

CAUSE NO. DC-2025-CV-1817

TB

KEVIN N. BASS,	§ IN THE DISTRICT COURT
	§ OF LUBBOCK COUNTY, TEXAS
Plaintiff,	§
	§ 237 th JUDICIAL DISTRICT
v.	§
	§
DARRIN D'AGOSTINO, D.O.,	§
M.P.H., M.B.A., in his official	§
capacity as Provost and Executive	§
Vice President of Academics of Texas	§
Tech University Health Sciences	§
Center; and	§
AMANDA McSWEEN, in her official	§
capacity as Managing Director of	§
Enrollment Services and University	§
Registrar of Texas Tech University	§
Health Sciences Center,	§
	§
Defendants.	§

**PLAINTIFF'S VERIFIED MOTION FOR REASONABLE MODIFICATIONS TO THE
MAY 21, 2026 HEARING UNDER TITLE II OF THE AMERICANS WITH
DISABILITIES ACT AND SECTION 504 OF THE REHABILITATION ACT OF 1973**

TO THE HONORABLE LESLIE F. HATCH, JUDGE PRESIDING:

COMES NOW, KEVIN N. BASS, Plaintiff in the above-entitled and numbered cause, proceeding pro se, and respectfully files this Verified Motion for Reasonable Modifications to the May 21, 2026 hearing on Plaintiff's Sworn Motion under Texas Rule of Civil Procedure 306a(5) and Motion for New Trial under Texas Rule of Civil Procedure 329b. Plaintiff is a qualified individual with a disability under Title II of the Americans with Disabilities Act, 42 U.S.C. § 12132 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, and seeks the modifications set forth in Section IV below to ensure meaningful access to the May 21 proceeding. Plaintiff does not seek, and expressly opposes, any continuance of the hearing. In support, Plaintiff shows the Court as follows:

I.

INTRODUCTION

The May 21, 2026 hearing will require Plaintiff, who appears without counsel, to engage in extended oral argument involving complex doctrinal questions of Texas civil procedure and federal constitutional law. Plaintiff has been clinically diagnosed with [REDACTED] disabilities by a licensed psychologist following standardized neuropsychological testing under DSM-5-TR criteria. These conditions substantially limit major life activities, including concentration, processing of complex verbal exchanges in real time, executive function, and tolerance of acute time pressure during sustained oral performance. The modifications requested below are routine ADA accommodations that will permit Plaintiff to participate meaningfully in the hearing on the same footing as a similarly-situated litigant without disability.

The modifications requested do not require advance preparation by the Court or by opposing counsel; they govern only the conduct of the May 21 hearing itself. Plaintiff is prepared to proceed on May 21, 2026.

II.

LEGAL STANDARD

Title II of the Americans with Disabilities Act provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S.C. § 12132. State courts are “public entities” within the meaning of Title II. *Tennessee v. Lane*, 541 U.S. 509, 531 (2004); 42 U.S.C. § 12131(1).

Section 504 of the Rehabilitation Act provides a parallel prohibition for entities receiving federal financial assistance. 29 U.S.C. § 794(a).

The implementing regulation requires that “[a] public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.” 28 C.F.R. § 35.130(b)(7)(i).

The burden of demonstrating that a requested modification would result in a fundamental alteration or undue burden lies on the public entity. 28 C.F.R. § 35.164. Such a determination “must be made by the head of the public entity or his or her designee after considering all resources available . . . and must be accompanied by a written statement of the reasons for reaching that conclusion.” *Id.*

“In determining what types of auxiliary aids and services are necessary, a public entity shall give primary consideration to the requests of individuals with disabilities.” 28 C.F.R. § 35.160(b)(2).

The Supreme Court in *Tennessee v. Lane* held that Title II’s “affirmative obligation to accommodate persons with disabilities in the administration of justice” is “a reasonable prophylactic measure, reasonably targeted to a legitimate end,” 541 U.S. at 533, and is “perfectly consistent with the well-established due process principle that, ‘within the limits of practicability, a State must afford to all individuals a meaningful opportunity to be heard’ in its courts,” 541 U.S. at 532 (quoting *Boddie v. Connecticut*, 401 U.S. 371, 379 (1971)) (internal quotation marks and citation omitted).

III.

