

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
CHARLOTTESVILLE DIVISION**

KIERAN RAVI BHATTACHARYA,)	
Plaintiff,)	
v.)	Civil Action No.: 3:19-CV-00054
JAMES B. MURRAY, JR., et. al.,)	
Defendants.)	

**PLAINTIFF’S MOTION FOR LEAVE TO FILE
SECOND AMENDED COMPLAINT**

Plaintiff Kieran Ravi Bhattacharya (“Mr. Bhattacharya”), by counsel, pursuant to Rule 15 of the Federal Rules of Civil Procedure, respectfully seeks leave to file the Second Amended Complaint attached as **Exhibit A**, which includes as attachments exhibits to the Second Amended Complaint that were not exhibits to the First Amended Complaint.

I. PROCEDURAL BACKGROUND

By way of background, the Complaint originally filed in this action on September 16, 2019 (Dkt. #1) was filed *pro se* by Mr. Bhattacharya. After Defendants moved to dismiss the Complaint (Dkt. #18), pursuant to a referral from the Foundation for Individual Rights in Education, undersigned counsel entered an appearance on behalf of Mr. Bhattacharya, filed an opposition to Defendants’ motion to dismiss (Dkt. #25), and—by consent of the parties (Dkt. #26)—filed a First Amended Complaint on February 3, 2020 (Dkt. #28) that rendered moot at least some of the grounds upon which Defendants originally sought dismissal. Thereafter, Defendants sought dismissal of the First Amended Complaint, a motion that was decided by way of the Court’s Order dated March 31, 2021 (Dkt. #130) for the reasons set forth in the Memorandum Opinion issued that same day (Dkt.

#129). Thereafter, on April 14, 2021, Defendants filed their Answer to the First Amended Complaint (Dkt. #135).

II. PROPOSED AMENDMENTS

A. Overview of Proposed Amendments

The changes reflected in the proposed Second Amended Complaint are primarily in response to the Court’s March 31, 2021 Order and Memorandum Opinion and Defendants’ Answer. Some of these amendments reflect changes in wording and corrections to or amplifications of certain details as additional facts have come to light. Other amendments provide details about the involvement of four individuals—identified in the Second Amendment Complaint as Non-Party Speech Suppressor Nos. 1, 2, 3, and 4—who complained to Defendants about Mr. Bhattacharya’s questions and comments at the AMWA Microaggression Panel Discussion. These complaints, and Defendants’ conduct in response to these complaints, provide further support for the remaining Count I (Deprivation of First Amendment Right of Free Speech in Violation of 42 U.S.C. § 1983).

Otherwise the changes set forth in the proposed Second Amended Complaint fall in three major categories: (1) amendments to reflect the dismissal of Counts II, III, and IV; (2) amendments to provide previously undisclosed information and add two new defendants that are necessitated by certain statements in Defendants’ Answer; and (3) additional amendments to reflect the addition of a new defendant who is identified as a “third party” because she is not affiliated with the University of Virginia. An expanded discussion of each of these categories of changes follows.

B. Changes Reflecting Dismissal of Counts II, III, and IV

Some of the proposed changes reflect the fact that the Court dismissed with prejudice Mr. Bhattacharya’s claims for deprivation of Fourteenth Amendment right of due process in violation of 42 U.S.C. § 1983 (Count II), conspiracy to interfere with civil rights in violation of 42 U.S.C. § 1985(3) (Count III), and conspiracy to injure Mr. Bhattacharya in his trade, business, and

profession (Count IV). The Second Amended Complaint deletes all allegations that were relevant only to those three counts along with those three counts themselves.

C. Changes Prompted by Defendants' Answer

Some of the proposed changes address certain issues raised by Defendants' Answer that were not previously addressed in Plaintiffs' First Amended Complaint. Certain events—and the involvement of certain individuals in those events—have since become necessary for Mr. Bhattacharya to publicly disclose and allege. The reason is that Defendants have denied that Mr. Bhattacharya's suspension from UVA Medical School, the subsequent "No Trespass Order" that prevented Mr. Bhattacharya from appealing his suspension, and the related conduct at issue were the result of Mr. Bhattacharya's questions and comments at the AMWA Microaggression Panel Discussion. Specifically, ¶ 7 of Defendants' Answer denies that UVA Med School's November 26, 2018 email "was related to or triggered by Plaintiff's speech at the panel discussion." (Dkt. #135) (p. 4 of 21). "Instead," according to Defendants' Answer, "it was triggered by events including but not limited to" the following:

November 14, 2018 meeting between Plaintiff and John Densmore at which Plaintiff's behavior was erratic and troubling, to the point that Dean Densmore was sufficiently concerned about Plaintiff's health and welfare that he accompanied him to the University's counseling center; Plaintiff's involuntary admission to the hospital thereafter; a later meeting between Dean Densmore and Plaintiff during which Plaintiff's behavior was extremely erratic, aggressive, and concerning, to the point that Dean Densmore had to call the police; another involuntary hospitalization of Plaintiff; and the issuance of a restraining order against Plaintiff with respect to his girlfriend, who was also a Medical School student.

(Id.)

