

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

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SABINA BURTON,

Plaintiff-Appellant,

v.

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

**CASE NO. 16-2982**

Defendants-Appellees.

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**PLAINTIFF-APPELLANT'S MOTION FOR  
EXTENSION OF TIME TO FILE OPENING BRIEF**

In accordance with Federal Rule of Appellate Procedure 26(b) and Seventh Circuit Rule 26, plaintiff-appellant Sabina Burton, through undersigned counsel, hereby requests a one-month extension to file her opening brief, until and including September 30, 2016. As support, Burton states as follows.

1. On August 3, 2016, undersigned counsel was retained to represent plaintiff-appellant in the above-captioned appeal, and filed her initial appearance and disclosure statement with this Court. (Aff. Accompanying Plaintiff-Appellant's Mot. for Extension of Time to File Opening Br. ("Aff.") ¶ 3).
2. According to this Court's docket, plaintiff-appellant's brief is due twenty-six days after undersigned counsel was retained: on or before August 29, 2016.
3. The District Court record in this matter contains over 400 documents, including nine deposition transcripts. Since being retained in this matter, undersigned counsel has worked diligently to review these documents as

efficiently as possible. However, an extension would assist undersigned counsel to fully review these documents and incorporate them into the opening brief as appropriate. (Aff. ¶ 4). This action concerns whether the university retaliated against Burton, in violation of Title VII and Title IX of the Civil Rights Act, when it engaged in various actions that have negatively influenced Burton since 2012, when she assisted a student in reporting an instance of sexual harassment at the hands of a fellow professor.

4. During the pendency of this matter, undersigned counsel has been working on and will also be preparing and filing briefs and other pleadings in the following cases: *State of Wisconsin v. Milton Eugene Warren*, Case No. 2016AP936-CR, opening brief due September 23, 2016, (Wisconsin Court of Appeals, four extensions previously granted), *Bank of America, N.A. v. Dawn R. Martinson, et. al.*, Case No. 13-3892, petition for writ of certiorari due October 3, 2016, (Supreme Court of the United States, firm deadline), *The People of the State of Colorado v. Michael Tracy McFadden*, Case No. 2015CA1925, opening brief due April 26, 2016, (Colorado Court of Appeals, one extension previously granted), and *State of Wisconsin v. James E. Anderson*, Case No. 2013CF838, post-conviction reply brief due September 9, 2016. (Aff. ¶ 5). In two of the three criminal cases, the clients are in custody and are challenging the validity of their convictions and, correspondingly, their incarceration.
5. On August 18, 2016, Burton advised undersigned counsel that an attorney retained by the University of Wisconsin – Platteville (“the university”) requested that she meet with him on August 23, 2016. Burton advised

undersigned counsel that this attorney is investigating “recent activities” that Burton reported to the Office of Civil Rights. (Aff. ¶ 6).

6. According to Burton, these “recent activities” consist of a “new wave of retaliation” following the dismissal of her case in the district court, which Burton believes are a ramping up of the retaliatory work environment alleged in this case, and are designed to have her resign from her employment with the university. (Aff. ¶ 7).
7. On August 23, 2016, Burton informed undersigned counsel that she has been consumed with new events related to her employment with the university, including a complaint filed against her (by a university staff member) on August 8, 2016, and an investigation initiated against her (by a University staff member) on August 16, 2016. (Aff. ¶ 8).
8. Burton further informed undersigned counsel that, this week, she is facing two personal medical issues (one of her own and one of a family member) that were not anticipated. (Aff. ¶ 9).
9. These medical issues as well as the onslaught of action from the university have made it difficult for Burton to assist undersigned counsel with the factual aspects of her appeal to the level necessary, which is critical given the nature and breadth of the record and that undersigned counsel is new to this case. (Aff. ¶ 10).
10. This is plaintiff-appellant’s first motion for an extension in this matter. (Aff. ¶ 12).

11. On August 24, 2016, prior to filing this motion, and pursuant to Circuit Rule 26, I emailed a copy of this motion and the accompanying affidavit to attorneys for Defendants-Appellees. (Aff. ¶ 11).