PLAINTIFF IS A QUALIFIED INDIVIDUAL WITH A DISABILITY

Plaintiff is a “qualified individual with a disability” within the meaning of 42 U.S.C. § 12102 and § 12131(2). Plaintiff verifies, as set forth in the Unsworn Declaration appended hereto, that he has been clinically diagnosed with [REDACTED] disabilities by a licensed psychologist following standardized neuropsychological testing under DSM-5-TR criteria. The diagnoses were confirmed in a written clinical evaluation dated December 6, 2023 (“the Evaluation”). The specific diagnostic labels and underlying clinical findings set out in the Evaluation are confidential medical records under Texas Health and Safety Code § 611.002 and are available for in-camera review at the Court’s request as set forth below.

These conditions substantially limit major life activities including, without limitation, concentration, processing of complex verbal exchanges in real time, executive function, working memory under acute time pressure, and tolerance of sustained high-arousal oral performance. *See* 42 U.S.C. § 12102(2)(A) (“concentrating,” “thinking,” “communicating,” and “working” are major life activities).

The Evaluation is a confidential record under Texas Health and Safety Code § 611.002(a), which provides that “[c]ommunications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.”

To preserve the confidentiality of the Evaluation and of the specific diagnostic labels confirmed therein under Texas Health and Safety Code § 611.002 and the federal HIPAA Privacy Rule, 45 C.F.R. § 164.502, Plaintiff has not filed the Evaluation, and has not set out the specific diagnostic labels, in this Motion. Plaintiff respectfully offers both the Evaluation and the specific diagnostic labels for in-camera review at the Court’s request, on the understanding that neither the Evaluation nor those diagnostic labels will be made part of the public record absent further order of the Court and absent the notice-and-hearing procedure required by Texas Rule of Civil Procedure 76a. To the

extent the Court requires specific diagnostic information to act on this Motion, Plaintiff requests that any such disclosure occur in camera and that the record of any such disclosure be sealed. Plaintiff's verified statement — including the substantial limitations on major life activities recited above — is offered as the substantive showing required at the modification-request stage; the diagnostic specifics and the Evaluation itself are available solely as corroboration should the Court request them.

IV.

REQUESTED MODIFICATIONS

Plaintiff respectfully requests that the Court enter an order granting the following modifications to the May 21, 2026 hearing. None of the modifications requires advance preparation by the Court or by opposing counsel, and none extends the duration of the case or delays any deadline.

A. Permission to refer to written notes throughout oral argument

Plaintiff requests express permission to refer to written notes, outlines, and authorities throughout his oral argument without any inference being drawn against the credibility or sufficiency of his presentation.

B. Brief processing recesses on request

Plaintiff requests permission to request a brief recess of approximately five minutes if needed to process a complex question, restore focus, or compose a response. Plaintiff anticipates needing no more than two such recesses, if any.

C. Written supplemental briefing on doctrinal questions raised orally

Plaintiff requests that, with respect to any question of law (including any question concerning the construction or application of a judicial opinion, statute, or rule) on which the Court desires Plaintiff's position, Plaintiff be permitted to submit a short written supplemental brief within seven days of the hearing addressing such question, in lieu of, or in addition to, his oral response. This modification ensures that Plaintiff's disability-related limitations on real-time processing of complex doctrinal exchange do not result in a less complete record on questions of law that the Court may rely upon in its ruling.

D. Additional time at the lectern

Plaintiff requests that the Court permit additional time for Plaintiff's oral argument, sufficient to ensure that any cognitive load reductions from the other modifications requested do not result in

incomplete presentation. Plaintiff requests an allocation of not less than thirty minutes for his affirmative presentation, in addition to time for rebuttal.

E. Slower pacing of question-and-answer; explicit pause to formulate responses

Plaintiff requests that the Court permit a brief pause (typically five to ten seconds) following the Court's or opposing counsel's questions, during which Plaintiff may formulate his response. Such pauses should not be construed as non-responsiveness or as concession.

F. Written rulings

Plaintiff requests that any ruling issued by the Court at the conclusion of, or following, the May 21 hearing be reduced to writing, so that Plaintiff may review the order in a form that accommodates his processing and executive-function needs.

G. Permission to request clarification of multi-part questions

Plaintiff requests permission to ask the Court or opposing counsel to restate a multi-part question as separate questions where Plaintiff's working memory under hearing conditions is exceeded by the original formulation.

