Kentuckians deserve a nonpartisan university[.]” *Id.* In early 2025, former interim dean Paul Salamanca disclosed to Woodcock that U.S. Senator Mitch McConnell and U.S. Congressman Andy Barr had both called the University to lobby for Salamanca to be appointed permanent dean. Woodcock Decl. ¶ 19. (He was ultimately passed over.) On March 6, the day DiPaola announced Van Tatenhove as dean, Barr issued a press release celebrating the appointment of his “friend” Van Tatenhove. Ex. 25.

31. On April 23, DiPaola and Van Tatenhove attended a board committee meeting at which DiPaola introduced Van Tatenhove—to applause—as the “incoming dean” of the law school and dismissed accreditation concerns, arguing that “it would be a number of years before we’re reviewed again by the ABA”. Exs. 13–14. He also identified “financial pressures”, “workforce

¹¹ *Id.*

alignment needs”, “demand for new academic programs”, “artificial intelligence”, and “the need for external fundraising” as “extraordinary circumstances” justifying appointing a dean who would not be a tenured member of the faculty. Ex. 14. He did not attempt to explain why those circumstances precluded selection of any of the other three finalists approved by the faculty, one of whom has said that she would have accepted an offer.

32. Van Tatenhove defended his appointment to reporters at the meeting. Ex. 13. He said that he had spoken with “faculty” earlier that day, conceded that he faced “strong disagreement” about the “best profile for the university”, and said (in paraphrase) that he “plans to grow the faculty”. *Id.* Despite having been ruled “unacceptable” by the faculty in their email, Van Tatenhove also said that he “could not be more honored and excited to have been accepted as dean and appointed as dean of my alma mater.” *Id.* At the meeting, DiPaola apparently did not address why there might be “good cause” to appoint a dean over the stated objection of the faculty, as required by ABA Interpretation 203-1.

33. On April 24, Capilouto defended the appointment before the full board. Ex. 15. He, too, introduced Van Tatenhove as the “next dean” of the law school. In contravention of the plain language of ABA Interpretation 203-1, he argued that (in paraphrase) “American Bar Association standards” “do not exist to give a group of faculty veto power on decisions[.]”¹² Echoing DiPaola’s claim that Van Tatenhove was needed “for external fundraising”, Capilouto emphasized that “alumni leaders strongly support” Van Tatenhove. Ex. 15. J. David Rosenberg, for whom the school is currently named, had earlier told reporters that Van Tatenhove would “engage” “alumni in supporting [the school’s] success”.¹³ He attended the board meeting.

¹² Lily Burris, *UK Board of Trustees Discusses New Law School Dean in Meeting*, WEKU, <https://www.weku.org/lexington-richmond/2026-04-24/uk-board-of-trustees-discusses-new-law-school-dean-in-meeting>.

¹³ McKenna Horsley et al., *Bush-Appointed Federal Judge Named as next Dean of University of Kentucky Law College* • *Kentucky Lantern*, Kentucky Lantern (Mar. 6, 2026), <https://kentucky Lantern.com/briefs/bush-appointed-federal-judge-named-as-next-dean-of-university-of-kentucky-law-college/>.

34. Capilouto and DiPaola's emphasis on Van Tatenhove's fundraising promise contrasts with Van Tatenhove's CV, which is devoid of fundraising experience. Ex. 7. Van Tatenhove spent nearly thirty years either as a government lawyer or a federal judge—roles in which fundraising is not appropriate. However, Van Tatenhove has a history of accepting gifts from Joe and Kelly Craft, who are major donors to the University. Ex. 24. In consequence, Van Tatenhove placed them on his "permanent recusal" list as federal judge. *Id.* Joe Craft is a graduate of the law school. And alumni donors appear to have worked very closely with law school deans in the past or to have attempted to influence the intellectual life of the law school. In August 2024, former interim dean Paul Salamanca told to Woodcock that a wealthy family had recently asked Salamanca to invite Thomas Chatterton Williams—a writer known for his criticism of identity politics—to campus in exchange for a potential gift to the school. Woodcock Decl. ¶ 18. Salamanca also told Woodcock that he spoke to alum and major donor J. David Rosenberg on the phone every day. *Id.*

35. At the board meeting on April 24, the board voted to convene a working group to consider whether the University's governing regulations should be revised to allow the board to vote on dean appointments "going forward" and report back to the board at its next meeting. Ex. 15. At that next meeting, on June 30, the board directed Capilouto to revise the governing regulations to ensure that "all future Dean appointments are approved by the" board. Ex. 16. However, the board did not block the appointment of Van Tatenhove. His contract specifies his start date as July 15, 2026.

36. The Faculty Executive Committee of the law school is a committee of the law school faculty that in the past has advised the dean on matters of faculty performance and salary. L. Fac. R. & Pol'ys § 2.A, Ex. 30. Pursuant to law faculty custom, the committee consists of four members of the law school faculty elected annually, with each member of the committee permitted to serve no more than two consecutive terms. Ex. 69. In 2025, the University appointed James C. Duff as

Interim Dean without, on information and belief, consulting with the faculty. Woodcock Decl. ¶ 22. Like Van Tatenhove, Duff had no academic administrative experience and had never held a full-time position as a law professor. His term ended on June 30, 2026. Ex. 63.

37. Because the announcement of Van Tatenhove as dean immediately diluted Woodcock's message that his work is subject to peer review and indeed compelled him to send the opposite message that his work is subject to review by a non-peer, Woodcock has suffered an irreparable deprivation of constitutional rights since the announcement on March 6. Woodcock Decl. ¶¶ 12-13. Once Van Tatenhove takes office on July 15, 2026, that harm will be magnified because Van Tatenhove's power to determine Woodcock's career path will graduate from imminence to certainty, further burdening Woodcock's ability to send his message of peer review. Once Van Tatenhove takes office on July 15, the harm of the appointment will also become irreparable because the effects of the appointment cannot be unscrambled. As Michael noted, good people will leave or refuse to join the faculty and the Court will be powerless to order them to join or rejoin the faculty in the future. Ex. 36. Van Tatenhove's start as dean on July 15 will also place the University in breach of its contract with Woodcock not to violate accreditation standards. Woodcock's expectation damages are the damage done by the appointment to the peer review platform supplied to him by the University. The value of that platform is a share of the dollar value of the pay cut that Woodcock took in order to join the faculty. But the precise dollar value of that share is difficult to calculate, making that harm irreparable as well. Woodcock will also suffer harm to reputation and professional relationships, as well as mental and emotional harm, each of which is irreparable as well.

LEGAL CLAIMS

Count I

Violation of the First Amendment Right of Expressive Association

(42 U.S.C. § 1983)

Against Capilouto and DiPaola

38. Woodcock incorporates and restates each paragraph of this Complaint.

39. The faculty of the law school associate to convey the message that their professional advancement depends on “peer review”, which is judgment of the quality of their scholarship by persons whom the faculty determine to be qualified to undertake such a task. The faculty convey this message in numerous ways, including through their decisions regarding whom to make a member of the faculty or their leader as dean, the mission statement that they publish on the law school website and in the law faculty rules, and when they declare their affiliation with the law faculty or the University of Kentucky at conferences or in publications.

40. The appointment of Van Tatenhove as dean over the objection of the faculty significantly affects the ability of the faculty to send their message because, as both a functional and a formal matter, the dean is both a member of the faculty and the leader of the faculty. He hires, promotes, and otherwise evaluates faculty members based on the quality of their scholarship. His negative evaluation can lead to termination of a tenured appointment to the faculty. Accordingly, the hiring of Van Tatenhove as dean dilutes the message that the faculty wish to send or otherwise compels the faculty to send the opposing message that their professional advancement does not depend on the judgment of persons whom the faculty have determined are qualified to evaluate the quality of faculty scholarship.

41. The faculty’s message that their professional advancement depends on peer review is a matter of public concern because it is an element of academic freedom, which, the Supreme Court has noted, “is of transcendent value to all of us, and not merely to the teachers concerned”. *Keyishian v. Board of Regents of Univ. of State of N.Y.*, 385 U.S. 589 (1966). It also operates as a certification that the work of faculty has not been distorted by outside interests, and is therefore information needed

for the public to make informed decisions regarding whether their public law school is being operated efficiently.

42. The faculty do not speak for their employer when they send their message because their message is that their professional advancement is not subject to the control of their employer, at least insofar as it depends upon judgment of their scholarship. The faculty also do not speak for their employer because the message that they engage in peer review is a core academic function and specifically part of their scholarship. The certification that their message provides regarding the lack of outside influence over their work and indeed regarding the dependence of their work on the judgment of other scholars is what transforms their work from research into scholarship and is therefore inseparable from their scholarship.

43. Woodcock's own speech is significantly affected by Van Tatenhove's appointment because Woodcock uses his affiliation with the faculty to send the message that his scholarship is subject to peer review. Woodcock suffered harm starting the moment that Van Tatenhove's appointment was announced on March 6, 2026, because, starting from that moment, he could no longer use his membership on the faculty to send the message that his work would be subject to peer review. Woodcock has uploaded several scholarly papers to public websites, and has also spoken at an academic conference, since the announcement. As a result of the imminent appointment of Van Tatenhove, he could not use his affiliation with the faculty to append the message that this work would be subject to peer review to those postings and conference statements.

44. Capilouto and DiPaola are both personally responsible for the appointment of Van Tatenhove over the objection of the faculty. DiPaola extended the job offer to Van Tatenhove after the faculty had informed him that they objected to Van Tatenhove's candidacy. DiPaola reviewed

feedback on Van Tatenhove with Capilouto and the two men jointly made the decision to extend the offer to Van Tatenhove. Both men later separately defended the appointment to the board.

