

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

DR. SABINA BURTON,

Plaintiff,

v.

Case No. 14-CV-274

BOARD OF REGENTS UNIVERSITY OF
WISCONSIN, et al.,

Defendants.

**DEFENDANTS' ANSWER AND DEFENSES
TO PLAINTIFF'S COMPLAINT**

NOW COME the defendants, Board of Regents of the University of Wisconsin System, Dr. Thomas Caywood, and Dr. Elizabeth Throop, by their attorneys, Attorney General J.B. Van Hollen, and Assistant Attorneys General Monica Burkert-Brist and Anne M. Bensky, answer plaintiff's complaint as follows:

I. JURISDICTION AND VENUE

1. Answering paragraph 1 of plaintiff's complaint, defendants ADMIT allegations are brought 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; DENY defendants deprived plaintiff of her rights.

2. Answering paragraph 2 of plaintiff's complaint, defendants ADMIT.

3. Answering paragraph 3 of plaintiff's complaint, defendants ADMIT.

II. ADMINISTRATIVE PREREQUISITES

4. Answering paragraph 4 of plaintiff's complaint, defendants ADMIT Burton filed a discrimination charge on August 13, 2013; lack sufficient knowledge or information to form an answer as to the remaining allegation and therefore DENY.

III. PARTIES

5. Answering paragraph 5 of plaintiff's complaint, defendants ADMIT.

6. Answering paragraph 6 of plaintiff's complaint, defendants ADMIT.

7. Answering paragraph 7 of plaintiff's complaint, defendants ADMIT Dr. Caywood is an adult resident of the State of Wisconsin whose current business address is One University Plaza, Platteville, Wisconsin 53818; ADMIT Dr. Caywood was at all times relevant been employed as a professor of the Department of Criminal Justice at UW-Platteville (UWP); AFFIRMATIVELY ALLEGE Dr. Caywood was chair of the department until the middle of August, 2013; AFFIRMATIVELY ALLEGE that plaintiff's remaining allegations sets forth a legal conclusion to which no response is required, and therefore DENY.

8. Answering paragraph 8 of plaintiff's complaint, defendants ADMIT Dr. Throop is an adult resident of the State of Wisconsin whose current business address is One University Plaza, Platteville, Wisconsin 53818; ADMIT Dr. Throop is employed as the Dean of the College of Liberal Arts and Education at UWP; DENY Dr. Throop was Dean of the College of Liberal Arts and Education at UWP at all times relevant to this complaint; AFFIRMATIVELY ALLEGE Dr. Throop

started in her position around June 15, 2012; AFFIRMATIVELY ALLEGE that plaintiff's remaining allegations sets forth a legal conclusion to which no response is required, and therefore DENY.

IV. FACTUAL ALLEGATIONS

9. Answering paragraph 9 of plaintiff's complaint, defendants ADMIT.

10. Answering paragraph 10 of plaintiff's complaint, defendants DENY.

11. Answering paragraph 11 of plaintiff's complaint, defendants DENY all allegations not specifically admitted to; defendants AFFIRMATIVELY ALLEGE Dutelle assisted in drafting the qualifications for his job advertisement and that the provost awarded Dutelle two years toward tenure. ADMIT that at times, Dutelle was paid higher than the plaintiff; DENY plaintiff's qualifications are superior.

12. Answering paragraph 12 of plaintiff's complaint, defendants ADMIT plaintiff has a Ph.D. and that she taught at UC Irvine prior to UWP; defendants lack sufficient knowledge or information to form a belief as to the truth of the remaining assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

13. Answering paragraph 13 of plaintiff's complaint, ADMIT Dutelle has a Masters Degree in forensic science; defendants lack sufficient knowledge or information to form a belief as to the truth of the remaining assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

14. Answering paragraph 14 of plaintiff's complaint, defendants DENY Dr. Caywood has made exceptions for Dutelle; AFFIRMATIVELY ALLEGE Dutelle was allowed to pursue an opportunity with the Department of Defense while getting full pay by UWP which took him overseas during part of the regular semester; defendants lack sufficient knowledge or information to form an answer as to the remaining assertions and therefore DENY.

15. Answering paragraph 15 of plaintiff's complaint, defendants DENY.

16. Answering paragraph 16 of plaintiff's complaint, defendants ADMIT Dr. Caywood gave Dutelle 50% release time for being the forensic investigations coordinator; AFFIRMATIVELY ALLEGE the forensic investigations department received funding to hire an LTE; AFFIRMATIVELY ALLEGE that during the 2011-2012 school year Dutelle received more compensation in overload pay than the plaintiff; defendants lack sufficient knowledge or information to form an answer as to the remaining assertions and therefore DENY.

