
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

REBECCA BROADBENT, JARED RASBAND, AND
HAZEL SAINSBURY,

Plaintiffs,

v.

RICHARD “BIFF” WILLIAMS, JORDON SHARP,
DEL BEATTY, MICHAEL LACOURSE, HENRIE
WALTON, TIFFANY WILSON, UTAH TECH
UNIVERSITY, GEOFF LANDWARD, UTAH
BOARD OF HIGHER EDUCATION, UTAH SYSTEM
OF HIGHER EDUCATION, THE OFFICE OF THE
COMMISSIONER OF HIGHER EDUCATION,
ALISON ADAMS, ERIC PEDERSEN, MATT
BLACK, JYL HALL, JARED MADSEN, STACY
SCHMIDT, BROOKE ULRICH, TRAVIS
ROSENBERG, and COURTNEY WHITE. JOHN AND
JANE DOES I-X

Defendants.

**MEMORANDUM DECISION
AND ORDER GRANTING IN
PART AND DENYING IN PART
[34] MOTION FOR LEAVE TO
FILE DOCUMENT UNDER
SEAL**

Case No. 4:24-cv-00091-DN

Judge David Nuffer
Magistrate Judge Paul Kohler

Defendant Utah Tech University filed a motion¹ to file under seal its Emergency Motion For Temporary Restraining Order And Injunctive Relief Against All Plaintiffs (“Emergency Motion”). Utah Tech filed a redacted version of the Emergency Motion (and its exhibits) on the public record.² As provided by DUCivR 5-3, Utah Tech also filed a sealed version of the Emergency Motion and its exhibits.³ The Emergency Motion seeks sweeping and immediate

¹ Motion for Leave to File Document Under Seal (“Motion to Seal”), docket no. 34, filed December 31, 2024.

² Docket no. 33 (“33 Redacted Emergency Motion”), filed December 31, 2024.

³ Docket no. 35 (“35 Sealed Emergency Motion”), filed December 31, 2024.

relief “against Plaintiffs regarding their use and disclosure of Utah Tech’s privileged or confidential information.”⁴

The Motion to Seal seeks, pending resolution of the Emergency Motion, to prevent public view of portions of Utah Tech’s Emergency Motion and parts of exhibits to that motion which include Plaintiffs’ Complaint. Specifically, Utah Tech asserts that:

Those portions of the complaint [filed by Plaintiffs] which reveal confidential or privileged information, and the related identification of those portions in the [Emergency] Motion and in Exhibits 1 and 2 to the [Emergency] Motion [filed by Utah Tech] should remain sealed. Those portions which the court rules do not contain confidential or privileged information may be publicly disclosed.⁵

Thus, Utah Tech seeks to seal information filed by Plaintiff and by Utah Tech. Utah Tech also seeks relief in two timeframes: now, pending resolution of the Emergency Motion, and long-term in the case by resolution of the Emergency Motion. This order deals only with sealing materials now, pending resolution of the Emergency Motion, and does not adjudicate or implicate the merits of the Emergency Motion. This order is a procedural device to enable the parties and the public to have appropriate information about the Emergency Motion as its substantive merits are discussed and resolved.

Public performance of the judicial function is essential to the rule of law. Public access to judicial cases and disputes makes courts accountable, fosters public confidence in the courts and judicial processes, and makes clear the legal consequences of behaviors and choices. The right of public access is rooted in common law and also in the Constitution.

⁴ Emergency Motion at 5-6.

⁵ Motion to Seal at 3. The proposed order submitted by Utah Tech asks for further relief beyond restricting public access. It seeks that the 35 Sealed Emergency Motion and exhibits be “restricted to Utah Tech University and Plaintiffs.” This restriction was not addressed in the Motion to Seal but may be discussed at a forthcoming status and scheduling conference.

DUCivR 5-3(a)(1) provides:

The records of the court are presumptively open to the public. The sealing of pleadings, motions, memoranda, exhibits, and other documents or portions thereof (Documents) is highly discouraged. Unless restricted by statute or court order, the public will have access to all Documents filed with the court and to all court proceedings.

This order deals only with the sealing of information pending resolution of Utah Tech's Emergency Motion. At this stage, it is prudent to seal some portions of documents for temporary procedural reasons to permit full and free discussion of issues in the Emergency Motion as the long-term access to information is resolved. Therefore, the standard for decision on this Motion to Seal is more pragmatic than the standard to be used in deciding the Emergency Motion. Sealing a narrowly tailored portion of documents for a limited duration minimizes the restriction of public access.

Pending resolution of the Emergency Motion, Utah Tech seeks to protect:

- (a) about two pages of information in its Emergency Motion (enumerating paragraphs it eventually seeks to protect in Plaintiffs' Complaint);
- (b) material appearing on nine pages in Utah Tech's Exhibit 1 which is Plaintiffs' Complaint, which adds up to about four pages of information; and
- (c) a four-page text listing of information in Plaintiffs' Complaint (Exhibit 2 to Utah Tech's Emergency Motion) (identical to the information specified in (b)).⁶

Unfortunately, the designations of material Utah Tech seeks to seal are reflected differently in the 33 Redacted Emergency Motion than in the 35 Sealed Emergency Motion. The redactions in the publicly filed 33 Redacted Emergency Motion are apparently a mistake and overinclusive compared to the highlights of Utah Tech's proposed redactions in the 35 Sealed Emergency Motion. The overbroad redactions in the 33 Redacted Emergency Motion are rejected.

⁶ 35 Sealed Emergency Motion at 19-21; Complaint (Exhibit 1 to 35 Sealed Emergency Motion) at 7-12, 17, 31-32, docket no. 35-1; Exhibit 2 to Defendants [sic] Motion [Sealed] (Exhibit 2 to 35 Sealed Emergency Motion) at 1-5, docket no. 35-2.

ORDER

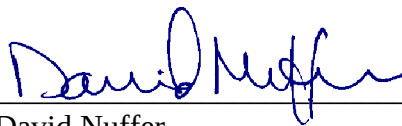
IT IS HEREBY ORDERED that the Motion to Seal⁷ is GRANTED IN PART and DENIED IN PART. Pending resolution of the Emergency Motion, some information will be temporarily sealed as described below, but not all the information redacted in the 33 Redacted Emergency Motion will be sealed.

IT IS FURTHER ORDERED:

1. Pending resolution of the Emergency Motion, the portions of the 35 Sealed Emergency Motion and its exhibits which are highlighted in the 35 Sealed Emergency Motion and exhibits are SEALED. The 35 Sealed Emergency Motion and exhibits may remain sealed for now.
2. Utah Tech must within two business days file a CORRECTED Redacted Emergency Motion (and exhibits) with redactions to correspond with the highlighting on the 35 Sealed Emergency Motion and exhibits. This filing will improve public access to information.
3. This order has no effect on the filed version of the Plaintiffs' Complaint.⁸ That decision will be made by resolution of the Emergency Motion.
4. The Sealed Motion for Leave to File Document Under Seal, docket no. 25, filed December 27, 2024, is MOOT. It is a previous version of the Motion to Seal.

Signed January 1, 2025.

BY THE COURT



David Nuffer
United States District Judge

⁷ Docket no. 34.

⁸ Docket no. 2, filed November 7, 2024.