Count II

Conspiracy to Violate Constitutional Rights

(42 U.S.C. § 1983)

Against Van Tatenhove, Capilouto, and DiPaola

45. Woodcock incorporates and restates each paragraph of this Complaint.

46. Van Tatenhove, Capilouto, and DiPaola formed a single plan to appoint Van Tatenhove dean of the law school over the objection of the faculty in violation of Woodcock's First Amendment right to associate with the faculty to send the message that his work is subject to peer review. After learning of the faculty's objection in early February, DiPaola reviewed feedback with Capilouto and the two men decided to make an offer to Van Tatenhove to enter into an agreement to appoint him dean of the law school. Van Tatenhove accepted the agreement on or before March 3. After the faculty's objection to the appointment became public, the three men each defended Van Tatenhove's appointment at meetings of the board of trustees on April 23 and 24. Van Tatenhove also allowed himself to be introduced as the incoming dean at the board committee meeting that he attended. The faculty's objection to the appointment and the consequences of the appointment for compliance with accreditation requirements were subjects of discussion at the meetings attended by Van Tatenhove, Capilouto, and DiPaola.

47. Each of the three men shared in the general conspiratorial objective because, in response to public outcry, each defended Van Tatenhove's appointment at meetings of the board of trustees either to the board itself or to reporters.

48. The three men undertook numerous overt acts in furtherance of the conspiracy. Van Tatenhove signed the offer letter, attended a board meeting at which DiPaola defended his

appointment, met with faculty members who were opposed to his appointment, and defended his appointment to reporters at a board committee meeting. DiPaola signed the offer letter to Van Tatenhove and defended the appointment at a board meeting. Capilouto jointly decided with DiPaola to make the offer, invited a member of the law school's visiting committee to speak in defense of the appointment at a board meeting and himself defended the appointment at the board meeting.

Count III

Tortious Interference with Contract

(Employment Agreement Between Woodcock and University of Kentucky)

Against Van Tatenhove

49. Woodcock incorporates and restates each paragraph of this Complaint.

50. At all times during his appointment, Woodcock had access to the University's Employee Code and other rules and regulations.

51. The University's Employee Code binds the University to ensure that all its employees, including Capilouto and DiPaola, do not violate accreditation rules. The Employee Code is part of Woodcock's employment agreement, including for the following reasons. Woodcock's offer letter, which he and a law school dean signed, clearly refers to the University's regulations, to which the Code belongs, and describes Woodcock's position using terms that are only defined in the regulations. Woodcock asked questions about University respect for faculty governance before signing. And the Code and Woodcock's employment agreement share mutuality of subject matter because the Code governs the behavior of employees and the offer letter describes Woodcock's role and responsibilities as an employee of the University. The University's rules and regulations also constitute an express personnel policy that the University incorporates into the Faculty Handbook that it distributes, Woodcock has continued to work for the past eight years while the regulations,

including the Employee Code, have remained in effect, and the language used in the regulations is not precatory. Indeed, the Employee Code states that employees “must comply” with accreditation requirements. There is also no disclaimer of the legal effect of University regulations. Instead, the Faculty Handbook instructs readers to consult the regulations for information about the “rights and duties of University employees”.

52. Van Tatenhove knew or should have known about the contract. As a federal district court judge, Van Tatenhove wrote six opinions in the case of a tenured University of Kentucky professor who had been charged by the University with violating the provision of the Employee Code that mandates compliance with accreditation rules. The University’s statement of charges, which cites to and paraphrases the rule, was entered into evidence in the case and Van Tatenhove wrote an opinion discussing a governing regulation and the professor’s employment agreement in detail. Van Tatenhove also decided another case in which he held that a personnel policy, such as the University regulations at issue in this case, was part of an employee’s contract.

53. Van Tatenhove intended to cause the University to breach Woodcock’s employment agreement. After the faculty’s objection to his appointment became public, he met with faculty who opposed his appointment and attempted to have constructive conversations with them, and then attended a board meeting at which DiPaola defended the appointment and introduced him as the new dean to applause. He also defended his appointment to reporters at the meeting. He described the appointment as an honor and exciting.

54. Van Tatenhove’s conduct will imminently cause the University to breach Woodcock’s contract on July 15, 2026, when Van Tatenhove starts as dean. The Employee Code binds the University to ensure that its employees abide by accreditation requirements. The ABA accredits the law school. ABA rules prohibit the appointment of a dean over the stated objection of the faculty without good cause and further prohibit the appointment of a dean without academic

tenure other than in extraordinary circumstances. On February 4, the faculty stated their objection to the appointment of Van Tatenhove to DiPaola. And the University has said that Van Tatenhove will not seek tenure. As AAUP guidance makes clear, in order to meet the good cause and extraordinary circumstances exceptions, the University must provide compelling reasons why the three other finalists chosen by the University and approved by the faculty were not acceptable. In their statements to the board, DiPaola and Capilouto failed to provide any reasons for which the finalists approved by the faculty, one of whom has said that she would have accepted an offer, were not acceptable. Instead, Capilouto and DiPaola's justifications amount to no more than attempts to explain why Van Tatenhove's lack of a scholarly record and academic administrative experience should not immediately disqualify him. Accordingly, Van Tatenhove will take office on July 15, 2026, in violation of accreditation requirements and hence in violation of the Employee Code and Woodcock's contract.

55. Woodcock bargained for the University to abide by accreditation requirements—such as the rules that deans not be appointed over the objection of the faculty and that they be tenured faculty members—that ensure that his professional advancement depends on the judgment of his scholarship by people determined by the faculty to be qualified to render such judgments. Adherence to these requirements, and the certification of lack of outside influence over his scholarship that they constitute, gives Woodcock a valuable public platform for his scholarship. Woodcock bargained for this consideration in exchange for taking a massive pay cut in relation to what he could be earning today in a career as a corporate lawyer in industry or in relation to the appointment in the business school at Georgia State (where university administrators did not respect faculty judgments regarding scholarship) that he left in order to come to University of Kentucky. Van Tatenhove's appointment diminished the value of the platform provided Woodcock by the University the moment that the appointment was announced. From that time on, Woodcock's

scholarship was subject to the future judgment of a dean whom the faculty had determined not to be qualified to judge his work, suggesting the potential for influence by a non-scholar over his conclusions. This deprived Woodcock of the benefit of his bargain and will continue to do so.

56. Van Tatenhove acted without justification. Woodcock's contract does not accord him the right to waive accreditation requirements and the interference has not taken the form of litigation in which Van Tatenhove was the prevailing party. He has professed to act out of a desire for honor and excitement. He also stands to gain a \$442,000 annual salary and a \$1.3 million golden parachute in addition to his \$249,000 annual federal pension. The desire for wealth and honor do not justify interference with contract.

PRAYER FOR RELIEF

WHEREFORE, Woodcock respectfully requests:

- An injunction prohibiting the University of Kentucky, Capilouto, and DiPaola from appointing or maintaining Van Tatenhove as dean of the law school or according him any of the rights, privileges, powers, or immunities of dean;
- An injunction prohibiting Van Tatenhove from assuming or continuing in the position of dean of the law school or exercising, accepting, or assuming any of the rights, privileges, powers, or immunities of dean;
- An injunction appointing the Faculty Executive Committee of the law school to the position of dean or otherwise according to the Faculty Executive Committee all of the rights, duties, privileges, powers, liabilities, and immunities of dean and ensuring the enforcement and effectiveness thereof until such time as the University appoints a new permanent (i.e., non-interim) dean of the law school;

- An injunction prohibiting the University of Kentucky, Capilouto, and DiPaola from appointing or reappointing a dean or interim dean of the law school over the objection of a majority of the faculty as defined in Section E.3.a. of the version of the University's Administrative Regulation — University Organization that was in force when this lawsuit was filed;
- A preliminary injunction granting the above relief throughout the pendency of this case and a temporary restraining order granting the above relief until the Court resolves the preliminary injunction;
- An injunction directing the University of Kentucky, Capilouto, and DiPaola to comply with the written rules, regulations, and policies of the University, including the Governing Regulations, Administrative Regulations, Faculty Handbook, and law school Faculty Rules;
- An injunction directing the University of Kentucky, Capilouto, and DiPaola to comply with the University's Employee Code and the rules, standards, and interpretations for the approval of law schools promulgated by the American Bar Association;
- Declarations under 28 U.S.C. § 2201 that the appointment of Van Tatenhove would breach the University's employment contract with Woodcock;
- A declaration under 28 U.S.C. § 2201 that Van Tatenhove tortiously interfered with the University's employment contract with Woodcock;
- Declarations under 28 U.S.C. § 2201 that the University's contract to appoint Van Tatenhove dean of the law school violates Woodcock's First Amendment right to expressive association and that Van Tatenhove's start as dean would violate Woodcock's First Amendment right to expressive association;

- Monetary damages against Van Tatenhove for tortious interference, including but not limited to attorney fees, expert witness fees, and costs associated with preparations for litigating the University's imminent breach of its contract with Woodcock, direct and indirect economic losses, lost expectancy, lost profits, expenses, reputational harm, harm to professional relationships, mental anguish, emotional distress, nominal damages, and punitive damages;
- Monetary damages against Van Tatenhove, Capilouto, and DiPaola for violation of Woodcock's First Amendment rights, including attorney fees, expert witness fees, and costs under 42 U.S.C. § 1988, direct or indirect economic losses, lost expectancy, lost profits, expenses, reputational harm, harm to professional relationships, mental anguish, emotional distress, nominal damages, and punitive damages;
- Pre- and post-judgment interest; and
- Such other relief as law and justice allow.

REQUEST FOR TRIAL BY JURY

Woodcock hereby requests a trial by jury with respect to any issues so triable.

WHEREFORE, Woodcock prays that this Court grant declaratory and injunctive relief against Defendants, and award him damages in an amount commensurate with his damages, punitive damages, interest as allowed by law, and all other relief just and proper in the premises.

To this Court most humbly submitted,

/s/ Rima N. Kapitan (to be admitted pro hac vice)

/s/ Joe F. Childers

Joe F. Childers

JOE F. CHILDERS & ASSOCIATES

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VERIFICATION AND DECLARATION

I, Ramsi A Woodcock, verify and declare that I have reviewed the foregoing Complaint and that the facutal allegations are true and correct to the best of my personal knowledge and belief, and based on investigation and information received to date.