When all of the facts come out, they will show that UVA Med School's retaliation for Mr. Bhattacharya's questions and comments at the AMWA Microaggression Panel Discussion was much more egregious than previously alleged. As alleged beginning in ¶ 12 of the proposed Second

Amended Complaint, the events which became a matter of public record when Mr. Bhattacharya filed his original *pro se* Complaint in September 2019 “are just the tip of the proverbial iceberg.” The Second Amended Complaint goes on to provide additional details in support of the allegation, beginning in ¶ 12, that “[o]ther, previously undisclosed events show that UVA Med School responded to Mr. Bhattacharya’s dissident speech in a manner reminiscent of the infamous ‘treatment’ of dissidents in psychiatric hospitals in the former Soviet Union.” These events include what the Second Amended Complaint refers to as the “November 14, 2018 Forced Psychiatric Evaluation” and the “November 19, 2018 Forced Psychiatric Evaluation”—both of which were instigated by Dean Densmore, Dean Peterson, and a new third-party defendant, Mr. Bhattacharya’s former girlfriend.

Because Defendants’ Answer cites conduct related to Mr. Bhattacharya’s former girlfriend as justification for UVA Med School’s suspension and expulsion of Mr. Bhattacharya, the Second Amended Complaint discloses many facts that Mr. Bhattacharya would have preferred not be a matter of public record. These facts include a discussion of why Mr. Bhattacharya’s former girlfriend made certain claims at the time and why those claims were not credible. The evidence in support of these allegations will show that Defendants—particularly Dean Densmore and Dean Peterson—collaborated with the former girlfriend to punish Mr. Bhattacharya for his exercise of his free speech rights. The evidence will show that the former girlfriend collaborated with Dean Densmore and Dean Peterson to obtain revenge for Mr. Bhattacharya’s decision to break up with her the night before the AMWA Microaggression Seminar—making good on prior threats about the consequences if he ever left her.

As a result of these new allegations, the Second Amended Complaint seeks to add two additional defendants while also suing Dean Densmore in his individual capacity in addition to his

official capacity. The first proposed additional defendant is Lesley Thomas, Assistant Dean for Medical Education, who—according to UVA Med School’s webpage on “Medical Student Advocacy”—is “available to hear reports of mistreatment,” including “reports involv[ing] sexism, racism, harassment, discrimination, verbal abuse, and other types of unprofessional behavior directed at students.” Her involvement in the conduct at issue is addressed in the proposed amendments. The second proposed additional defendant is Mr. Bhattacharya’s former girlfriend, Angel Hsu, a 2020 graduate of UVA Medical School. Her involvement in the conduct at issue is also addressed in the proposed amendments.

D. New Claims Involving the Third-Party Co-Conspirator

The new claims assert civil conspiracy against the UVA Medical School Co-Conspirators and the Third Party Co-Conspirator, Angel Hsu (Count II) and defamation against Angel Hsu (Count III).

III. ARGUMENT

A. Rule 15 Warrants Granting Leave to Amend

Rule 15 provides that a party may amend a pleading, outside of the time parameters for amendment as a matter of course, with written consent or leave of Court. The Rule instructs: “The court should freely give leave when justice so requires.” Fed. R. Civ. P. 15. Under this liberal standard, “[l]eave to amend a pleading should be denied only when the amendment would be prejudicial to the opposing party, there has been bad faith on the part of the moving party, or the amendment would be futile.” *United States v. Shabazz*, No. 12-7874, 2013 WL 500810, at *266 (4th Cir. 2013) (internal quotations and citation omitted).

B. Justice Requires Granting Leave to Amend

Justice requires granting leave to amend because the new allegations are necessary to provide further support for the core First Amendment claim (Count I), especially in light of Defendants’

assertion that Mr. Bhattacharya's suspension from UVA Medical School and banishment from the University of Virginia were not the result of his comments and questions at the AMWA Microaggression Panel Discussion. Defendants' allegations that Mr. Bhattacharya's former girlfriend played a central role in Defendants' actions make it necessary for Mr. Bhattacharya to disclose additional facts already known to him and to seek discovery of additional details known to Dean Densmore, Dean Peterson, and Angel Hsu. The facts alleged regarding Angel Hsu's involvement demonstrate why it would be unjust for her not to be a party.

C. Amendment Would Not Be Prejudicial to Defendants

Defendants would not be prejudiced in any way by the proposed amendments. The Initial Disclosures exchanged by the parties on May 19, 2021 already address these additional matters, as do Plaintiffs' First Discovery Requests served on June 1, 2021. Defendants have yet to serve any discovery requests on Mr. Bhattacharya.

D. There Has Been No Bad Faith on the Part of Plaintiff

Mr. Bhattacharya has no interest or desire to delay these proceedings. To the contrary, his hopes of higher education and career plans are on "hold" pending the outcome of this litigation. The amendments are made necessary by allegations on the part of Defendants which the evidence will show assert pretextual justifications for the denial of his First Amendment rights.

E. Amendment Would Not Be Futile

The additional allegations provide additional support for the First Amendment claims that the Court has already found sufficient to withstand a Rule 12(b)(6) motion to discuss. Those factual allegations are more than sufficient to support the new causes of action.

IV. CONCLUSION

The amendments sought by Mr. Bhattacharya are in the interests of justice, would not be prejudicial to Defendants, and would not be futile. There has been no bad faith on the part of Plaintiff

or his counsel in seeking leave to amend. Accordingly, Mr. Bhattacharya respectfully requests that this motion be granted.

Date: June 10, 2021

Respectfully submitted,

KIERAN RAVI BHATTACHARYA

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of June 2021, I electronically filed the foregoing PLAINTIFF'S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT with the Clerk of the Court using the CM/ECF system and will send the foregoing via email to the following counsel of record for Defendants:

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