17. Answering paragraph 17 of plaintiff's complaint, defendants DENY.

18. Answering paragraph 18 of plaintiff's complaint, defendants lack sufficient knowledge or information to form a belief as to the truth of the assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

19. Answering paragraph 19 of plaintiff's complaint, AFFIRMATIVELY ALLEGE DRB evaluations, once completed, remain in the faculty member's possession only; defendants lack sufficient knowledge or information to form a belief

as to the truth of the assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

20. Answering paragraph 20 of plaintiff's complaint, AFFIRMATIVELY ALLEGE DRB evaluations, once completed, remain in the faculty member's possession only; defendants lack sufficient knowledge or information to form a belief as to the truth of the assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

21. Answering paragraph 21 of plaintiff's complaint, AFFIRMATIVELY ALLEGE DRB evaluations, once completed, remain in the faculty member's possession only; defendants lack sufficient knowledge or information to form a belief as to the truth of the assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

22. Answering paragraph 22 of plaintiff's complaint, defendants DENY.

23. Answering paragraph 23 of plaintiff's complaint, defendants DENY.

24. Answering paragraph 24 of plaintiff's complaint, defendants ADMIT Dutelle's promotion to associate professor was effective August 2012; lack sufficient knowledge or information to form a belief as to the truth of the remaining assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

25. Answering paragraph 25 of plaintiff's complaint, defendants lack sufficient knowledge or information to form a belief as to the truth of the assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

26. Answering paragraph 26 of plaintiff's complaint, defendants ADMIT plaintiff's promotion to associate professor was first denied; ADMIT the reason the promotion was denied was due to insufficient documentation; AFFIRMATIVELY ALLEGE that when said documentation was provided, Plaintiff was promoted; lack sufficient knowledge or information to form a belief as to the truth of the remaining assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

27. Answering paragraph 27 of plaintiff's complaint, defendants ADMIT Dr. Caywood initially opposed plaintiff's bid for tenure but later withdrew his opposition noting something to the effect that it "was not worth the fight;" DENY all remaining allegations contained therein.

28. Answering paragraph 28 of plaintiff's complaint, defendants DENY.

29. Answering paragraph 29 of plaintiff's complaint, defendants lack sufficient knowledge or information to form an answer as to whether Dutelle was allowed to use forensic program assistant, Kim Sergeant, to do research for his book and type part of his book and therefore DENY; AFFIRMATIVELY ALLEGE Dutelle, as program director of Forensic Investigation, received release time to

perform the duties of director, including promoting the program; DENY all remaining allegations.

30. Answering paragraph 30 of plaintiff's complaint, defendants lack sufficient knowledge or information to form an answer as to whether Caywood called on Plaintiff to advise 60 students and therefore DENY; DENY that plaintiff was awarded a sabbatical; AFFIRMATIVELY ALLEGE plaintiff had been given release from teaching; DENY all remaining assertions contained therein.

31. Answering paragraph 31 of plaintiff's complaint, defendants ADMIT Dr. Caywood asked plaintiff if she wanted to develop a Short Study Abroad Program to Germany; AFFIRMATIVELY ALLEGE that plaintiff voluntarily agreed to develop the program; lack sufficient knowledge or information to form an answer as to the remaining assertions and therefore DENY.

32. Answering paragraph 32 of plaintiff's complaint, defendants ADMIT Caywood did not advertise or assist with the program; lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations and therefore DENY.

33. Answering paragraph 33 of plaintiff's complaint, defendants DENY Dr. Caywood favored Dutelle on search and screen assignments; lack sufficient knowledge or information to form a belief as to the truth of the remaining assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

34. Answering paragraph 34 of plaintiff's complaint, defendants DENY; AFFIRMATIVELY ALLEGE offices had been assigned based upon seniority without regard to academic degrees.

35. Answering paragraph 35 of plaintiff's complaint, defendants lack sufficient knowledge or information to form an answer as to whether plaintiff's office lighting was measured to be 6 candles below office space lighting standards on May 15, 2013 and therefore DENY; lack sufficient knowledge or information to form an answer as to whether plaintiff suffered a painful and obvious eye-inflammation and if plaintiff had 20/20 vision all her life, but now requires reading glasses and therefore DENY; DENY all remaining assertions contained therein.

36. Answering paragraph 36 of plaintiff's complaint, defendants ADMIT at least one other female faculty or academic staff had previously complained about Dr. Caywood; lack sufficient knowledge or information to form an answer as to the contents of those complaints and therefore DENY; DENY all remaining assertions contained therein.