DATED: July 13, 2026

/s/ Ramsi A. Woodcock

Ramsi A. Woodcock

EXHIBIT LIST

Exhibit 1: Announcement of Candidate A's Visit

Exhibit 2: Announcement of Candidate D's Visit

Exhibit 3: Dean Job Posting

Exhibit 4: Leary CV

Exhibit 5: Higdon CV

Exhibit 6: Sterio CV

Exhibit 7: Van Tatenhove CV

Exhibit 8: Faculty Email Rejecting Van Tatenhove

Exhibit 9: Faculty Email Regarding 2025 Dean Candidates

Exhibit 10: George Wright Biography

Exhibit 11: Van Tatenhove Offer Letter

Exhibit 12: Beshear Facebook Post

Exhibit 13: Courier Journal Article 4/23/26

Exhibit 14: Board Committee Minutes 4/23/26

Exhibit 15: Board Minutes 4/24/26

Exhibit 16: Board ECR 3 6/30/26

Exhibit 17: Provost's Announcement of Van Tatenhove 3/6/26

Exhibit 18: University Mission Statement

Exhibit 19: ABA Standards Chapter 2

Exhibit 20: AR Employee Code

Exhibit 21: Woodcock Offer Letter

Exhibit 22: AR University Organization

Exhibit 23: AR 3:10 Performance Review

Exhibit 24: Herald Leader Article 4/24/26 (Reality Check)

Exhibit 25: Andy Barr Press Release

Exhibit 26: GR I Declaration of Principles

Exhibit 27: 1915 Declaration (AAUP)

Exhibit 28: Leary Email

Exhibit 29: Faculty Mission Statement

Exhibit 30: Faculty Rules

Exhibit 31: 1967 Statement (AAUP)

Exhibit 32: 2006 Statement (AAUP)

Exhibit 33: Asterisk Footnotes

Exhibit 34: SSRN Posts

Exhibit 35: AR 7:6 Intellectual Property

Exhibit 36: Michael Email

Exhibit 37: GR III The President

Exhibit 38: AR 2:2-1 Appointment, Reappointment, Promotion, and the Granting of Tenure in the
Regular Title Series

Exhibit 39: AR 2:1-1 Procedures for Faculty Appointment, Reappointment, Promotion and the
Granting of Tenure

Exhibit 40: Faculty Handbook Preface

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EXHIBIT 6

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Eastern District of Kentucky

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TEXT ORDER re [10] EMERGENCY MOTION to Expedite, [9] AMENDED MOTION for Temporary Restraining Order, [2] MOTION for Temporary Restraining Order: This morning, the Chief Judge of the Sixth Circuit reassigned this case due to the apparent recusal of all judges of the Eastern District of Kentucky. Woodcock's lawsuit seeks, among other things, temporary emergency relief restraining the University of Kentucky and its leaders from installing a new dean of its law school. Temporary restraining orders of the sort Woodcock requests are extreme and rare remedies. See *Granny Goose Foods, Inc. v. Brotherhood of Teamsters & Auto Truck Drivers Local No. 70 of Alameda County*, 415 U.S. 423, 439 (1974). Among other things, they require a showing of irreparable harm absent the court's intervention. See *id.*; Fed. R. Civ. P. 65(b)(1) (A). Based on this Court's admittedly cursory review since reassignment, the relief that Woodcock requests appears to be either too early or too late to avoid the harm he seeks to prevent. On the one hand, he "ask[ed] this Court to grant his motion for a temporary restraining order before July 15, 2026." See DN [2] ("Because Van Tatenhove will start as dean on July 15, 2026, Woodcock respectfully asks this Court to grant his motion for a temporary restraining order before July 15, 2026."). That date came and went before the case's reassignment, though it's not entirely clear that the new dean has, in fact, taken office. On the other hand, Woodcock argues that the harm to "his First Amendment right to expressive association" was "significantly affected the

moment that the University announced Van Tatenhove as the new dean." *Id.* at 23. To the extent that announcement represents irreparable harm, it's unclear how this Court could unring the bell. The Court is nevertheless mindful of the need for swift adjudication of requests for temporary emergency relief, and anticipates that recent developments in this case may lead Woodcock to clarify his position with respect to the critical question of imminent and irreparable harm. Should he wish to file a new brief addressing this issue, the Court will promptly review any such filing. On initial review of the current record, however, the Court would struggle to conclude that a TRO is necessary to avoid irreparable harm, even accounting for the irreparability of many abridgements of speech and even assuming Woodcock could make a sufficient showing regarding his likelihood of success on the merits, the lack of harm to others, and the public interest. See *Granny Goose Foods, Inc. v. Storek*, 415 U.S. at 439; *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) ("[A] preliminary injunction is an extraordinary and drastic remedy, one that should not be granted unless the movant, by a clear showing, carries the burden of persuasion.") (quoting 11A C. Wright, A. Miller, & M. Kane, *Federal Practice and Procedure* § 2948, pp. 129130 (2d ed.1995)). Any such filing by Woodcock should also address the question of service and any other issues ripe for this Court's review. Judge Benjamin J. Beaton on 7/17/2026.(STC)cc: COR

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EXH : 000056 of 000092

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF KENTUCKY
LEXINGTON DIVISION

Ramsi A. Woodcock,

Plaintiff,

v.

Case No. 5:26-cv-00262-BJB

Gregory Van Tatenhove et al.,

Defendants.

WOODCOCK'S SUPPLEMENTAL BRIEF REGARDING IRREPARABLE HARM

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INTRODUCTION

Woodcock respectfully submits this supplemental brief pursuant to the Court's Text Order dated July 17, 2026. In that Order, the Court invited briefing on whether "a TRO is necessary to avoid irreparable harm, even accounting for the irreparability of many abridgements of speech and even assuming Woodcock could make a sufficient showing regarding his likelihood of success on the merits, the lack of harm to others, and the public interest" given that Woodcock's requested July 15, 2026, deadline has passed.

The passing of Woodcock's deadline does not diminish the urgent need for emergency relief because (1) the University has postponed Van Tatenhove's start until **tomorrow, July 20, 2026**, Ky. Lantern, Ex. A (stating that "UK spokesperson Jay Blanton told the Kentucky Lantern Van Tatenhove's start day is Monday, July 20, and the lawsuit will not affect that"), and (2) the irreparable infringement on Woodcock's First Amendment rights is ongoing, having started when the appointment was announced on March 6, 2026, and continuing until such time as Defendants or this Court pause or terminate the appointment. Woodcock leverages his association with the law faculty to send the message that his career depends upon peer review. Accordingly, so long as Woodcock associates with the law faculty, he attempts to send that message. And so long as the appointment of a dean whom the faculty have judged to be a non-peer is actual or probable, the message Woodcock in fact sends through his association with the faculty is diluted. Because "even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief," a temporary restraining order and preliminary injunction either blocking Van Tatenhove's start or reversing that start is necessary to alleviate the ongoing dilution of the message Woodcock sends through his ongoing association with the faculty. *Newsom v. Norris*, 888 F.2d 371, 378 (6th Cir. 1988). The First Amendment interest in stopping ongoing infringement of speech rights is particularly strong in this case because the message of peer review that Woodcock

wishes to send sounds in the key of faculty autonomy, and “academic” “freedom” “is” “a special concern of the First Amendment.” *Keyishian v. Board of Regents of Univ. of State of NY*, 385 U.S. 589, 603 (1966). The courts regularly provide emergency relief to halt “infringement upon” such “special” First Amendment “concern[s].” *See, e.g., Fischer v. Thomas*, 52 F.4th 303 (6th Cir. 2022) (granting an injunction pending appeal to protect campaign speech, which is another kind of speech that is a special concern of the First Amendment).

The need for emergency relief is heightened in this case because Van Tatenhove’s presence in office will be difficult to “unscramble[]” the longer he remains. *Federal Trade Commission v. HJ Heinz Co.*, 246 F. 3d 708, 726 (D.C. Cir. 2001). Because, as a non-peer, Van Tatenhove does not exercise the judgment of a peer, his presence will tend to attract hires who cannot withstand peer review and repel hires who can. This Court will be powerless to “compel[]” those who have been repelled to later join the faculty by “force of law”. *United States v. Kozłowski*, 487 U.S. 931, 943 (1988). And this Court would cause disruption to University operations if it were to order the termination of multiple non-peer faculty along with Van Tatenhove at the conclusion of the litigation. Thus, the obstacles to remedying the harm caused by Van Tatenhove’s appointment after he has been permitted to take office would make the harm of his appointment to Woodcock effectively irreparable even if the harm were not already irreparable on account of being an infringement upon First Amendment values. As August is application season for law professors,¹ grant of a temporary restraining order would send the signal that the law school is likely to remain a peer review institution, thereby attracting interest from candidates who are likely to be peers and deterring those who are not—and thereby preserving the status quo. Denial of a temporary restraining order would have the opposite effect of locking a non-peer candidate pool into place for hiring later in the year. And Van

¹ *Hiring Process*, Becoming a Law Teacher, Association of American Law Schools, <https://teach.aals.org/tenure-track/hiring/>.

Tatenhove has said that he intends to “grow” the “faculty” and to be “entrepreneurial” this year.

Herald-Leader Article 4/24/26 (Tight Budget), Dkt. 1-44, Page ID## 391–92.