Wherefore, plaintiff-appellant Sabina Burton respectfully requests that this Court grant a one-month extension, until and including September 30, 2016, to file her opening brief.

Respectfully Submitted this 24th day of August, 2016:

**ALDERMAN LAW FIRM**

/s/ Kimberly Penix

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**AFFIDAVIT ACCOMPANYING PLAINTIFF-APPELLANT'S  
MOTION FOR EXTENSION OF TIME TO FILE OPENING BRIEF**

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I, **KIMBERLY L. PENIX**, declare pursuant to 28 U.S.C. § 1746 and under the penalty of perjury, that the following is true and correct.

1. I am an attorney licensed to practice before this Court, and represent plaintiff-appellant Sabina Burton.
2. This declaration is based on my personal knowledge.
3. I was retained to represent plaintiff-appellant in the above-captioned matter on August 3, 2016, the same day that I filed my initial appearance and disclosure statement with this Court.
4. The District Court record in this matter contains over 400 documents, including nine deposition transcripts. I have worked diligently to review these documents since being retained in the above-captioned case.

5. During the pendency of this matter, I have been working on and will be working on the following briefs and other pleadings:
  - a. *State of Wisconsin v. Milton Eugene Warren*, Case No. 2016AP936-CR, opening brief due September 23, 2016, (Wisconsin Court of Appeals). The court has granted the defendant four previous extensions in this case.
  - b. *Bank of America, N.A. v. Dawn R. Martinson, et. al.*, Case No. 13-3892, petition for writ of certiorari due October 3, 2016, (Supreme Court of the United States). This deadline is jurisdictional.
  - c. *The People of the State of Colorado v. Michael Tracy McFadden*, Case No. 2015CA1925, opening brief due April 26, 2016, (Colorado Court of Appeals). The court has granted me one previous extension.
  - d. *State of Wisconsin v. James E. Anderson*, Case No. 2013CF838, post-conviction reply brief due September 9, 2016, (State of Wisconsin Circuit Court of Outagamie County). Counsel still awaits the State's opposition brief, without which the reply cannot be drafted and filed.
6. On August 18, 2016, Burton advised me that an attorney retained by the University of Wisconsin – Platteville (“the university”) contacted her and requested she meet with him on August 23, 2016, to discuss “recent activities” that Burton reported to the Office of Civil Rights.
7. Burton informed me that these “recent activities” consist of a “new wave of retaliation” following the dismissal of her case in the district court, which Burton believes are a ramping up of the retaliatory work environment alleged

in this case, and are designed to have her resign from her employment with the university.

8. On August 23, 2016, Burton advised me that she has been consumed with new events related to her employment with the university, including a complaint filed against her (by a university staff member) on August 8, 2016, and an investigation initiated against her (by a University staff member) on August 16, 2016.
9. On August 23, 2016, Burton further advised me that, this week, she is facing two personal medical issues (one of her own and one of a family member) that were not anticipated.
10. The issues described in ¶¶ 6-9 have made it difficult for Burton to assist undersigned counsel with the factual aspects of her appeal to the level necessary, which is critical given the nature and breadth of the record and that undersigned counsel is new to this case.
11. On August 24, 2016, pursuant to Circuit Rule 26, I emailed a copy of Plaintiff-Appellant's Motion for Extension of Time to File Opening Brief to attorneys for the Defendants-Appellees.
12. I have not requested any previous extensions in the above-captioned matter.

PURSUANT TO 28 U.S.C. § 1746, I VERIFY UNDER PENALTY OF PERJURY THAT THE STATEMENTS IN THIS DECLARATION ARE TRUE AND CORRECT AND BASED UPON MY PERSONAL KNOWLEDGE.

Executed this 24th day of August, 2016:

**ALDERMAN LAW FIRM**

/s/ Kimberly Penix

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*Attorney for Plaintiff-appellant*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on August 24, 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 with CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Kimberly Penix  
Kimberly L. Penix