

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

HEILRAYNE, ET AL.,

Plaintiff,

v.

UNIVERSITY OF TEXAS, ET AL.,

Defendants.

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No. 1:25-CV-00640-DAE

DEFENDANTS DAVIS’S AND ELTIFE’S NOTICE OF APPEAL

Pursuant to Rules 3(a)(1) and 4(a)(1)(A) of the Federal Rules of Appellate Procedure, Defendants James Davis and Kevin Eltife (“Defendants”) file this Notice of Appeal to the United States Court of Appeals for the Fifth Circuit from the Order entered on January 27, 2026.¹ This Order granted in part and denied in part Defendants’ Motion to Dismiss Plaintiffs’ Amended Complaint. Specifically, Defendants appeal the district court’s decision to deny the portion of Defendants’ motion to dismiss brought under Rule 12(b)(1) of the Federal Rules of Civil Procedure.

“Orders denying Eleventh Amendment sovereign immunity are reviewable on interlocutory appeal under the collateral order doctrine.”² The Fifth Circuit also can exercise pendent appellate jurisdiction over Article III standing issues that are inextricably intertwined with the sovereign immunity questions being appealed.³

This notice of appeal is timely. The filing of this notice of appeal is of jurisdictional significance and serves to stay the proceedings in this Court.

¹ ECF 62.

² *James v. Hegar*, 86 F.4th 1076, 1080 (5th Cir. 2023).

³ *Williams v. Davis*, No. 22-30181, 2023 WL 119452, at *3–4 (5th Cir. Jan. 6, 2023).

Dated February 23, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the document above was served on all counsel of record who have entered an appearance on February 23, 2026, using the CM/ECF system.

/s/ Todd Dickerson