ARGUMENT

A. A Temporary Restraining Order Will Minimize the Ongoing Irreparable Harm Caused by the Defendants’ Dilution of the Message Woodcock Seeks to Send Through His Ongoing Association with the Law Faculty

1. The Inference of Irreparable Harm Is Automatic If, as This Court Has Asked Woodcock to Assume, Woodcock Has a Substantial Likelihood of Success on the Merits of His First Amendment Expressive Association Claim, So This Court’s Concern Must Relate to Whether Woodcock’s Harm is Ongoing Rather Than to the Question Whether, If It Is Ongoing, It Is Irreparable Harm

“The Supreme Court has unequivocally admonished that even minimal infringement upon First Amendment values constitutes irreparable injury sufficient to justify injunctive relief.” *Newsom*, 888 F. 2d at 378. Thus, “to the extent that” Woodcock has established “a substantial likelihood of success on the merits of” his “First Amendment claim,” he “has also established” “irreparable harm as a result of the deprivation of the claimed free speech rights.” *Connection Distributing Co. v. Reno*, 154 F. 3d 281, 288 (6th Cir. 1998). This Court has asked Woodcock to identify the irreparable harm that a temporary restraining order and preliminary injunction would relieve *assuming* that Woodcock is able to show a substantial likelihood of success on the merits. Text Order, No. 5:26-cv-00262-BJB (E.D. Ky. Jul. 17, 2026) [hereinafter “Text Order”] (suggesting an interest in supplemental briefing on irreparable harm “even assuming Woodcock could make a sufficient showing regarding his likelihood of success on the merits”). Because irreparable harm follows immediately from the assumption of a substantial likelihood of success, the Court does not appear to be asking whether Woodcock’s harm is irreparable. Rather, the Court appears to be asking whether Woodcock continues to suffer harm at all. For if there is no ongoing harm for the Court to enjoin, then there can be no ongoing irreparable harm for the Court to enjoin. The Court’s interest in whether there is

ongoing harm to enjoin appears to be reflected in the Court's observation that "it's unclear how this Court could unring the bell." *Id.* Accordingly, Woodcock will focus this supplemental brief primarily on the question whether he is suffering ongoing harm as a result of the violation of his right of expressive association.

2. Woodcock Has Suffered Ongoing Infringement of His Right of Expressive Association Since the Announcement of the Appointment and that Infringement Will Increase Once Van Tatenhove Takes Office

Woodcock's harm is ongoing and will increase once Van Tatenhove takes office.

a) Woodcock's Harm Will Increase Once Van Tatenhove Takes Office

The announcement of Van Tatenhove as dean has partially diluted Woodcock's message and hence has partially harmed Woodcock. The Defendants are preventing Woodcock from using his association with the law faculty to send the message that his professional advancement depends upon judgment of his scholarship by persons determined by the faculty to be fit to render such judgment—that is, the message that Woodcock is subject to "peer review." TRO Motion, Dkt. 2, Page ID# 578. Defendant DiPaola initially diluted Woodcock's message, and thereby caused at least a "minimal infringement upon" his First Amendment rights, when he announced the appointment of Van Tatenhove, because the announcement created a meaningful probability that Van Tatenhove, who had been rejected by the faculty as "unacceptable", would actually assume the role of dean and assume the power to recommend termination of Woodcock based on a review of his scholarship, including scholarship in which Woodcock engaged between the date of the announcement and Van Tatenhove's start. *Id.* at 572, 594; *Newsom*, 888 F. 2d at 378.

The announcement did not, however, render Van Tatenhove's start as dean certain and therefore did not completely dilute Woodcock's message of peer review. Uncertainty about whether Van Tatenhove will actually take office will not be fully resolved until he actually takes office. Within

a week of the announcement, Woodcock wrote to Capilouto (the University's president) and the University's Board of Trustees to report that the appointment would violate ABA rules that give the law faculty power over their membership and leadership and hence protect the ability of members, including Woodcock, to associate to send the message of peer review. Complaint ¶¶ 3, 29, Dkt. 1, Page ID## 3–4, 16. Not receiving a response, Woodcock also filed a complaint with the ABA and alerted the public, to whom the board is accountable, by publishing an op-ed in the Louisville Courier Journal. Complaint ¶ 29, Dkt. 1, Page ID# 16. Eventually the Governor publicly criticized the appointment and, in response, the board voted to consider revoking its delegation of authority to the president to appoint deans. *Id.* at ¶ 30, Page ID# 17. It was not until June 30, when the board voted to carry out the revocation but failed to bring the question whether to reject Van Tatenhove to a vote, that it was clear that the board would not act to stop the appointment. *Id.* at ¶ 35, Page ID# 19. Even then, whether Van Tatenhove will actually take office has remained unclear. On June 9, the ABA informed Woodcock that, after reviewing his complaint, it had determined that there were grounds to initiate an investigation and would forward the complaint to the law school for a response—but that the investigation would be confidential and there would be no further communication from the ABA regarding its outcome. *Id.* at ¶ 29 n.9, Page ID# 29. It has remained possible that, in the face of an ABA investigation, the University might withdraw the appointment. Only Van Tatenhove's actual start in the position will graduate the power of a non-peer to terminate Woodcock based on a review of his scholarship from a meaningful possibility to a reality.

Because the announcement of Van Tatenhove created a meaningful probability, but not a certainty, that Van Tatenhove would become dean, the announcement did not completely dilute Woodcock's message of peer review. It created an "infringement" upon his First Amendment rights that was at least "minimal," but was not total. When he declared his affiliation with the faculty on papers that he posted to SSRN, or as a roundtable participant at a conference, he sent the message

that his work might still be subject to peer review, but also that there was good reason to think that it might not. Van Tatenhove's start as dean on July 20, 2026 will further dilute Woodcock's message, inflicting additional irreparable harm on Woodcock. Once Van Tatenhove starts, it will become impossible for Woodcock to send the message that his work might still be subject to peer review. A new non-peer dean with final authority to give Woodcock a tenure-ending negative performance evaluation based upon a review of his scholarship will now be on duty. TRO Motion, Dkt. 2, Page ID# 572.

b) Woodcock's Harm Is Ongoing

The injury that Woodcock suffers from the impairment of his message of peer review is ongoing because Woodcock seeks to send his message of peer review *through his association with* the faculty. Whenever a member of the public sees Woodcock's faculty biography on the law school's website,² or sees his membership in the faculty reported in the asterisk footnote of one of Woodcock's law review articles, and whenever Woodcock posts one of those articles to SSRN or notes his membership at a conference, Woodcock seeks to send the message that he is subject to peer review. Complaint ¶ 16, Dkt. 1, Page ID# 10; Asterisk Footnotes, Dkt. 1-34. The University first diluted that message when it announced Van Tatenhove as dean, and then, when he starts as dean, will impair the message further. Those acts of dilution are ongoing because Woodcock's association with the faculty is ongoing, and hence he continually seeks to repeat his message of peer review. After the announcement, he was in effect forced to append, to each repetition of the message conveyed by his association with the faculty that "I am subject to peer review," the proviso that "well, actually, there is reason to think that I might not be subject to peer review anymore." After Van Tatenhove takes office, Woodcock will be altogether unable to leverage his association with the faculty to say "I am

² Ramsi Woodcock, J. David Rosenberg College of Law, <https://law.uky.edu/people/ramsi-woodcock>.

subject to peer review” at all, with or without appending the proviso. Or at least his association with the faculty will convey no more than the message that “although I am not now subject to peer review, it is possible that in the distant future the faculty will get a new permanent dean whom it believes to be a peer and from then on I will be subject to peer review once again.”³

3. A Temporary Restraining Order and Preliminary Injunction Would Minimize the Harm

Woodcock requests a *noticed* temporary restraining order. All defendants were served with his motion. Accordingly, the “immediate and irreparable injury” standard imposed by Fed. R. Civ. P. 65(b)(1)(A) does not apply. Instead, the standard for issuance of the temporary restraining order requested by Woodcock is the same as that for issuance of the preliminary injunction requested by Woodcock. *Ohio Republican Party v. Brunner*, 543 F. 3d 357, 361 (6th Cir. 2008). He must show that he “would suffer irreparable injury absent” the order. *Id.* “The purpose of a preliminary injunction” and, by extension, a temporary restraining order, “is always to prevent irreparable injury so as to preserve the court’s ability to render a meaningful decision on the merits.” *Stenberg v. Cheker Oil Co.*, 573 F. 2d 921 (6th Cir. 1978). The Court should “take proposed action that the court finds will minimize the irreparable injury.” *Id.* An order barring Van Tatenhove from assuming his duties is necessary to “minimize” “irreparable injury” because, under this Court’s precedents, issuance of the order would be predicated on a ruling that Woodcock has a substantial likelihood of success at trial, and that in turn would send the message that Van Tatenhove is unlikely ever to become dean of the law school. *Connection Distributing Co.*, 154 F. 3d at 288.

Broadcast of the signal that Van Tatenhove is unlikely ever to become dean of the law school would reduce Woodcock’s harm in two ways. First, it would forestall (or if implemented after Van

³ For ease of exposition in this supplemental brief, Woodcock characterizes the effect of Van Tatenhove’s appointment on Woodcock’s speech as a “dilution” or “impairment.” However, as these examples reflect, the effect can equally be characterized as compelling Woodcock to send a different message that he does not wish to send. *Cf.* TRO Motion, Dkt. 2, Page ID## 583–84.

Tatenhove's start, reverse) the additional dilution of Woodcock's ongoing message created by Van Tatenhove's assumption of his duties relative to the partial dilution created by the announcement of Van Tatenhove as dean. Second, it would relieve part of the dilution of Woodcock's message caused by the announcement of the deanship. That is because the announcement sent the message that Van Tatenhove was more likely than not to assume the position whereas grant of the preliminary relief sends the inverse message that he is more likely than not to be barred from assuming the position. The probability of Van Tatenhove assuming the position is necessarily lower after a court determines that there is a substantial likelihood that he will be barred from the position than when there is a substantial likelihood that he will assume the position. The message sent by Woodcock's association with the faculty flips from "I might still be subject to peer review but probably not anymore" to "I am probably still subject to peer review but there's a chance that I might not be." The second message is closer to the message "I am subject to peer review" than the first. And less dilution of Woodcock's speech means less irreparable harm. *See Newsom*, 888 F. 2d at 378. And because this Court's precedents required that both the temporary restraining order and the preliminary injunction be decided based on likelihood of success, issuing those orders will send the same message regarding Van Tatenhove's ultimate exclusion from the deanship, and so relieve Woodcock's irreparable harm in the same way. *Ohio Republican Party v. Brunner*, 543 F. 3d at 361 (6th Cir. 2008) (the TRO and preliminary injunction standards are the same); *Connection Distributing*, 154 F. 3d at 288 (likelihood of success dispositive in First Amendment cases).