The modifications requested above are routine ADA accommodations that courts grant as a matter of course. None imposes a fundamental alteration of the hearing or an undue burden on the Court or on Defendants. To the extent the Court entertains any objection to any specific item, the burden of demonstrating fundamental alteration or undue burden as to that item lies on the public entity, accompanied by a written statement of reasons. 28 C.F.R. § 35.164.

V.

PLAINTIFF DOES NOT SEEK CONTINUANCE

Plaintiff expressly states and emphasizes that this Motion does not seek, and Plaintiff does not request, any continuance, postponement, or rescheduling of the May 21, 2026 hearing. Plaintiff is fully prepared to proceed on May 21, 2026. The modifications requested govern only the conduct of the hearing itself, not its date. Plaintiff further notes that, under Texas Rule of Civil Procedure 329b(c), Plaintiff's pending Motion for New Trial will be considered overruled by operation of law on June 9, 2026 — seventy-five days after the March 26, 2026 judgment — unless determined by written order signed by the Court before that date. Plaintiff has no interest in any modification that would risk impairing the Court's opportunity to rule on the merits of his pending post-judgment motions within that window.

VI.
PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff Kevin N. Bass respectfully requests that this Court enter an order:

1. Finding that Plaintiff is a qualified individual with a disability within the meaning of 42 U.S.C. § 12102 and § 12131(2) and entitled to reasonable modifications pursuant to 28 C.F.R. § 35.130(b)(7)(i);
2. Granting the modifications set forth in Sections IV.A through IV.G above; and
3. Granting Plaintiff such other and further relief, including any additional modifications appropriate to ensure meaningful access to the May 21, 2026 hearing, to which Plaintiff may show himself justly entitled.

Respectfully submitted,

/s/ Kevin N. Bass
KEVIN N. BASS, PhD, MS

[REDACTED]
[REDACTED]

Telephone: (512) 333-4092

Email: kbassphiladelphia@gmail.com

CERTIFICATE OF CONFERENCE

The undersigned certifies that, on the date of filing, Plaintiff contacted counsel of record for Defendants by email concerning the relief requested in this Motion. Because the May 21, 2026 hearing is set for 9:00 a.m. and the Motion concerns the conduct of that hearing, Plaintiff filed this Motion contemporaneously with that notice and expects to receive any response from Defendants at or before the time of the hearing. To the extent Defendants oppose any particular item of relief requested, Plaintiff respectfully requests that the Court hear and rule on this Motion at the outset of the May 21 hearing before proceeding to the merits.

/s/ Kevin N. Bass
KEVIN N. BASS

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Plaintiff's Verified Motion for Reasonable Modifications was served on the following counsel of record via email and via the eFileTexas electronic filing system on this 20th day of May, 2026:

Scott D. Smith, Assistant Attorney General, General Litigation Division, Office of the Attorney General of Texas, P.O. Box 12548, Capitol Station, Austin, Texas 78711-2548,
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Karla Gutierrez, Assistant Attorney General, General Litigation Division,
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Tristan Garza, Office of the Attorney General of Texas, tristan.garza@oag.texas.gov

/s/ Kevin N. Bass
KEVIN N. BASS

UNSWORN DECLARATION UNDER TEXAS CIVIL PRACTICE & REMEDIES CODE SECTION 132.001

My name is Kevin N. Bass; my date of birth is December 7, 1984; and my address is [REDACTED]
[REDACTED] USA.

I am the Plaintiff in the above-styled and -numbered cause. I have personal knowledge of the facts stated in the foregoing Plaintiff's Verified Motion for Reasonable Modifications, and they are true and correct. In particular, and without limiting the foregoing, I declare that I have been clinically diagnosed with [REDACTED] disabilities by a licensed psychologist following standardized neuropsychological testing under DSM-5-TR criteria, in a written clinical evaluation dated December 6, 2023; that the specific diagnostic labels are confidential medical records under Texas Health and Safety Code § 611.002 and are not set out in this Declaration or the accompanying Motion, but are available for in-camera review at the Court's request; and that those conditions substantially limit my concentration, processing of complex verbal exchanges in real time, executive function, working memory under acute time pressure, and tolerance of sustained high-arousal oral performance.

I declare under penalty of perjury that the foregoing is true and correct. Executed in Lubbock County, State of Texas, on the 20th day of May, 2026.

/s/ Kevin N. Bass
KEVIN N. BASS, Declarant

Automated Certificate of eService

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Filing Description: Motion for Reasonable Accommodations (ADA)

Status as of 5/20/2026 8:07 AM CST

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