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

Ramsi A. Woodcock,

Plaintiff,

v. Case No. 5:25-cv-00424-BJB

Eli Capilouto et al.,

Defendants.

PLAINTIFF'S REPLY IN SUPPORT OF HIS MOTION FOR LIMITED EXPEDITED DISCOVERY AND A PRE-HEARING SCHEDULE

The University officials who are defendants here (the "University Defendants") oppose limited discovery before the November 19, 2026 preliminary-injunction hearing, DN 86 at 3288, on three grounds: that the motion for a preliminary injunction is moot, that discovery is unnecessary, and that the requests are too burdensome. DN 91 at 3328. The first ground fails because Plaintiff Ramsi Woodcock's reassignment away from teaching has not ended. The University Defendants represent that the reassignment "cannot continue," yet on November 11 the dean of the law school declined to end it. The second ignores that the question the Court posed, whether the University Defendants' actions were "out of the ordinary," can be answered largely with information in the University Defendants' possession. The third rests on counsel's unsupported estimate of burden. Woodcock submits this reply in accordance with the Court's November 11, 2026 text order directing him to state his position on the University Defendants' contentions that expedited discovery is unnecessary and that his request for a preliminary injunction is moot.

I. The Motion for a Preliminary Injunction Is Not Moot

The University Defendants state that "Woodcock's reassignment pending the conclusion of the investigation cannot continue." DN 91 at 3329. The University Defendants have elsewhere insisted that "[t]he Dean has absolute authority to determine the assignments of a faculty member," DN 19-4 at 1066, and Dean Gregory Van Tatenhove has used that authority to continue the reassignment.

No one has ended the reassignment. The University Defendants told the Court on September 25 that the investigator expected to submit her final report by November 2. DN 63 at 2202 n.36. The Dean nonetheless wrote three days later that the reassignment remained in place and that Woodcock's "Distribution of Effort will continue to be 100% professional development." DN 65-8 at 2405. On October 21, the law school circulated a draft Spring 2027 course list that assigns Woodcock no course and gives the courses he teaches to other instructors, DN 77 at 2612, and the next day it signed a 2026–27 distribution of effort recording him on "Administrative Leave" through May 31, 2027, DN 84-38 at 3058.

Interim Dean Duff's July 18, 2025 letter made the reassignment effective "for the duration of the investigation." DN 19-3 at 493. On November 10, the University Defendants told the Court that the investigator "has completed the investigation." DN 89 at 3305. Taking both at their word, Woodcock asked Dean Van Tatenhove on November 11 to end the reassignment and assign him courses for the spring semester. Ex. 1. The Dean declined: "I am going to wait until the President decides next steps before making any decisions about next semester." *Id.* On September 28, he had written that the reassignment "will not be reviewed until the investigation is complete." DN 65-8 at 2405. The reassignment that the University Defendants say "cannot continue" therefore continues, and by the Dean's account it will continue at least until the University President acts. Each day the Dean waits brings Woodcock closer to another semester out of the classroom. Independently of the investigation, the First Amended Complaint asks the Court to restore Woodcock "to his position as

a full-time professor in the College of Law with the typical workload and privileges of a tenured professor." DN 36 at 1677. That request does not depend on whether the investigation has ended. If the University Defendants mean what they have told the Court, the Court can hold them to it by ordering Woodcock restored to teaching for the spring semester. If they do not, as the Dean's email, Woodcock's absence from the draft Spring 2027 course list, and the distribution of effort recording him on "Administrative Leave" through May 31, 2027 all show, the Court can enjoin the reassignment. Either way the Court can grant effectual relief. The facts bearing on the reassignment's continuation are a proper subject of discovery before the hearing, and they also bear on whether the investigation itself was retaliatory. Woodcock addresses mootness further in his response to the University Defendants' Notice of Suggestion of Mootness (DN 92).

The University Defendants' only Sixth Circuit authority on the point does not say what the University Defendants quote it as saying. The University Defendants quote *Faparusi v. Case Western Reserve University*, 690 F. App'x 396, 397 (6th Cir. 2017), for the proposition that "[a] motion for preliminary injunction is mooted when the requested time period for the injunction has passed." DN 91 at 3329 n.16. But what the opinion actually states is that "[a]n appeal from the denial of a motion for preliminary injunction is mooted when the requested time period for the injunction has passed." 690 F. App'x at 397 (quotation omitted). *Faparusi* held only that an appeal had become moot because the period for which the student sought relief had passed: he sought reinstatement "in time for the Fall 2016 semester registration," that registration had come and gone, and his complaint had been dismissed. *Id.* The period for which Woodcock seeks relief has not passed. He asks that the reassignment "be lifted pending the resolution of his claims," DN 19 at 182, and his claims remain pending.