Because preliminary relief will stop the additional increment of irreparable harm created by Van Tatenhove's assumption of the deanship, this Court has sufficient basis in that additional increment of harm to grant preliminary relief. The fact that preliminary relief will also relieve some of the ongoing harm caused by the announcement provides a second basis for granting the relief. This second basis remains even if this Court takes the view that Van Tatenhove's start in office will not

meaningfully increase the level of harm suffered by Woodcock and so does not provide a basis for preliminary relief by itself. Grant of preliminary relief will create a situation in which, for the first time since the announcement of the deanship, it will appear likely that Van Tatenhove will not ultimately serve as dean. It will therefore minimize irreparable harm, as a temporary restraining order and preliminary injunction are supposed to do.

Because Woodcock's association with the faculty is ongoing, and so his attempts to send the message of peer review are ongoing, Woodcock stands to suffer irreparable harm from dilution of his message every single day that Van Tatenhove occupies the deanship. Every day, the public notes Woodcock's affiliation on the law school website, or on his own personal website, or in the asterisk footnote of his working paper on graphical metaphors in law and economics available on SSRN, and every day, Woodcock's message of peer review has been partially diluted by the announcement of Van Tatenhove as dean, and every day after Van Tatenhove assumes the dean position, Woodcock's message of peer review will be additionally diluted. SSRN Posts, Dkt. 1-35, Page ID# 314. A temporary restraining order is therefore required to minimize the ongoing harm from continuing for even one more day. This is true whether this Court issues the order in time to stop Van Tatenhove from taking office or later. Either way, an injunction is required to minimize the irreparable harm that will manifest the following day, and the day after that, and so on, as Woodcock continues to attempt to use his association with the law faculty to send his message of peer review. "The difference between mandatory and prohibitory injunctive relief"—ordering Van Tatenhove to relinquish his post after taking it up or preventing him from taking it up—"does not warrant application of differing legal standards." *United Food & Commercial Workers Union v. Southwest Ohio Regional Transit*, 163 F. 3d 341, 348 (6th Cir. 1998). If an order preventing Van Tatenhove from taking his post would have been warranted, then an order requiring him to relinquish his post is equally warranted. *Id.* But the fact that an injunction would be warranted whether or not Van

Tatenhove has assumed the deanship does not defeat the urgency of issuing an order. Because Woodcock's attempts to send his message through his association with the law faculty are ongoing, every day of delay is another day during which Van Tatenhove's appointment dilutes Woodcock's message and inflicts irreparable harm on Woodcock. And it is another day of harm that this Court should strive to avoid. "The loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

4. Woodcock's Harm and the Appropriate Response to It Are Analogous to the Harm Suffered by Plaintiffs in, and Judicial Responses to, Pre-Enforcement Challenges to the Application of Unconstitutional Statutes

The trajectory of harm in this case is analogous to the trajectory of harm in a typical pre-enforcement challenge to the application of a law that violates the First Amendment. *See e.g., Fischer v. Thomas*, 52 F. 4th 303 (6th Cir. 2022). In such cases, the threat of future enforcement chills the speech of a plaintiff and therefore inflicts irreparable harm on him before enforcement takes place. When the plaintiff sues to block enforcement and seeks a temporary restraining order to prevent the commencement of the enforcement action, the plaintiff, like Woodcock in this case, has already suffered harm. The fact that the plaintiff has already suffered harm does not preclude the plaintiff from obtaining preliminary relief. That is because the harm to plaintiff is ongoing—his speech is chilled day after day—plus commencement of the enforcement action will cause him *additional* harm. Regardless of whether enforcers ultimately conclude that the plaintiff has broken the law, the commencement of their enforcement action will increase the probability of ultimate sanction for speech and thereby deepen the chill to the plaintiff's speech. In the same way, the harm to Woodcock is ongoing and will increase once Van Tatenhove takes office. For the plaintiff in the pre-enforcement case, issuance of a temporary restraining order both precludes the additional chill associated with commencement of an enforcement action and alleviates some of the ongoing chill associated with the threat of enforcement. Similarly, in this case a temporary restraining order would

eliminate the additional speech dilution associated with Van Tatenhove's start as dean and alleviate some of the ongoing partial dilution caused by the announcement that Van Tatenhove would become dean.

Consider the example of *Fischer v. Thomas*. 52 F. 4th 303 (6th Cir. 2022). In that case, the Kentucky Judicial Conduct Commission sent a letter to judicial candidates suggesting that they may have violated judicial canons prohibiting candidates from claiming to be the nominee of a political party or making commitments with respect to particular cases. *Id.* at 306. The Commission invited the candidates to attend an "informal conference" to "discuss" the allegations. *Id.* 306. Before the informal conference rolled around, Sixth Circuit concluded that the letter chilled speech and enjoined the Commission from "initiating formal proceedings" against the candidates. *Id.* at 313. The injunction would not have completely eliminated the chill on the candidates' speech because there remained a chance that the Court might deny a permanent injunction after trial, leaving the candidates to face sanctioning by the Commission. But the injunction did forestall the additional irreparable harm of facing a formal enforcement action, with the attendant greater probability of actual enforcement, during the campaign. And it also reduced the chill that the candidates were facing even before the commencement of any enforcement action because it sent the signal that the candidates were likely (though not guaranteed) to obtain a permanent injunction down the line and avoid sanctions for their speech altogether.

5. The Difficulty of "Unscrambling" a Deanship Once It Has Gotten Under Way Is an Additional Source of Irreparability

Harm is also irreparable where "it will be impossible as a practical matter to undo the" challenged acts. *Federal Trade Commission v. HJ Heinz Co.*, 246 F. 3d 708, 726 (D.C. Cir. 2001). This "uncrambl[ing]" problem presents an additional source of irreparability of the ongoing harm to Woodcock. *Id.* The longer Van Tatenhove remains in office, the harder it will be for this Court to

reverse the effects of his deanship if this Court eventually rules in Woodcock's favor at trial. Because, as a non-peer, Van Tatenhove does not exercise the judgment of a peer, his presence will tend to attract hires who cannot withstand peer review and repel hires who can. As one professor noted, a consequence of Van Tatenhove's appointment is that "good people will leave" and "[n]ew candidates – faculty, staff, and students – will be repelled." Michael Email, Dkt. 1-37, Page ID# 326. In consequence, over time, peers will tend to be replaced by non-peers. This will increase the dilution of Woodcock's message of peer review and magnify the irreparable harm to him. This Court will be powerless to command that the good people who have left return or that the good people who have been repelled from applying for jobs reapply. *United States v. Kozminski*, 487 U.S. 931, 943 (1988) (discussing government authority to compel labor). And while this Court could in theory order the termination of any non-peers hired by Van Tatenhove, the compelled departure of one or more faculty alongside Van Tatenhove would disrupt law school operations to a greater extent than would barring him from taking office in the first place. Thus, the obstacles to remedying the harm caused by Van Tatenhove's appointment after he has been permitted to take office would make that harm effectively irreparable even if it were not already so as a result of being an infringement on First Amendment values. This is certainly true with respect to the decision whether to grant a permanent injunction, because, if this case were to go to trial, a final judgment might not be reached for a year or more, during which the substitution of non-peer for peer faculty would proceed. It is also true with respect to the issuance of a temporary restraining order over the days or weeks in advance of a preliminary injunction determination. August is job application season for law professors.⁴ A temporary restraining order blocking Van Tatenhove's appointment now would send a signal to prospective applicants that Woodcock is likely to prevail on the merits and therefore that

⁴ *Hiring Process*, Becoming a Law Teacher, Association of American Law Schools, <https://teach.aals.org/tenure-track/hiring/>.

the law school would likely afford them peer review. This will tend to dissuade applicants who cannot withstand peer review from applying and encourage those who can withstand it to apply, thereby forestalling the harm arising from a broader de-peering of the faculty that would otherwise start to manifest with Van Tatenhove's assumption of the deanship.

6. Woodcock Sued as Soon as He Could Be Sure That His Claims Were Ripe

The Court's references in the Text Order to "late[ness]" and "immin[ence]" suggest a possible concern regarding whether Woodcock delayed bringing this action. As a threshold matter, the doctrine of laches, which provides the basis for denying relief because of unreasonable delay does not apply to requests for injunctive relief. *Kellogg Co. v. Exxon Corp.*, 209 F. 3d 562, 568 (6th Cir. 2000). It applies only to damages for harm incurred before the suit was filed. *Id.* In this case, Woodcock seeks a temporary restraining order and preliminary injunction to stop future harm. He continually seeks to leverage his association with the faculty to send his message of peer review, and he seeks an injunction to ensure that this message is not diluted *going forward* by Van Tatenhove's leadership of the faculty.

