

**UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT**

SABINA BURTON,

Plaintiff-Appellant,

v.

**SECOND AMENDED
DOCKETING STATEMENT**

BOARD OF REGENTS OF THE UNIVERSITY
OF WISCONSIN SYSTEM,
THOMAS CAYWOOD, ELIZABETH THROOP, and
MICHAEL DALECKI,

CASE NO. 16-2982

Defendants-Appellees.

Plaintiff-Appellant Sabina Burton, by and through undersigned counsel, respectfully submits this second amended docketing statement pursuant to Circuit Court Rule 3(c)(1) of the United States Court of Appeals for the Seventh Circuit.

I. JURISDICTION OF THE DISTRICT COURT

In this civil action, plaintiff alleged that defendants deprived plaintiff of her rights under 42 U.S.C. § 2000e et seq. (Title VII), 20 U.S.C. § 1681 (Title IX), the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983. Therefore, the United States District Court for the Western District of Wisconsin had original jurisdiction over this civil action pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3).

II. JURISDICTION OF THE COURT OF APPEALS

28 U.S.C. § 1291 confers jurisdiction over this appeal on the United States Court of Appeals for the Seventh Circuit. This appeal is taken from a final decision of the U.S. District Court for the Western District of Wisconsin entered on March 18, 2016, by the Honorable

District Judge James D. Peterson. (ECF No. 90). Burton's Notice of Appeal was timely filed with the District Court on July 20, 2016. (ECF No. 108).

Undersigned counsel notes that the Notice of Appeal, filed by pro se plaintiff-appellant Sabina Burton, indicates that she wishes to appeal the June 22, 2016, denial of her Rule 59(e) motion to reconsider the final judgment, rather than the March 18, 2016, final judgment. (ECF No. 106). Burton filed her Rule 59(e) motion to reconsider on April 15, 2016. (ECF No. 99). Undersigned counsel respectfully requests that this Court treat Burton's appeal as one of the March 18, 2016, order granting summary judgment against Burton. (ECF No. 90). *See Daniels v. Brennan*, 887 F.2d 783, 790 n.6 (7th Cir. 1989) (indicating, "An appeal from a denial of a Rule 59(e) motion is treated as an appeal from the judgment itself"); *See also Petru v. City of Berwyn*, 872 F.2d 1359, 1361-62 (7th Cir.1989) (treating notice of appeal from denial of Rule 59(e) motion as an appeal of underlying judgment where the appellant's intent to appeal the underlying judgment was clear and caused no prejudice to appellee); *See also Serafinn v. Local 722*, 597 F.3d 908, 917 (7th Cir. 2010) (recognizing *Petru* as allowing appeals from a Fed. R. Civ. P. 59 denial to be treated as an appeal from the underlying judgment).

Respectfully Submitted this 8th day of August, 2016:

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CERTIFICATE OF SERVICE

Certificate of Service When All Case Participants Are CM/ECF Participants

I hereby certify that on August 8, 2016, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Kimberly Penix



CERTIFICATE OF SERVICE

Certificate of Service When Not All Case Participants Are CM/ECF Participants

I hereby certify that on _____, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Seventh Circuit by using the CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I further certify that some of the participants in the case are not CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third-party commercial carrier for delivery within 3 calendar days, to the following non-CM/ECF participants:

counsel / party:

address:

