UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION AT LEXINGTON
CASE NO. 5:25-cv-00424-BJB

RAMSI A. WOODCOCK PLAINTIFF

v.

ELI CAPILOUTO, *et al.*; DEFENDANTS

RESPONSE IN OPPOSITION TO PLAINTIFF'S MOTION FOR EXPEDITED DISCOVERY

Defendants President Eli Capilouto, Provost Robert DiPaola, General Counsel William Thro, Former College of Law Dean James Duff, and Current College of Law Dean Gregory Van Tatenhove (collectively the "University Officials") oppose Plaintiff Ramsi Woodcock's "Motion for Limited Expedited Discovery and a Pre-Hearing Schedule."

FACTUAL BACKGROUND

Woodcock previously moved for a temporary restraining order and a preliminary injunction seeking this Court to intervene and halt the University's investigation into his conduct.[1] As the Court noted, "[t]his is Woodcock's second or third such request, depending on how one counts."[2] On November 3, the Court denied Woodcock a TRO, noting that Woodcock's motion raised several "significantly

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1 *See* Pl.'s Emergency Mot. for TRO [D.E. 65] at 8.

2 Op. and Order Denying TRO [D.E. 83] at 2. The Court's aptly described the history of Woodcock's several lawsuits against the University as "a journey so circuitous it would make a Baggins blush." *See id.*

undertheorized questions" about (1) whether an investigation can be retaliation, (2) a public university's ability to restrict an employee's intellectual speech beyond his public assignment, (3) the Court's equitable power to interfere in investigative processes, and (4) the significance of Plaintiff's previous attempts to obtain this relief in state court.[3] Those legal questions depended on secondary questions, such as whether the First Amendment protected Woodcock's behavior at all; whether Woodcock was acting in a personal or academic capacity; whether the University's interest in providing a public service outweighed Woodcock's interest; and the balance of the equities between Woodcock, the University, and the public.[4] Those questions in turn raised tertiary questions of fact about whether: (1) "the mere fact of an investigation would chill an ordinary speaker," (2) Woodcock's speech "is necessarily protected, heedless of forum or audience," and (3) Woodcock's reassignment was "vindicative, disproportionately burdensome, or otherwise out of the ordinary."[5] The Court set a preliminary injunction hearing for November 19 to help resolve these questions.

Seizing on one of the Court's tertiary questions, Woodcock now moves the Court for expedited discovery before that hearing to determine if "Defendants' actions in this case are 'out of the ordinary.'"[6] The same day he moved for expedited discovery, Woodcock also moved to amend his complaint.[7] He purports that his proposed Second

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3 *See id.* at 2-4.
4 *See id.* at 5-6.
5 *See id.* at 6-7. The University's positions on these questions are put forward extensively in its motions and its responses to Woodcock's.
6 *See* Pl.'s Mot. for Expedited Disc. [D.E. 85] at 1.
7 *See* Pl.'s Mot. for Leave to File a Second Am. Compl. [D.E. 84].

Amended Complaint "bears directly on the preliminary injunction hearing the Court has set," and contains allegations that "answer" whether his "investigation or reassignment is 'vindicative, disproportionately burdensome, or otherwise out of the ordinary.'"[8]

This is not the first time Woodcock has asked the Court for expedited discovery to help him justify preliminary relief in his lawsuits against the University. The Court denied such a request in Woodcock's lawsuit seeking to block the appointment of former District Judge Gregory Van Tatenhove as Dean of the University's College of Law.[9] Contrary to Woodcock's suggestion, that decision was not based solely on the fact that the University had not yet responded to Woodcock's complaint in that action. Rather, the Court also denied Woodcock expedited discovery in that case because (1) Woodcock was not "likely to succeed" on his claim because of legal problems in his complaint, and (2) he sought "discovery on a fundamentally backward-looking claim" to justify a "request for a forward-looking injunction."[10] So too here.

