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 TO PLAINTIFF'S MOTION TO AMEND

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") file this response to Plaintiff Ramsi Woodcock's "Motion for Leave to File a Second Amended and Supplemental Verified Complaint, to Deny the Pending Motion to Dismiss as Moot, and for an Expedited Schedule."

The University Officials do not oppose Woodcock's request to file his proposed Second Amended Complaint. They oppose Woodcock's other requests; that the Court declare Defendants' dispositive motions moot, for an expedited schedule, to apply his now-moot motion for a preliminary injunction towards his Second Amended Complaint, and for leave to file a sur-reply.

FACTUAL BACKGROUND

This action arises from the University's investigation into Woodcock's conduct. Woodcock's First Amended Complaint is operative.[1] All Defendants—the University Officials, Kentucky Attorney General Russell Coleman, and United States Secretary of Education Linda McMahon—have moved to dismiss or for judgment on the pleadings.[2] On December 12, 2025, Woodcock moved for a temporary restraining order and preliminary injunction based on his allegations in his original Complaint.[3] After a hearing on December 19, the Court denied Woodcock's motion for a preliminary injunction on January 8, 2026.[4]

After a circuitous journey featuring a trip to the Sixth Circuit and a detour to state court, Woodcock filed another motion for preliminary relief.[5] On November 3, the Court denied him a temporary restraining order.[6] In noting the legal and factual barriers to Woodcock's request for interim relief, the Court observed that "time and events have not stood still" since the Court's last evidentiary hearing in December 2025.[7]

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1 *See* First Am. Compl. [D.E. 36].

2 *See* University Officials' Mot. for J. on the Pleadings [D.E. 63]; Attorney General Russell Coleman's Mot. to Dismiss [D.E. 67]; Def. Linda McMahon Mot. to Dismiss Pl.'s Am. Compl. [D.E. 81].

3 *See* Pl.'s December 12 Mot. for Preliminary Inj. and Expedited Consideration [D.E. 19].

4 *See* Dec. 19, 2025 Minute Entry [D.E. 30]; January 8, 2026 Mem. Op. and Order [D.E. 37].

5 *See* Pl.'s Emergency Mot. for a TRO or for Preliminary Inj. [D.E. 65].

6 *See* Nov. 3 Op. and Order Denying TRO [D.E. 83].

7 *Id.* at 6.

Seizing on this, Woodcock moves for leave to file a Second Amended Complaint.[8] Woodcock's tendered Second Amended Complaint purportedly "adds the facts of the fifteen months" since the investigation into Woodcock began and "answer[s]" one of the questions the Court raised in its Order denying Woodcock a temporary restraining order.[9] The proposed Second Amended Complaint contains the same nine claims as the First Amended Complaint—six First Amendment claims related to the investigation into Woodcock, University policies, and the Commonwealth of Kentucky's definition of anti-Semitism; a procedural due process claim; race discrimination claims under 42 U.S.C. § 1981 and the Fourteenth Amendment; and an Administrative Procedure Act claim related to the Department of Education's Title VI guidance.[10] It adds two other First Amendment claims related to the investigation into Woodcock, bifurcates Woodcock's due process challenge to the University's investigative process, and includes a second challenge to the Education Department's guidance.[11] In Woodcock's telling, his Second Amended Complaint (1) supplements his First Amended Complaint with new developments, (2) "restates the claims of the Amended Complaint in light of the parties' briefing" and (3) "adds claims supported by the same course of conduct alleged in the prior complaint."[12]

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8 *See* Pl.'s Mot. for Leave to File a Second Am. And Supplemental Verified Compl., to Deny the Pending Mots. To Dismiss as Moot, and for an Expedited Schedule [D.E. 84] ("Motion to Amend").

9 *See id.* at 1-2.

10 *Compare* Pl.'s Proposed Second Am. Compl. [D.E. 84-1] at 66-71, 76-87, 90-95, *with* Pl.'s First Am. Compl. [D.E. 36] at 43-62.

11 *See* Pl.'s Proposed Second Am. Compl. [D.E. 84-1] at 71-76, 87-90, 95-97.

12 Pl.'s Mot. to Amend [D.E. 84] at 4.

Outside of seeking leave to amend, Woodcock also asks the Court to (1) deny Defendants' pending dispositive motions as moot, (2) apply his pending motion for a preliminary injunction to the allegations in his Second Amended Complaint, (3) set an expedited trial schedule, and (4) for leave to file a sur-reply to the University Officials' Motion for Judgment on the Pleadings.[13]

But time has not stood still since Woodcock filed his motion to amend. The University's investigation into Woodcock's conduct finished and on November 10 the investigator provided her report to Woodcock and the University.[14]

ARGUMENT

Put simply, the University Officials do not oppose Woodcock's request to file his proposed Second Amended Complaint but ask the Court stay their deadline to respond to that Complaint until the Court adjudicates their motion for judgment on the pleadings. The University Officials oppose Woodcock's other requests.