Even if a doctrine existed that might defeat the presumption of irreparable harm in the event of unreasonable delay by the moving party, any delay was reasonable in this case. A plaintiff "does not" need to "bring suit right away" if "the plaintiff's claim has yet to ripen into one sufficiently colorable to justify litigation." *Kellogg Co.*, 209 F. 3d at 570. Ripeness requires that the record be fit for review. *Abbott Laboratories v. Gardner*, 387 U.S. 136, 152 (1967). At the time that DiPaola announced the appointment of Van Tatenhove, it was not clear that the record was fit for review because the University and the ABA have internal complaints processes for violations of accreditation rules. Complaint ¶ 29, Dkt. 1, Page ID# 16. Because the appointment violated two ABA accreditation rules, appeals to the University or the ABA might have sufficed to overturn the appointment. *Id.* at ¶ 3, Page ID## 3–4. Woodcock diligently reported the violations within the University and to the

ABA. *Id.* at ¶ 29, Page ID# 16. He also sought to bring public oversight to bear by publishing an Op-Ed on the matter. *Id.* The board subsequently reversed its delegation of authority and the ABA initiated an investigation. *Id.* at ¶¶ 29 n.9, 35, Page ID## 19, 29. It was only after the board failed to act at the most recent board meeting on June 30 that it became clear that the University would not block the appointment, rendering the university's action final and Woodcock's standing assured. Woodcock filed suit within two weeks of that determination. *Id.* at ¶ 35, Page ID # 19. This turnaround is in line with turnarounds by well resourced corporate plaintiffs in high stakes intellectual property cases. *See, e.g., JTH Tax, Inc. v. Freedom Tax, Inc.*, No. 3:19-cv-00085-RGJ (W.D. Ky. May 9, 2019) (holding that an eleven-month delay was reasonable where case not ripe until the next tax season rolled around).

7. The Inferences of No Harm to Others and a Public Interest Are Also Automatic If, as This Court Has Asked Woodcock to Assume, Woodcock Has a Substantial Likelihood of Success on the Merits of His First Amendment Expressive Association Claim

As noted above, if this Court determines that Woodcock has a substantial likelihood of success on the merits of his expressive association claim, the inference of irreparable harm follows immediately. The same is true for the other two temporary restraining order and preliminary injunction factors. If this Court determines that Woodcock has a substantial likelihood of success on the merits of his expressive association claim, the inference of a lack of harm to others, and that issuance of an order is in the public interest, both follow immediately. “[W]hen First Amendment rights are implicated, the factors for granting a preliminary injunction essentially collapse into a determination” of likelihood of success on the merits. *Bays v. City of Fairborn*, 668 F. 3d 814, 819 (6th Cir. 2012). Accordingly, the “crucial inquiry” in a First Amendment case is “whether the plaintiff has demonstrated a likelihood of success on the merits.” *Id.* This is especially true for defendants, such as Capilouto and Dipaola, who have been sued in their official capacity as government agents. For them, “the harm to the opposing party and the public interest factors merge” because “the

Government is the opposing party.” *Wilson v. Williams*, 961 F. 3d 829, 844 (6th Cir. 2020). And “it is always in the public interest to prevent the violation of a party’s constitutional rights.” *Connection Distributing Co. v. Reno*, 154 F. 3d at 288.

Even absent this presumption, Capilouto and DiPaola would not be able to establish harm to the government from issuance of a temporary restraining order or preliminary injunction. Any harm that they may claim from a midsummer’s preemption of a dean transition is “self-inflicted” “loss”. *Churchill Downs Tech. Initiatives Co. V. Mich. Gaming Control Bd.*, No. 25-1235, slip op. at 15 (6th Cir. Dec. 16, 2025). They had ample opportunity to reconsider their decision to appoint Van Tatenhove in April in the face of public outcry. Complaint ¶¶ 30–33, Page ID## 17–18. They chose instead to continue with their plan. *Id.* They cannot “later claim that an injunction should not issue because of costs which [they] must incur in order to remedy [their] own misconduct.” *Midwest Guaranty Bank v. Guaranty Bank*, 270 F. Supp. 2d 900, 924 (E.D. Mich. 2003). In any event, Woodcock requests that this Court appoint the law school’s Faculty Executive Committee to run the law school until this case is resolved and a dean agreeable to the faculty is selected. TRO Motion, Dkt. 2, Page ID## 573. This will avoid any downtime associated with a search for an interim dean. And the faculty’s long experience with the institution will serve it well in this caretaker role.

8. Woodcock Has a Strong Likelihood of Success on the Merits

The Court will find Woodcock’s chief points regarding his substantial likelihood of success on the merits of his expressive association claim in his Motion. TRO Motion, Dkt. 2, Page ID## 576–86. Woodcock will not reargue them here. However, Woodcock wishes to point out that the requirements for an expressive association claim are clearly met in this case. There is a violation of the First Amendment right to expressive association if (1) the members of a group “associate partly to express a message”, (2) state action “significantly burden[s] the group’s ability to spread its message” and (3) “this burden on speech outweigh[s] any governmental interests justifying the

burden”. *Blick v. Ann Arbor Public School Dist.*, 105 F. 4th 868, 882 (6th Cir. 2024). “The Supreme Court has cast a fairly wide net in its definition of what comprises expressive activity”, holding that any “associate[ion]” “in pursuit of” “educational” “ends” qualifies. *Pi Lambda Phi Frat. v. University of Pittsburgh*, 229 F. 3d 435, 443 (3rd Cir. 2000); *Boy Scouts of America v. Dale*, 530 U.S. 640, 648 (2000). That includes law faculties. *FAIR v. Rumsfeld*, 390 F. 3d 219, 230–31 (3rd Cir. 2004). The Supreme Court further “give[s] deference to an association’s assertions regarding the nature of its expression” and “what would impair its expression.” *Dale*, 530 U.S. at 653. In a case brought directly by a member of the association rather than the association itself via derivative standing, that deference must be accorded to the member’s assertions regarding the nature of the group message in which he seeks to participate through his association with the group. That message need not be “exact”, “particularized”, or “wholly articulate”. *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston, Inc.*, 515 U.S. 557, 569, 574 (1995). And the group itself spoke plainly about “what would impair its expression” when it expressed a “collective view[]” that Van Tatenhove is “unacceptable” because he “does not possess the necessary qualifications” for the job. Faculty Email Rejecting Van Tatenhove, Dkt. 1-9, Page ID # 123–24. The Supreme Court further treats an action that “limits” an association’s “discretion in how to . . . select its leaders”—which is just what Capilouto, DiPaola, and Van Tatenhove have wrought in this case—as an unconstitutional “burden” on First Amendment rights. *Eu v. San Francisco County Democratic Central Comm.*, 489 U.S. 214, 230–31 (1988). And because the University’s mission to “[e]xpand[] knowledge through . . . scholarship” is essentially identical to the faculty’s mission to “advanc[e]” “legal knowledge” through “scholarship,” the government has no interest in interfering with the message of peer review that is constitutive of any effort to advance knowledge, including its own. University Mission Statement, Dkt. 1-19, Page ID # 161; Faculty Rules § 13.B, Dkt. 1-31, Ex. 30 at 22. Woodcock’s likelihood of success on the merits is therefore substantial.

B. A Temporary Restraining Order Will Minimize the Ongoing Irreparable Harm Caused by Van Tatenhove's Tortious Interference with Woodcock's Contract with the University for Compliance with Accreditation Standards

The trajectory of harm in Woodcock's tortious interference claim is the same as that for his First Amendment claim, but the character of the harm is different. Woodcock accepts a massive pay cut relative to what he could earn as a lawyer in industry in exchange for the economic value of various services for which he has contracted with the University, including that of peer review, which gives his research credibility with the public. TRO Motion, Dkt. 2, Page ID # 592. Woodcock constantly seeks to use the peer review platform supplied to him by the University to attract the attention of the public to his scholarship. For example, in March, he uploaded a working paper to the public research repository SSRN on graphical metaphors in law and economics that he hopes will attract the attention of the public in part because of the credibility that peer review lends to his work. SSRN Posts, Dkt. 1-35, Page ID# 314; TRO Motion, Dkt. 2, Page ID# 572. The announcement of Van Tatenhove's appointment partially reduced the value of peer review to Woodcock in the same way that it caused him First Amendment harm by partially diluting the message of peer review that he wished to send. It opened up the possibility that Woodcock's SSRN paper would be evaluated by a non-peer dean as part of Woodcock's next performance review, partially undermining the credibility of the paper. And commencement of Van Tatenhove's deanship will further reduce that value by making evaluation of Woodcock's scholarship by a non-peer dean almost certain—in the same way that the commencement of Van Tatenhove's deanship will increase Woodcock's First Amendment harm by increasing the dilution of the message of peer review that he wishes to send. After Van Tatenhove starts, the credibility of Woodcock's SSRN piece will fall again because now it will be almost certain that a non-peer will evaluate it. These losses are irreparable because it is difficult to determine what part of the value supplied by the University in return for Woodcock's pay cut is derived from the peer review platform that the University supplies to him and what part is due to

other services that the University provides him, such as the discretion to select his own research topics. *Id.* at 594–95.

Moreover, like Woodcock’s First Amendment claim, Woodcock’s tortious interference claim did not ripen until it became clear, after the board’s failure to act on June 30, that Van Tatenhove’s start in office was imminent. In order to state a tortious interference claim, Woodcock must be able to show either that the interference caused a breach of contract or that breach is imminent. *Id.* at 591. Woodcock’s contract prohibits the University from violating accreditation standards that forbid appointment of a dean over the objection of the faculty and prohibit the appointment of a dean who is not a tenured member of the faculty. *Id.* at 588–89; Complaint ¶ 3, Page ID## 3–4. Because it was not clear until the conclusion of the June 30 board meeting that Van Tatenhove would be permitted to start, a violation of Woodcock’s contract was not obviously imminent until that time, and so Woodcock’s tortious interference claim was not ripe until that time. As noted above, Woodcock sued less than two weeks later. Furthermore, as in the case of Woodcock’s expressive association claim, Woodcock is entitled to a temporary restraining order and preliminary injunction as soon as possible because his harm is ongoing, and that remains true whether the Court enters the order before Van Tatenhove takes office or shortly thereafter. The credibility of Woodcock’s SSRN paper will greatly improve, for example, if a temporary restraining order and preliminary injunction are granted, because these will send the signal that Van Tatenhove is unlikely eventually to be appointed and that readers therefore can expect that a peer dean will evaluate the paper at Woodcock’s next performance review. This will allow Woodcock to avoid a difficult-to-calculate, and hence irreparable, economic loss.

