

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION**

KEVIN N. BASS,
Plaintiff,

v.

TEXAS TECH UNIVERSITY HEALTH
SCIENCES CENTER, et al.,
Defendants.

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Civil Action No. 5:25-cv-00244-H-BV

**PLAINTIFF'S MOTION FOR LEAVE TO WITHDRAW PROPOSED SECOND
AMENDED COMPLAINT
AND SUBSTITUTE PROPOSED THIRD AMENDED COMPLAINT BASED ON
NEWLY DISCOVERED EVIDENCE**

TO THE HONORABLE COURT:

Plaintiff Kevin N. Bass, pro se, respectfully moves for leave to (1) withdraw the Proposed Second Amended Complaint filed with Doc. 26, and (2) substitute the attached Proposed Third Amended Complaint ("TAC") based on newly discovered evidence obtained after the SAC was prepared. In support, Plaintiff states:

I. INTRODUCTION

Plaintiff previously sought leave to file a Second Amended Complaint (Doc. 26). Since that filing, Plaintiff has obtained newly discovered evidence through FERPA document production and other sources that directly addresses elements challenged in Defendants' Motion to Dismiss (Doc. 27). This evidence warrants substitution of the proposed pleading to ensure the Court decides the motion on the most accurate and complete allegations.

II. NEWLY DISCOVERED EVIDENCE JUSTIFYING SUBSTITUTION

The following categories of evidence were discovered after the SAC was prepared:

A. Third-Party Publication Evidence

FERPA review revealed that BOLO/exclusion directives were disseminated beyond TTUHSC to University Medical Center (UMC) and other clinical affiliates. Internal communications reflect that a recipient texted a colleague at UMC showing "A POSTER SAYING THAT IF ANYONE SEES KEVIN BASS AT UMC TO CONTACT SECURITY IMMEDIATELY."

This evidence directly addresses the publication element of Plaintiff's stigma-plus claim (Count 4), which Defendants challenge in their MTD.

B. Berk "Free Speech Issue" Surveillance Initiation

Evidence obtained shows that former Dean Steven Berk initiated speech surveillance in August 2020, flagging Plaintiff's Twitter posts as a "FREE SPEECH ISSUE??" while noting Plaintiff had not used the school's name. This evidence:

- Extends the pattern of speech monitoring to 3+ years before removal
- Demonstrates explicit awareness that speech was constitutionally protected
- Establishes institutional motive predating the November 2023 tweet by over three years

C. Korinek Internal Dissent

TTUHSC's own counselor (Korinek) wrote on December 8, 2023: "First, I want to say that in my opinion Kevin is not a danger to anyone. I don't believe he ever had any intention of physically harming anyone at TTUHSC." Korinek further warned of "confirmation bias" in evaluating Plaintiff. This warning was ignored.

D. Additional "No Threat" Admissions

Document review revealed that at least six TTUHSC officials stated Plaintiff was not a threat, directly contradicting the BOLO's "threatening statements" characterization.

E. Specific Third-Party Rejections

Plaintiff has documented specific medical school rejections (St. James, St. Matthew's) following disclosure of TTUHSC's stigmatizing status, establishing concrete ongoing harm for standing purposes.

III. PROPOSED CHANGES IN THE TAC

The TAC maintains the same structure and claims as the SAC, with the following additions:

1. NEW EVIDENCE PARAGRAPHS: - ¶55: Structural bias (process administrator drafted appellate decisions) - ¶56: Korinek confirmation bias warning - ¶72: Cobbs "professionalism workaround" blueprint - ¶116-117: UMC BOLO dissemination and verbatim language - ¶129-130: Cobbs personal involvement - ¶133-134: Speech acknowledgments and surveillance chain (2020-2023) - ¶136-138: Forbes pattern evidence - ¶152: Specific third-party rejections - ¶172: Additional due process violations - ¶178-180: Williams "no terroristic threats" checkbox; Board's hedged "perceived/potential" qualifiers; eight officials' no-threat admissions - ¶190-193: Institutional retaliation pattern; comparator evidence; concrete harms - ¶211-212: Concrete ongoing harm documentation; name-clearing hearing denial
2. STRENGTHENED STANDING ALLEGATIONS for prospective relief claims
3. FIREWALL PROVISIONS MAINTAINED from SAC (¶3, ¶4, ¶167, ¶215) - No OP 77.13 / Tex. Gov't Code § 559.004 enforcement request - No transcript correction/annotation order request - Transcript mentions for injury/standing only

IV. LEGAL STANDARD

A. Rule 15 Favors Amendment

Leave to amend "shall be freely given when justice so requires." Fed. R. Civ. P. 15(a)(2). The Fifth Circuit has "a bias in favor of granting leave to amend." *Smith v. EMC Corp.*, 393 F.3d 590, 595 (5th Cir. 2004).