ARGUMENT

A party generally cannot "seek discovery from any source before the parties have conferred as required by Rule 26(f)" without a court order.[11] Before ordering expedited discovery, the moving party must show "good cause," meaning that "the

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8 *See id.* at 1-2.

9 *See* Opinion and Order Denying Requests for Expedited Discovery and an Expedited Preliminary-Injunction Hearing, *Woodcock v. Van Tatenhove, et al.*; 5:26-CV-262, (July 31, 2026), attached as Ex. 1.

10 *See id.* at 2-3.

11 Fed. R. Civ. P. 26(d)(1).

plaintiff's need for expedited discovery outweighs the possible prejudice or hardship to the defendant."[12]

Woodcock cannot show cause good cause for three reasons. First, the investigation into Woodcock's actions has ended and his request for a preliminary injunction is now moot. Beyond undercutting his need for expedited discovery to meet his burden on that motion, that also means that the details of the investigation are only relevant a claim for backwards looking relief. Second, the expedited discovery is not necessary for the Court to resolve Woodcock's Motion. Woodcock seeks expedited discovery into just one of several questions the Court raised in its TRO Order, a question that his Second Amended Complaint purports to answer. Third, any need Woodcock has for this expedited discovery does not outweigh the burden it places on the University.

I. Woodcock does not need expedited discovery into a now-moot preliminary injunction motion.

Woodcock seeks a preliminary injunction blocking the University from "[c]ontinuing the investigation" into him and "[m]aintaining a 'reassignment' that prohibits" him from "performing teaching and service duties."[13] That "reassignment was made for the duration of the investigation of allegations related to [Woodcock's]

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[12] *J.P. Morgan Sec. LLC v. Logsdon*, No. 3:22-CV-14-BJB, 2022 WL 509120, at *1 (W.D. Ky. Feb. 18, 2022) (first quoting *Sisters for Life, Inc. v. Louisville-Jefferson Cnty. Metro Gov't*, No. 3:21-CV-367, 2022 WL 71634, at *1 (W.D. Ky. Jan. 6, 2022), then quoting *USEC Inc. v. Everitt*, No. 3:09-CV-4, 2009 WL 152479 at *3 (E.D. Tenn. Jan. 22, 2009)).

[13] *See* Proposed Prelim. Inj. Order [D.E. 20] at 1

conduct."[14] But the University has finished its investigation.[15] There is no more investigation for the Court to halt. And whatever the University does now that the investigation is complete, Woodcock's reassignment pending the conclusion of the investigation cannot continue. The Court providing Woodcock the relief he seeks would have no practical effect. His motion for a preliminary injunction is moot.[16]

Even if some portion of Woodcock's motion for a preliminary injunction survived the conclusion of the investigation, his attempt to amend his complaint raises additional mootness concerns. "If a plaintiff amends her complaint, the new pleading 'supersedes' the old one: The 'original pleading no longer performs any function in the case.'"[17] District courts consistently apply this rule to hold that the filing of an amended complaint moots a motion for a preliminary injunction on a since-superseded complaint.[18] If the Court grants Woodcock's Motion to Amend, as it has noted it is currently inclined to do, that would make Woodcock's motion for a preliminary injunction moot twice over.

If Woodcock's Motion for Preliminary Injunction is moot, he has no need to conduct discovery to support it. But the conclusion of the University's investigation

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14 *See* Ex. 6 to Pl.'s Emergency Mot. for a TRO [D.E. 65-6] at 2. Woodcock's most recent injunction request acknowledges that his reassignment is "tied" to the investigation. *See* Pl.'s Emergency Mot. for a TRO [D.E. 8] at 8.

15 *See* Notice of Completion of Investigation [DE 89].