C. Woodcock Requests a Temporary Restraining Order with Notice and Has Served All Parties with His Motion for a Temporary Restraining Order and his Amended Motion for a Temporary Restraining Order

The Court suggested that Woodcock address service. As noted above, Woodcock seeks a temporary restraining order *with notice*. He served all defendants with his Motion and his Amended Motion. Accordingly, the “immediate and irreparable injury” standard imposed by Fed. R. Civ. P. 65(b)(1)(A) does not apply. Instead, the standard for issuance of the temporary restraining order requested by Woodcock is the same as that for issuance of the preliminary injunction requested by Woodcock. *Ohio Republican Party v. Brunner*, 543 F. 3d 357, 361 (6th Cir. 2008). Because Woodcock seeks a temporary restraining order with notice, he also asks this Court to extend the temporary restraining order beyond the normal 14-day expiration deadline pursuant to Fed. R. Civ. P. 65(b)(2) as necessary to minimize irreparable harm while the parties conduct expedited discovery in advance of any hearing the Court may wish to schedule on Woodcock’s request for a preliminary injunction.

CONCLUSION

WHEREFORE, Woodcock requests that this Court grant his Amended Motion for a Temporary Restraining Order, Preliminary Injunction, Expedited Discovery, Stay, Status Conference, and Document Preservation, Dkt. 9.

Respectfully submitted,

/s/ Rima N. Kapitan (to be admitted *pro hac vice*)

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CERTIFICATE OF SERVICE

I hereby certify that on July 19, 2026, a copy of the foregoing was served electronically in accordance with the method established under this Court's CM/ECF Administrative Procedures and Standing Order upon all parties in the electronic filing system in this case.

/s/ Joe F. Childers

Counsel for Plaintiff

E4EE48BA-2EBE-4D6E-8497-75723E73DCf4 : 000128 of 000139

EXH : 000081 of 000092

EXHIBIT 8

E4EE48BA-2EBE-4D6E-8497-75723E73DCF4 : 000129 of 000139

EXH : 000082 of 000092

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United States District Court, E.D. Kentucky.

RAMSI A. WOODCOCK PLAINTIFF

v.

GREGORY VAN TATENHOVE,

ET AL. DEFENDANTS

No. 5:26-cv-262-BJB

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OPINION & ORDER DENYING REQUESTS FOR EXPEDITED DISCOVERY AND AN EXPEDITED PRELIMINARY-INJUNCTION HEARING

[Benjamin Beaton](#), District Judge United States District Court

*1 Professor Ramsi Woodcock, currently suspended from his teaching duties at the University of Kentucky School of Law, has sued to block former U.S. District Judge Greg Van Tatenhove from serving as the law school's dean. In his view, hiring a judge rather than a tenured professor to lead the school precludes the law faculty from expressing to the outside world that their scholarship is the product of a peer-reviewed search for truth. Complaint ¶ 1. This abridges the faculty's collective right to associate around a shared message, Woodcock maintains, even though the University has not barred him or his colleagues from speaking out about the appointment or its effect on their work. ¶¶ 1–2. Nor do Woodcock's allegations (as clarified during a TRO hearing, *see* DN 15) suggest that the University has prevented the faculty from writing, submitting, or publishing articles or other scholarship—or indeed from imposing or threatening

any sort of sanction if they do. *See* Supp. Br. (DN 18-1) at 5. Yet to avoid sending a message the faculty disapproves of, Woodcock has asked the federal court to override the University's appointment, bar Van Tatenhove from serving, and “appoint the Faculty Executive Committee ... to the position of dean.” Proposed Temporary Restraining Order (DN 2-1) at 2.

Woodcock filed his lawsuit against several University leaders, including Van Tatenhove, in his now-former jurisdiction—the Eastern District of Kentucky. But all of his judicial colleagues recused. So the Chief Judge of the Sixth Circuit reassigned this case outside the Eastern District of Kentucky on July 17. That same day, this Court issued a brief order skeptical of the need for accelerated litigation to avoid irreparable harm to whatever right to expressive association that Woodcock might establish on behalf of the faculty. DN 11. After Woodcock supplemented his motion for temporary emergency relief the following weekend, the Court held a hearing on Monday, July 20, denying the request for a temporary restraining order on three principal grounds:

1. Woodcock hadn't established his right to bring a freedom-of-association claim based on the putative message of the entire law-school faculty.
2. Assuming the law faculty is an expressive association properly represented by Woodcock, he failed to show that the faculty had collectively articulated any message associated with its scholarship that has been skewed by the hiring of a new dean.
3. Assuming such a collective message existed, Woodcock hadn't shown a likelihood that the appointment of a new dean had abridged the faculty's ability to express any such message regarding its scholarship or membership.

After the hearing, the Court ordered counsel to confer in good faith regarding the most appropriate and efficient next steps in this litigation. They have done so, but to little avail. The University Defendants would file and brief a motion to dismiss in the ordinary course and treat the preliminary-injunction request as moot or futile given the TRO ruling. Defense Status Report (DN 16) at 1. Woodcock seeks accelerated discovery with a view toward a preliminary-injunction hearing before the start of fall classes and the typical faculty hiring period, “on or before August 24.” DN 18-1 at 15–19.

*2 Woodcock is right that his preliminary-injunction request hasn't already been resolved. But he is wrong that it's likely to succeed—with or without expedited discovery. The nature and utility of any targeted discovery, moreover, or its necessity in advance of the Defendants' motion to dismiss, for that matter, are hardly clear.

“District courts have discretion to order expedited discovery when the moving party shows good cause.” *J.P. Morgan Sec. LLC v. Logsdon*, No. 3:22-cv-14-BJB, 2022 WL 509120, at *1 (W.D. Ky. Feb. 18, 2022) (quotation marks omitted). And good cause may exist “where the plaintiff's need for expedited discovery outweighs the possible prejudice or hardship to the defendant.” *Id.* (quoting *USEC Inc. v. Everitt*, No. 3:09-cv-4, 2009 WL 152479, at *3 (E.D. Tenn. Jan. 22, 2009)).

But Woodcock still hasn't shown why discovery is “necessary for a preliminary injunction.” *Id.* (quotation marks omitted). And the burden is on him, as the party seeking emergency judicial intervention, see *Fifth Element Creative, LLC v. Kirsch*, No. 5:10-cv-255, 2010 WL 4102907, at *2 (E.D. Ky. Oct. 18, 2010), to justify his request “to obtain documents from all defendants and their associates relating to the decision to hire Van Tatenhove,” DN 18-1 at 15. In effect, Woodcock seeks full discovery on a fundamentally backward-looking claim that the University wrongly hired Van Tatenhove in the first place. That perspective appears to bear little relationship to Woodcock's request for a forward-looking injunction that prevents “ongoing irreparable harm caused by the defendants' dilution of the message Woodcock seeks to send through his ongoing association with the law faculty.” DN 13 at 3.

Ordinarily, federal civil procedure subjects complaints to adversarial testing *before* imposing the burdens of discovery on a defendant. That is why defendants may move to dismiss under Rule 12(b)(6) in lieu of an answer that shunts the case into discovery: subjecting defendants to discovery would be unjust if the plaintiff failed to state a claim. Extraordinary emergencies, to be sure, might warrant reversing this orderly procedure. But Woodcock hasn't shown any exigency that warrants upending orderly process here. And granting expedited discovery before accepting a responsive pleading would be especially inappropriate given four serious problems that litigation has already revealed in Woodcock's complaint.

First, that the law-school faculty is a group whose expressive rights regarding scholarship may effectively supersede the

University's authority to install a dean of its, rather than the faculty's, choosing. See, e.g., *Blick v. Ann Arbor Public School District*, 105 F.4th 868, 882 (6th Cir. 2024) (expressing skepticism that “an informal and ad hoc group,” as opposed to a “formal entit[y],” qualifies “as an expressive association entitled to First Amendment protection”) (quotation marks omitted). See also *Forum for Academic & Institutional Rights v. Rumsfeld*, 390 F.3d 219, 231 (3d Cir. 2004) (recognizing at least private “law schools” and “educational institutions” as “expressive associations”) (reversed and remanded on other grounds).

Second, that Woodcock may assert any such rights on behalf of the faculty. Most cases alleging a violation of a group's expressive association arise through a lawsuit filed by and in the name of a particular group. See, e.g., *Boy Scouts of America v. Dale*, 530 U.S. 640, 650 (2000) (associational action to protect the Boy Scouts' “expressive activity” brought by the group itself and in the group's name); *FED. R. CIV. P. 17(a)(1)* (“An action must be prosecuted in the name of the real party in interest.”). The right to do so is not obvious when a lawsuit emerges through the action of “a lone wolf.” *Ames v. LaRose*, 86 F.4th 729, 733 (6th Cir. 2023) (distinguishing *San Francisco County Democratic Central Committee v. Eu*, 826 F.2d 814 (9th Cir. 1987), and rejecting standing on behalf of a party-member plaintiff).

*3 *Third*, that an implied message regarding peer review—used in the sense of administrative supervision rather than scholarly review and publication—is one subject to First Amendment protection. Woodcock has not cited any precedent to that effect. Nor has he identified any actual limit on what the faculty may say or write to express its intended message regarding a commitment to peer review, as distinct from a desire to select its own leader in place of the Government's choice. See, e.g., *Rumsfeld v. Forum for Academic and Institutional Rights, Inc.*, 547 U.S. 47, 69 (2006) (plaintiff could not establish violation “simply by asserting that mere association would impair its message”) (quotation marks omitted); Supp. Br. at 3 (“If an association cannot pick its leader, then the association's members, who use the association to speak, lose control over the messages that the association sends.”). See also *Peer Review*, Merriam-Webster's Collegiate Dictionary (12th ed. 2025) (“a process by which something proposed (as for research or publication) is evaluated by a group of experts in the appropriate field”).[†]

Fourth, that the University's appointment distorts or compels any such message expressed by the faculty. See, e.g.,

Lichtenstein v. Hargett, 83 F.4th 575, 602 (6th Cir. 2023) (freedom-of-association claim requires a showing that state action “significantly burden[s]” a group’s “ability to express its message”); *Blick*, 105 F.4th at 883 (“significant burdens typically involve” either “coercive power to regulate the group” or “deny[ing] public benefits to the group”) (quotation marks omitted). On the facts as currently presented, it remains unclear whether or how the appointment “bars them from associating with anyone,” *Lichtenstein*, 83 F.4th at 603, or interferes with their “choice not to propound a point of view contrary to its beliefs,” *Dale*, 530 U.S. at 654. Nor is it clear whether or how Woodcock’s membership in the law faculty is a “mandatory association” such that “a reasonable observer would impute some meaning to membership in the organization and the plaintiff objects to that meaning.” *Crowe v. Oregon State Bar*, 112 F.4th 1218, 1233–35 (9th Cir. 2024).