I. University Officials do not oppose Woodcock's request to amend.

Federal Rule of Civil Procedure 15(a) permits a party to amend its pleading once as a right at the outset of an action; otherwise, he may only amend "with the opposing party's written consent or the court's leave," which should be "freely given" "when justice so requires." Other than noting that Woodcock moves for leave to amend his complaint under Rule 15(a) and not to supplement it under Rule 15(d),[15]

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13 *See id.* at 2.

14 *See* Notice of Completion of Investigation, [DE 89].

15 An amended pleading "relate[s] to matters that occurred prior to the filing of the original pleading and entirely replace[s] the earlier pleading," whereas supplemental pleadings "deal with events subsequent to the pleading to be altered and represent additions to or continuations of the earlier pleadings." 6A C. Wright, A. Miller, M. Kane, & H. Erichson, Federal Practice and Procedure § 1504 (3d ed. 2013). Because Woodcock seeks to add claims

the University Officials generally do not oppose Woodcock's motion to file his proposed Second Amended Complaint. The Court was correct that "time and events have not stood still" since Woodcock filed this action. Woodcock's complaints over subsequent developments should be resolved in this action, not a duplicative one.[16]

However, the University Officials move the Court to extend their deadline to respond to the amended complaint until 14 days after the Court decides their motion for judgment on the pleadings. Rule 15(a)(3) permits the Court to extend a party's deadline to respond to an amended pleading. Assuming this incorporates Rule 6(b)'s general license for the Court to extend time upon a showing of good cause,[17] University Officials can show good cause for this extension in three ways.

First, Woodcock's Second Amended Complaint suffers the same flaws as his previous Amended Complaint. The proposed Second Amendment Complaint does not establish that Woodcock's conduct was protected, that he was discriminated against based on his race, that he did not receive due process (or is not receiving it), or otherwise states a claim. Requiring the University Officials to respond before the Court adjudicates their current motion for judgment on the pleadings will result in duplicative motions making parallel arguments.[18]

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and modify factual allegations that predate the filing of his last complaint and entirely replace his earlier complaints, he is amending his complaint, not supplementing it.

16 *See Ne. Ohio Coalition for the Homeless v. Husted*, 837 F.3d 612, 625 (6th Cir. 2016), *abrogated on other grounds as recognized in Tenn. Conference of Nat'l Assoc. for Advancement of Colored People v. Lee*, 139 F.4th 557, 573 (6th Cir. 2025).

17 *See* Fed. R. Civ. P. 6(b); *Inge v. Rock Fin. Corp.*, 281 F.3d 613, 625 (6th Cir. 2002) (discussing the requirements of good cause).

18 The University Officials do not oppose Woodcock's Motion to Amend on futility grounds for this reason. To be sure, the University Officials do not ask the Court to hunt through the record to match arguments to claims. But neither would it benefit the Court or the Parties to litter the record with duplicative briefing, particularly when Woodcock admits that his proposed Second

Second, Woodcock's proposed Second Amended Complaint is 99 pages and 281 paragraphs long and overlaps considerably with his First Amended Complaint. Requiring the University to re-do its work responding to such a long complaint in 14 days despite already answering Woodcock's core allegations and while it prepares for the preliminary injunction hearing would impose an unnecessary and undue burden on the University.[19]

Third, the landscape of this action will shift considerably between the end of the investigation and the University's subsequent decisions, the Court's impending preliminary injunction hearing, and the Court's ruling on the pending dispositive motions. And depending on if and what actions the University decides to pursue in an administrative process set out by its own controlling documents may ultimately result in Woodcock seeking leave to file a Third Amended Complaint. Allowing the University to see what, if anything, remains in this action before responding to a Second Amended Complaint would promote the efficient resolution of this action. Perhaps recognizing this, Woodcock has received leave to not respond to Defendant McMahon's motion to dismiss until after the preliminary injunction hearing.[20] The University Officials ask for a similar courtesy.

The University Officials also note that this is the second time in this action Woodcock has moved to amend his complaint after the Parties had fully briefed a

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Amended Complaint involves "the same course of conduct." *See* Pl.'s Mot. to Amend [D.E. 84 at 4].

19 *See Inge*, 281 F.3d at 625 (recognizing prejudice as a basis for granting an extension).