16 *See Ohio v. U.S. Env't Prot. Agency*, 969 F.3d 306, 308 (6th Cir. 2020) (stating that when "as a result of events during the pendency of the litigation—the court's decision would lack any practical effect, the case is moot."); *Faparusi v. Case W. Reserve Univ.*, 690 F. App'x 396, 397 (6th Cir. 2017) ('[A] motion for preliminary injunction is mooted when the requested time period for the injunction has passed.").

17 *Royal Canin U.S.A., Inc. v. Wullshchleger*, 604 U.S. 22, 35 (2025) (quotation omitted).

18 *See Russe v. Madison Cnty. Sheriff's Dep't*, No. 1:22-CV-221-MR-WCM, 2023 WL 11951628, at *9 (W.D. N.C. Aug. 7, 2023); *El Dorado Oil & Gas, Inc. v. Alaniz*, No. 1:22-CV-248-LG-BWR, 2023 WL 4844083, at *3 (S.D. Miss. May 17, 2023); *Thomas v. Franklin*, No. 3:25-CV-547-HAB-ALT, 2025 WL 3085036, at *1 n.1 (N.D. Ind. Nov. 5, 2025).

is significant in another way. Now that the investigation has finished, discovery into the facts of the investigation or the reassignment tied to it can only support a "fundamentally backwards-looking claim," not a "forward-looking injunction."[19] The Court should deny Woodcock's request for expedited discovery.

II. Woodcock's requested discovery is not necessary for the Court to resolve his preliminary injunction motion.

Second, the Court's Order denying Woodcock a TRO does not establish a need for the discovery Woodcock requests. To the contrary, the record suggests otherwise.

As the University Officials see it, Woodcock underreads the Court's Order denying him a TRO. The Court did not suggest that Woodcock's request for preliminary relief hinged on whether it was "out of the ordinary" for the University to investigate or reassign him. That was one of several questions for which an answer was not "obvious based on the record in this Court or the precedential decisions of others."[20] Because it is Woodcock's burden to "make a clear showing" that the preliminary injunction factors weigh in his favor,[21] Woodcock must clearly show that the answers to those questions favor him. As the University has explained elsewhere in the record, he cannot.

Consider it this way. Even if the discovery suggested that the University's decisions were "out of the ordinary," that says nothing about: (1) whether Woodcock's conduct was protected under the First Amendment, (2) the capacity Woodcock was acting in, (3) whether the University's interest as the Commonwealth's flagship

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19 *See* Ex. 1 at 2.

20 Op. and Order Denying TRO [D.E. 83] at 3-6.

21 *See Starbucks Corp. v. McKinney*, 602 U.S. 339, 346 (2024).

public university outweighs Woodcock's behavior, (4) whether reassignment pending an investigation can be retaliation, (5) whether any abnormalities were retaliation for Woodcock's actions, (6) whether Woodcock has suffered irreparable harm, and (7) whether the balance of the equities tilt in Woodcock's favor. To receive the "extraordinary equitable remedy" of a preliminary injunction, Woodcock must show that the answers to these questions clearly weigh in his favor.[22] The Court's Order denying a TRO expressed doubt about several of them.[23] In such cases, expedited discovery is inappropriate.[24]

Woodcock also does not need this discovery to make his case that the University's investigation and reassignment were "vindictive, disproportionately burdensome or otherwise out of the ordinary." As Woodcock has told the Court, the allegations in his proposed Second Amended Complaint purportedly "answer those questions."[25] The University's position on Woodcock's motion to amend is put forth elsewhere. But for present purposes, Woodcock cannot say that he needs expedited discovery to answer questions while purporting to answer those same questions elsewhere.

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22 *See id.* at 345, 349-50; *UEC Holdings, Inc. v. Hatcher*, 191 F.4th 875, 880 (6th Cir. 2026).

23 *See* Op. and Order Denying TRO [D.E. 83] at 5.

24 *See* Ex. 1 (denying expedited discovery where the discovery would not show that Woodcock was likely to succeed on the merits); *J.P. Morgan*, 2022 WL 509120, at *1 (denying expedited discovery where the discovery would not show that the plaintiff faced irreparable harm).