II. The Discovery Bears on Forward-Looking Relief and on the Court's Question

The University Defendants rely on the Court's order in Woodcock's challenge to the dean's appointment, which declined discovery on "a fundamentally backward-looking claim" offered in support of "a forward-looking injunction." DN 91-1 at 3338. That framing does not fit a First Amendment retaliation claim, in which past decisions and forward-looking relief are two parts of the same inquiry. In a First Amendment case, "the likelihood of success on the merits often will be the determinative factor," because the loss of First Amendment freedoms is itself irreparable injury. *Connection Distrib. Co. v. Reno*, 154 F.3d 281, 288 (6th Cir. 1998); *see Obama for Am. v. Husted*, 697 F.3d 423, 436 (6th Cir. 2012) ("When constitutional rights are threatened or impaired, irreparable injury is presumed."). The merits of a retaliation claim necessarily look back: they ask whether the adverse action "was motivated at least in part by the plaintiff's protected conduct." *Thaddeus-X v. Blatter*, 175 F.3d 378, 394 (6th Cir. 1999) (en banc). Evidence of why the University Defendants reassigned Woodcock, opened the investigation, and have continued both is therefore the evidence on which forward-looking relief depends. It also bears on the question the Court posed for the hearing: whether the investigation or the reassignment is "vindictive, disproportionately burdensome, or otherwise out of the ordinary." DN 86 at 3287. And the conduct challenged here continues: the reassignment remains in place, and the President's findings are pending. Whether the University's treatment of Woodcock is out of the ordinary depends on how the University has treated other faculty members in the past, information that only the University Defendants hold. Woodcock's verified allegations describe his own experience. They cannot supply the comparison.

III. The University Defendants' Burden Objection Is Unsupported

The University Defendants assert that responding would require "hundreds of hours" of staff time. DN 91 at 3333. They offer no declaration, no estimate of the number of custodians or

documents, and no explanation of why the University cannot readily identify the records of what is likely to be a handful of decisions made by a handful of officials. Rule 26(b)(1) weighs "the parties' relative access to relevant information," and the University alone holds the records of how it has treated other faculty members. Woodcock's requests are confined to the decisions at issue and to the comparisons that the Court's question requires, and he seeks no depositions. DN 85 at 3262. Woodcock moved for this discovery the day after the Court set the hearing, and the materials he seeks can be produced in the time that remains before it.

If the Court is inclined to limit discovery before the hearing, the most important materials are: (1) the documents reflecting the decisions to reassign Woodcock on July 18, 2025, and to continue the reassignment thereafter, including the decision reflected in the 2026–27 distribution of effort signed on October 22, 2026; (2) a list, with names of individuals other than Woodcock redacted, of every University faculty member reassigned, suspended, or barred from campus during an investigation since January 1, 2020, stating for each the dates, the stated reason, the scope of the reassignment, suspension, or bar, and when and how the measure ended; and (3) any written policy, guidance, or practice document on reassigning faculty members during investigations. The first and third categories are confined to a few documents, and the second asks for a list rather than a production of documents. Because the date the motion proposed for responses, November 13, is now two days away, Woodcock asks that these materials be produced by November 16, 2026.

The University Defendants' pending motion for judgment on the pleadings is no reason to withhold these materials. The Court has already set an evidentiary hearing on the motion for a preliminary injunction, DN 86 at 3288, and the University Defendants have answered. The limited discovery requested would allow that hearing to answer the question the Court posed.

IV. Conclusion

Woodcock respectfully asks the Court to order the University Defendants to produce the materials requested in his motion by November 16, 2026, beginning with the three categories described above, and to direct the parties to file simultaneous pre-hearing memoranda, witness lists, and exhibit lists two business days before the hearing. The evidentiary hearing remains necessary for the reasons stated in Woodcock's response to the University Defendants' Notice of Suggestion of Mootness (DN 92).

Date: November 11, 2026

Respectfully submitted,

/s/ Rima Kapitan

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