20 *See* Nov. 5 Text Order [D.E. 87].

preliminary injunction motion and dispositive motion.[21] Even if this is not a basis for rejecting Woodcock's Motion to Amend, it should inform how the Court exercises its discretion moving forward.

II. The Court should deny Woodcock's other requests.

The University Officials oppose Woodcock's other requests in his Motion to Amend. First, when granting leave to amend, "district courts may exercise their discretion and apply a pending motion to dismiss to portions of an amended complaint that are substantially identical to the original complaint."[22] The Court should do so here. The proposed Second Amended Complaint contains the same claims as the previous complaints. Those claims arise from the same factual backdrop; the University's investigation into and reassignment of Woodcock. The "new" counts are new versions of the same theory, that the University investigating Woodcock violated the First Amendment and Due Process or was racially discriminatory. The central questions—such as whether Woodcock's conduct is protected speech, the University's investigation violated due process, or if adopting the International Holocaust Remembrance Alliance's definition of anti-Semitism constitutes an "establishment of religion"—remain. Rephrasing allegations, new developments, and repackaging claims does not change this. Woodcock admits his proposed Second Amended Complaint "restates the claims of the Amended Complaint" and is "supported by the

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21 *See* Am. Compl. [D.E. 36].

22 *See Crawford v. Tilley*, 15 F.4th 752, 759 (6th Cir. 2021) (quotation omitted).

same course of conduct alleged in the prior complaint."[23] He concedes that "the briefing on the pending motions will remain useful."[24] That gives away the game.

If anything, Woodcock's filing of his Second Amended Complaint should moot his request for a preliminary injunction. "If a plaintiff amends her complaint, the new pleading 'supersedes' the old one: The 'original pleading no longer performs any function in the case.'"[25] 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.[26] The same is true here. A Second Amended Complaint will supersede Woodcock's past complaints. His motion to amend is rooted in the claims and allegations in those prior complaints, but they "no longer perform any function in the case."[27] That makes Woodcock's motion for a preliminary injunction moot.[28]

These two lines of cases are in tension but not conflict. *Crawford* prohibits a plaintiff from using Rule 15 to force a defendant to re-brief a dispositive motion when an amended complaint suffers the same deficiencies as the prior complaint. The rule

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23 *See* Pl.'s Mot. to Amend [D.E. 6] at 2.

24 *See id.* at 6. Woodcock's suggestion about how the Court should handle supplemental briefing and the pending motions is perplexing. If Woodcock wants the Court to "decide the renewed motions on the existing briefs and the supplemental briefing," *see id.*, it is unclear why he also wants the Court to deny the existing motions as moot.

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

26 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).

27 *Royal Canin*, 604 U.S. at 35.

28 *See Russe*, 2023 WL 11951628, at *9. As put forth in more detail in the University's "Notice of Mootness," Woodcock's Motion for a Preliminary Injunction blocking the investigation into him is moot for another reason; the University has finished its investigation. But this response is limited to Woodcock's request to file a Second Amended Complaint, which would make his preliminary injunction motion moot twice over.

in cases like *Russe* prevents a plaintiff from using Rule 15 to buttress claims or proof that do not support preliminary relief. Both apply here. Woodcock can obviously present evidence to support his motion for a preliminary injunction. But if he wants to add new claims and amend his allegations, the cost is mooting his motion for a preliminary injunction.

Second, Woodcock has not justified his request for expedited trial. Under than a general reference to the Court's ability to schedule a discovery conference under Rule 26(f)(1), Woodcock offers no factual or legal basis for expediting the trial in this case. That alone is enough to deny his motion.[29] As Woodcock recognizes, the Parties have not held a discovery conference or began discovery.[30] There are multiple pending dispositive motions and significant legal barriers to Woodcock prevailing on his claims.[31] If any Defendant remains a party after those dispositive motions are resolved, Woodcock's implication that little discovery is required on his claims for prospective relief is undermined by the volume of the expedited discovery he has separately moved for, discovery that he admits is not everything he requires.[32] This case will simply not be ready to be set for trial in ninety days. The Court should deny Woodcock's motion to jump start this case into a rushed discovery process. All of that also may be secondary to what actions the University may take now that the investigation is complete.

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29 *See* L.R. 7.1(a) (requiring a motion to state "the legal argument necessary to support" "the relief sought").

30 *See* Pl.'s Mot. to Amend [D.E. 84] at 3.

31 *See*, *e.g.*, University Officials' Mot. for J. on the Pleadings [D.E. 63]; November 3 Order denying TRO [D.E. 83] at 3-6 (noting the legal questions raised by Woodcock's claims).