Because Woodcock has failed to carry his burden, the Court denies his motion for expedited discovery and denies, without prejudice, his request for an expedited preliminary injunction hearing. *See* DNs 2, 9 & 13. Given the need for prompt resolution, however, the Court orders the University Defendants to file a motion to dismiss or responsive pleading no later than August 4, 2026, consistent with their status report. DN 16 at 1. Woodcock must file his opposition to the anticipated motion no later than August 11th. And the Defendants may file a reply no later than Friday, August 14th. The Court anticipates holding a hearing or issuing a written ruling promptly thereafter. Finally, the Court grants Woodcock’s motion for leave to file a supplemental brief (DN 18), which has been considered in issuing this decision.

All Citations

Slip Copy, 2026 WL 2211390

ORDER

Footnotes

- † As used by Woodcock, however, peer review has a different meaning: that the faculty of a particular academic unit, such as the faculty of a law school, decide the appointment, promotion, and retention of faculty based on a review of their scholarship. *See* Complaint ¶ 1.

EXHIBIT 9

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EXH : 000086 of 000092



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August 11, 2026

Jennifer Rosato Perea
Managing Director
American Bar Association
321 N. Clark Street
Chicago, IL 60654-7598

Transmitted via email to Sara Stretch at sara.stretch@americanbar.org

Ms. Perea:

Thank you for your correspondence and for the opportunity to respond in my capacity as Provost and Chief Academic Officer at the University of Kentucky. I write on behalf of the J. David Rosenberg College of Law and Judge Gregory Van Tatenhove.

The University of Kentucky recently appointed former United States District Judge Greg Van Tatenhove as Dean of the J. David Rosenberg College of Law following a comprehensive search process that included extensive engagement with faculty, staff, students, alumni, members of the legal profession and other stakeholders. The process was consistent with the framework the university has employed in numerous dean searches over the past several years.

We believe the appointment is fully consistent with the ABA Standards and Interpretations referenced in your correspondence. We appreciate the opportunity to address the concerns raised in the complaint and provide additional context regarding the university's decision.

In my role as Provost, I led the selection process and made the recommendation to appoint Judge Van Tatenhove. During my tenure at the university, I have led more than a dozen dean searches and appointments.

Your letter identifies two principal questions: (1) whether the appointment is consistent with ABA Interpretation 203-1 and (2) whether the appointment is consistent with Standard 203(b).

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In summary:

- The concern regarding Interpretation 203-1 is based primarily on an email from two faculty members describing what they characterized as an “informal” faculty discussion, which did not include the full faculty. No formal faculty vote was conducted, and no formal expression of faculty opposition was presented to the university.
- My assessment of faculty sentiment was also informed by extensive engagement with faculty throughout the search process and following the appointment. Those discussions reflected a range of views, which were considered carefully along with multiple views of other stakeholders and with an understanding of overall needs for the College. This is consistent with past practices as a way for the faculty to share opinions informally with the Provost.
- This was also the third search for a permanent dean. Following two unsuccessful searches and multiple years of interim leadership, the College required stable, permanent leadership capable of addressing significant strategic, financial and enrollment-related challenges.
- Judge Van Tatenhove’s extensive leadership experience, public service background and longstanding connection to the College positioned him uniquely to address those challenges.

Response to Interpretation 203-1

First, the concern raised under Interpretation 203-1 stems from a February 4, 2026, email from two faculty members stating that a “substantial majority of the faculty” opposed Judge Van Tatenhove’s appointment. The email itself, however, described an “informal” faculty discussion. No formal vote was taken, and no formal mechanism was used to determine the views of the faculty as an official body.

Upon receiving the communication, I spoke directly with its authors and with numerous faculty members within the College. Those conversations reflected differing perspectives regarding the appointment. Some faculty expressed concerns about whether Judge Van Tatenhove’s professional background aligned with more traditional academic pathways; others acknowledged the

substantial legal scholarship, analytical rigor and professional accomplishments reflected in nearly two decades of service as a federal judge.

To our knowledge, only one faculty member, who does not in any way speak officially on behalf of the faculty body, filed a complaint. Furthermore, the two authors with whom I spoke directly after receiving their communication also did not file a complaint, to our knowledge.

As with all dean searches, faculty input was an important component of the university's decision-making process. The Search Advisory Committee included faculty as its largest constituent group, and faculty participated through committee meetings, campus interviews and town halls.

The selection process also included meaningful engagement with students, staff, alumni, campus leaders and members of the broader legal profession. The Search Advisory Committee reviewed applications, participated in candidate evaluations and provided recommendations at multiple stages of the process. Finalists participated in campus interviews that provided opportunities for broad stakeholder input.

Second, the College is under extraordinary circumstances supporting his appointment for good cause. The College has required substantial financial support from the University beyond its annual budget, including the need to relieve a large deficit within the last 10 years. The needs of the College to support future faculty recruitment and maintain financial stability will require a dean that is best at understanding the external opportunities for fundraising and additional programs based on workforce opportunities.

Third, as noted above, the fact that this is the third search now requiring two interim deans over multiple years is an extraordinary situation, and recruiting a leader with the best skills to address the needs of the College was paramount. And the assessment and recommendations as to the best candidate with such skills included input from multiple stakeholders including prominent alumni on the College's advisory committee, university leadership, as well as faculty, staff and students.

My assessment, therefore, was informed by the collective feedback received throughout the process rather than by any single communication or viewpoint. Based on the totality of information available, we concluded that there was substantial support for Judge Van Tatenhove's candidacy, significant institutional

reasons supporting his appointment and good cause to move forward with the selection.

Response to Standard 203(b)

The university concluded that extraordinary circumstances existed within the meaning of Standard 203(b).

First, as noted above, the College had experienced an extended period of leadership transition. Two previous dean searches had not resulted in a permanent appointment, and the College had operated under interim leadership with even two different interim deans.

Second, the College faces significant strategic and financial challenges, also noted above regarding Interpretation 203-1. Like many law schools nationally, it must navigate changing enrollment patterns, evolving workforce needs and increasing demands for innovation in legal education. The College also continues to require substantial financial support from the university beyond its annual base budget.

Third, the university concluded that addressing these challenges required a dean with demonstrated experience in organizational leadership, external engagement, fundraising, strategic planning and relationship-building across the legal profession.

Judge Van Tatenhove's background aligns directly with those needs. During nearly two decades on the federal bench and throughout a distinguished public service career, he has led complex organizations, managed substantial responsibilities and developed extensive relationships throughout the legal community. He has served as U.S. Attorney for the Eastern District of Kentucky, a trial attorney at the U.S. Department of Justice, a legislative assistant to a U.S. Senator and chief of staff to a member of Congress.

The university also notes that legal education increasingly recognizes that effective leadership may emerge from a variety of professional backgrounds. Institutions across the country have considered candidates whose experience extends beyond traditional academic pathways, particularly where strategic leadership, external engagement and institutional advancement are significant priorities. Additionally, this is not the first instance in which a former federal district court judge and U.S. Attorney has been selected as dean of a law school,

as David F. Levi served as the 14th Dean of Duke University School of Law.

Judge Van Tatenhove was appointed to serve as dean, not as a tenure-track faculty member. He neither sought nor requested tenure as a condition of appointment.

He has taught in the College of Law for nearly a decade through appointments supported by the faculty and approved by the Board of Trustees. His appointment as dean provides the authority and independence necessary to lead the College while allowing him to focus on the responsibilities most critical to the institution's future, including academic leadership, enrollment strategy, fundraising and financial sustainability.

The university concluded that these circumstances, together with the College's leadership needs and Judge Van Tatenhove's qualifications, constitute the extraordinary circumstances contemplated by Standard 203(b).

Additional support for the appointment emerged from members of the legal profession who participated in the search process. At the Board of Trustees meeting during which the appointment was discussed, Charles "Buzz" English, chair of the College's Visiting Committee, which serves as the college's advisory board, and who previously served on the ABA Board of Governors, described Judge Van Tatenhove as the strongest candidate reviewed through the process and praised both his understanding of the legal profession and his vision for the future of the College.

The university's selection process was comprehensive, consistent with institutional practice and designed to identify the individual best positioned to lead the College of Law through a period of significant opportunity and challenge.

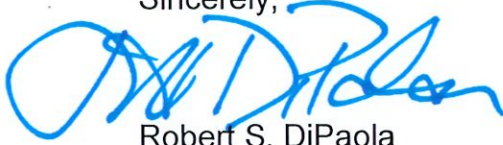
For the reasons outlined above, the university believes the appointment is consistent with ABA standard 203, and specifically with Interpretation 203-1 and Standard 203(b). We remain committed to supporting Judge Van Tatenhove who has already begun as our permanent dean, and who has been working diligently to meet with faculty and attending appropriate workshops as he listens and develops the vision and strategy necessary to successfully support the faculty, staff and students in the College.

We will work constructively with the ABA and appreciate the association's efforts in helping improve the quality of our program, as well as the profession

nationally.

Thank you for the opportunity to respond.

Sincerely,



Robert S. DiPaola
Provost
University of Kentucky