Amendment may be denied only for "undue delay, bad faith or dilatory motive, repeated failure to cure deficiencies, undue prejudice, or futility." *Foman v. Davis*, 371 U.S. 178, 182 (1962).

B. None of the Foman Factors Apply

1. No Undue Delay: Plaintiff seeks substitution promptly after discovering the new evidence through FERPA production.
2. No Bad Faith: Plaintiff is attempting to present the most accurate pleading based on newly available evidence.
3. No Repeated Failure: This is Plaintiff's first request to substitute a proposed amended complaint based on new evidence.
4. No Undue Prejudice: Defendants have not yet answered. The case is at the pleading stage. Allowing substitution imposes no prejudice beyond requiring Defendants to respond to a more detailed complaint.
5. No Futility: The new evidence strengthens claims that survive Rule 12 analysis. Publication evidence, speech surveillance evidence, and direct admissions address the precise elements Defendants challenge.

C. Pro Se Litigants Receive Liberal Construction

Courts construe pro se pleadings liberally. *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972); *Erickson v. Pardus*, 551 U.S. 89, 94 (2007). Plaintiff should be permitted to present his claims with the benefit of newly discovered evidence.

V. EFFECT ON PENDING MOTION TO DISMISS

If the Court grants this motion and permits filing of the TAC, the pending Motion to Dismiss (Doc. 27) should be:

A. DENIED AS MOOT because it addresses a superseded pleading; or

B. DENIED WITHOUT PREJUDICE to refiling directed at the operative TAC.

The Court should not expend resources deciding a motion aimed at a complaint that will no longer be operative. Plaintiff has separately filed a Response to the pending Motion to Dismiss to preserve all arguments regardless of the Court's sequencing.

VI. CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court:

1. GRANT this motion;
2. PERMIT Plaintiff to withdraw the Proposed Second Amended Complaint (Doc. 26);
3. PERMIT Plaintiff to file the attached Proposed Third Amended Complaint as the operative pleading;
4. DENY Defendants' Motion to Dismiss (Doc. 27) as MOOT or WITHOUT PREJUDICE;
and
5. Order Defendants to respond to the TAC within the time prescribed by the Federal Rules.

Dated: February 14, 2026

Respectfully submitted,

/s/ Kevin N. Bass

Kevin N. Bass

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Email: kbassphiladelphia@gmail.com

Phone: 512-333-4092

Pro Se Plaintiff

CERTIFICATE OF CONFERENCE

Pursuant to Local Civil Rule 7.1, Plaintiff contacted Defendants' counsel via email on February 13, 2026, to confer regarding this motion. Defendants' counsel did not respond prior to filing.

/s/ Kevin N. Bass

Kevin N. Bass

CERTIFICATE OF SERVICE

I certify that on February 14, 2026, I served this Motion and the attached Proposed Third Amended Complaint by the method of service authorized by the Court and applicable rules on all counsel of record.

/s/ Kevin N. Bass

Kevin N. Bass

PROPOSED ORDER

**IN THE UNITED STATES DISTRICT COURT
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TEXAS TECH UNIVERSITY HEALTH
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Civil Action No. 5:25-cv-00244-H-BV

**ORDER GRANTING PLAINTIFF'S MOTION FOR LEAVE TO WITHDRAW
PROPOSED SECOND AMENDED COMPLAINT AND SUBSTITUTE PROPOSED
THIRD AMENDED COMPLAINT**

Before the Court is Plaintiff's Motion for Leave to Withdraw Proposed Second Amended Complaint and Substitute Proposed Third Amended Complaint Based on Newly Discovered Evidence (Doc. ____).

Having considered the motion, the Court finds that good cause exists under Federal Rule of Civil Procedure 15(a)(2) to grant the requested relief.

IT IS THEREFORE ORDERED that:

1. Plaintiff's Motion is GRANTED.
2. The Proposed Second Amended Complaint (Doc. 26) is WITHDRAWN.
3. The Proposed Third Amended Complaint attached to Plaintiff's Motion is deemed FILED as of the date of this Order and shall be the operative pleading in this action.
4. Defendants' Motion to Dismiss (Doc. 27) is DENIED AS MOOT / DENIED WITHOUT PREJUDICE [Court to select].
5. Defendants shall file their response to the Third Amended Complaint within twenty-one (21) days of this Order.

SIGNED this _____ day of _____, 2026.

UNITED STATES DISTRICT JUDGE