32 *See* Pl.'s Mot. for Limited Expedited Discovery [D.E. 85] at 1, 5.

Finally, the University opposes Woodcock's request for leave to file the sur-reply attached to his Motion to Amend. "Generally speaking, sur-replies are 'highly disfavored, as they usually are a strategic effort by the nonmoving party to have the last word on a matter.'"[33] Woodcock wishes to file a sur-reply because the University Officials supposedly made new arguments by attaching four exhibits to their reply. But the reply makes no new arguments, nor do the exhibits suggest so. The EEOC Charge pertains to the capacity in which Woodcock was speaking, which, as the Court noted, "is hotly contested by the parties."[34] The length of the investigation is potentially relevant to Woodcock claims that the University's investigation violated his freedom of speech;[35] Woodcock's refusal to cooperate with the investigation, of which his withholding of his laptop is a part, is the reason the investigation took so long.[36] The University Officials have argued that their interest in avoided federal civil rights liability outweighs Woodcock's interest in airing antisemitic speech as a University professor.[37] The Department of Justice's settlement with the University of North Carolina (which was announced after the motion for judgment on the pleadings was filed) demonstrates the University Officials' interest. Woodcock has challenged University policies surrounding its email policies;[38] the University

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33 *Cousins Smokehouse, LLC v. Louisville Processing & Cold Storage, Inc.*, 588 F. Supp. 3d 753, 763 (W.D. Ky. 2022) (quotation omitted).

34 *See* Op. and Order Denying TRO [D.E. 83] at 6; *see also* University Officials' Mot. for J. on the Pleadings, [D.E. 63] at 16-24 (addressing the capacity in which Woodcock was speaking).

35 *See* Op. and Order Denying TRO [D.E. 83] at 3.

36 *See* University Officials' Mot. for J. on the Pleadings [D.E. 63] at 7 n.37.

37 *See id.* at 23-24.

38 *See id.* at 30.

attached that policy. None of these arguments are new. None of them justify a sur-reply.

Alternatively, Woodcock suggests that the exhibits attached to the reply transform the University Official's motion for judgment on the pleadings into a motion for summary judgment by operation of Rule 12(d).[39] Set aside that a reply is not a motion or that Woodcock attached a supplemental declaration to his response to the University Official's motion.[40] The Court can consider documents attached to a motion under Rule 12 without converting it into a motion for summary judgment if those documents are incorporated by reference in the complaint or are central to the claims therein.[41] The documents attached to the University Official's reply qualify for such consideration. Woodcock's Title VI Complaint references his EEOC charge.[42] His First Amended Complaint challenges the University's handling of his university-owned laptop.[43] It challenges Title VI guidance under which the University Officials could be liable.[44] And it challenges the University's policies regarding spam emails.[45] So does Woodcock's proposed Second Amended Complaint.[46] The Court can consider the exhibits without converting the University's motion into one for summary judgment.

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39 *See* Pl.'s Mot. to Amend at 8-9.
40 *See* Second Supp. Decl. of Ramsi Woodcock [D.E. 70-2]
41 *See Hester v. Chester Cnty., Tenn.*, 162 F.4th 780, 784 (6th Cir. 2025).
42 *See* Compl., *Woodcock v. University of Kentucky*, 5:26-CV-356 [D.E. 1] ¶ 3.
43 *See* First Am. Compl. [D.E. 63] ¶ 64.
44 *See id.* ¶ 208.
45 *See id.* ¶ 152.
46 *See* Proposed Second Am. Compl. [D.E. 84-1] ¶¶ 86, 159, 210-213

The conclusion of the University's investigation will change the direction of this action, and supplemental briefing may be appropriate to address these developments and the new factual allegations and claims in Woodcock's Second Amended Complaint may even result in Woodcock seeking leave to file a Third Amended Complaint. But that weighs against Woodcock filing a sur-reply now. After Woodcock files his Second Amended Complaint and the Court's preliminary injunction hearing (if any), the Parties can file supplemental briefs addressing factual developments, new allegations or claims, and any particular questions that remain. If one sur-reply is "highly disfavored,"[47] Woodcock should not get two.

CONCLUSION

For these reasons, the University Officials do not oppose Woodcock's Motion to Amend, but they ask the Court to apply their pending Motion for Judgment on the Pleadings to the Second Amended Complaint and extend their deadline to respond to the Second Amended Complaint until after the Court rules on that motion. The University Officials otherwise oppose Woodcock's Motion to Amend.

Respectfully submitted,

/s/ Bryan H. Beauman

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[47] *See Cousins Smokehouse*, 588 F. Supp. 3d at 763.

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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