25 *See* Pl.'s Mot. for Leave to file Second Am. Compl. [D.E. 84] at 2.

III. Woodcock has not shown good cause for expedited discovery

Even if the preliminary injunction motion was not moot and the requested discovery in some way was necessary, that need is outweighed by the burden the requested discovery would place on the University Officials.

First, "[o]rdinarily federal civil procedure subjects complaints to adversarial testing *before* imposing the burdens of discovery on a defendant."[26] Although this is apparent in the relationship between a motion to dismiss and an answer, the ordinary process that the complaint should be tested before discovery is not limited to that context.[27] Here, the University Officials' motion for judgment on the pleadings explains why Woodcock's operative complaint fails to state a claim.[28] They should not have to respond to discovery before the Court concludes otherwise. At a minimum, their pending dispositive motion should weigh in their favor when balancing whether expedited discovery is important.

Second, although Woodcock casts his discovery requests as "narrow," they are anything but. Among other things, Woodcock seeks "[a]ll documents and communications reflecting the decisions to impose the reassignment and the ban, to open the investigation," and to issue various documents; "[a]ll communication concerning Woodcock, Woodcock's speech, or his academic freedom" over a 16 month period with various members of the Kentucky and national governments or University donors; details of every review of a faculty member based in any way on

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26 *See* Ex. 1 at 3.

27 For example, it is also why Rule 26 only opens the doors to discovery after the Parties' discovery conference. *See* Fed. R. Civ. P. 26(d)(1).

28 *See* University Officials' Mot. for J. on the Pleadings [D.E. 63].

their speech since January 2020; "[a]ll communications between the investigator and any custodian concerning" the investigation into Woodcock; and "[a]ll documents and communications reflecting any decision to continue the reassignment after July 18, 2025."[29] That's far from a "narrow" request. Woodcock concedes that producing these many documents will require the University to review and redact them to protect student privacy and privilege.[30] Answering these discovery request will require hundreds of hours to work for University staff to amass and review documents and communications spanning several years. Nevertheless, Woodcock demands a response by November 14.[31] Doing so would impose a massive burden on the University.

Third, in the context of Rule 15, a plaintiff cannot "use the court as a sounding board to discover holes in their arguments, then reopen the case by amending their complaint to take account of the court's decision."[32] If a plaintiff cannot use the Court as a sounding board to determine shortcomings in a complaint, Woodcock cannot use it as a sounding board to identify weaknesses in his proof and then use that as a basis for requiring the University to respond to expedited discovery requests all in the matter of a little more than a week.

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29 *See* Ex. 1 to Pl.'s Mot. for Expedited Disc. [D.E. 85-1] at 3-7.

30 *See* Pl.'s Mot. for Expedited Disc. [D.E. 85] at 6.

31 *See id.*

32 *See Kuyat v. BioMimetic Therapeutics, Inc.*, 747 F.3d 435, 444 (6th Cir. 2014) (quoting *Leisure Caviar, LLC v. U.S. Fish & Wildlife Serv.*, 616 F.3d 612, 616 (6th Cir. 2012)).

The burden on the University Officials to respond to Woodcock's discovery requests outweighs any need he has for these documents. He has not shown good cause for expedited discovery.

CONCLUSION

Woodcock's Motion for a Preliminary Injunction is moot, he has no need for the discovery he seeks, and any need is outweighed by the burden it places on the University to answer discovery requests on an expedited basis. The Court should deny Woodcock's Motion.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on November 10, 2026, the foregoing document was electronically filed using the Court's CM/ECF system, which will send notification of such filing to all parties registered to receive electronic filings.

/s/Bryan H. Beauman
Counsel for Defendants President Eli Capilouto, Provost Robert DiPaola, General Counsel William Thro, Former Dean of the College of Law James Duff in his personal capacity, and Current Dean of the College of Law Gregory Van Tatenhove