37. Answering paragraph 37 of plaintiff's complaint, defendants ADMIT plaintiff complained of discriminatory treatment by Dr. Caywood to Dean Throop and Jeanne Durr, former Human Resources Director; AFFIRMATIVELY ALLEGE Durr no longer works at UWP; DENY Dr. Caywood treated plaintiff in a discriminatory manner; DENY all remaining assertions contained therein.

Retaliation and continuing sex discrimination

38. Answering paragraph 38 of plaintiff's complaint, defendants lack knowledge or information to form a belief as to how the student felt about the note and therefore DENY; ADMIT plaintiff reported said allegations by student regarding the professor.

39. Answering paragraph 39 of plaintiff's complaint, defendants ADMIT plaintiff reported the incident to Dean Throop, Dr. Caywood and Dean of Students; lack sufficient knowledge or information to form an answer the remaining assertions and therefore DENY; AFFIRMATIVELY ALLEGE the allegation as to whether particular behavior violated a policy is a legal conclusion to which no response is required, but to the extent it alleges a fact, defendants DENY.

40. Answering paragraph 40 of plaintiff's complaint, defendants DENY; defendant Caywood AFFIRMATIVELY ALLEGES he was upset the incident was not reported to him and indicated the complaint should have been handled differently.

41. Answering paragraph 41 of plaintiff's complaint, defendants ADMIT plaintiff claimed intimidation to Durr and Dean Throop; ADMIT Durr sent Dr. Caywood an email regarding plaintiff's allegations; lack sufficient knowledge or information to form an answer as to the exact contents of the email and therefore DENY; DENY Dr. Caywood acted in an intimidated manner or bullied plaintiff.

42. Answering paragraph 42 of plaintiff's complaint, defendants DENY Dr. Caywood drafted and distributed a new policy; AFFIRMATIVELY ALLEGE that plaintiff's assertion that the drafted memo was contrary to UWP guidelines is a

legal conclusion and therefore DENY; AFFIRMATIVELY ALLEGE Caywood proposed reporting procedures; ADMIT all remaining assertions contained therein.

43. Answering paragraph 43 of plaintiff's complaint, defendants lack knowledge or information necessary to form a belief as to the truth of the allegations and therefore DENY.

44. Answering paragraph 44 of plaintiff's complaint, defendants DENY Dr. Caywood bullied and/or harassed plaintiff over her involvement in the student's complaint; lack sufficient knowledge or information to form a belief as to the truth of the remaining assertions and therefore DENY.

45. Answering paragraph 45 of plaintiff's complaint, defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

46. Answering paragraph 46 of plaintiff's complaint, defendants ADMIT plaintiff had been given a search and screen to chair in the fall semester but the two fall searches were then consolidated; DENY all remaining assertions contained therein.

47. Answering paragraph 47 of plaintiff's complaint, defendants DENY.

48. Answering paragraph 48 of plaintiff's complaint, defendants ADMIT plaintiff has chaired one search and screen since August 2009; lack sufficient knowledge or information to form an answer the remaining assertions and therefore DENY.

49. Answering paragraph 49 of plaintiff's complaint, defendants lack sufficient knowledge or information to form an answer as to whether the Lomax position was Dutelle's fourth opportunity to chair a search and screen and therefore DENY; DENY all remaining assertions contained therein.

50. Answering paragraph 50 of plaintiff's complaint, defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations and therefore DENY.

51. Answering paragraph 51 of plaintiff's complaint, defendants DENY.

52. Answering paragraph 52 of plaintiff's complaint, defendants lack sufficient knowledge or information to form a belief as to the truth of the assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

53. Answering paragraph 53 of plaintiff's complaint, defendants DENY plaintiff was the victim of retaliation and DENY Plaintiff engaged in opposing discrimination by providing a student complaint to the Dean and Human Resources; ADMIT plaintiff sent an email to Dean Throop on December 10, 2012, making the stated allegations.

54. Answering paragraph 54 of plaintiff's complaint, defendants DENY plaintiff complained of sex discrimination; AFFIRMATIVELY ALLEGE that plaintiff claimed "I feel this is a case of discrimination... I don't know if Tom's unfairness in this case is an example of sexual bias but if not then it is an example

of professional bias and ignorance of my qualifications;" ADMIT plaintiff complained of all remaining allegations contained therein.

55. Answering paragraph 55 of plaintiff's complaint, defendants DENY.

56. Answering paragraph 56 of plaintiff's complaint, defendants DENY plaintiff asked for assistance in addressing retaliation and discrimination; DENY retaliation and discrimination continued to escalate; AFFIRMATIVELY ALLEGE the plaintiff complained about opportunities within her department; ADMIT all remaining allegations contained therein.

57. Answering paragraph 57 of plaintiff's complaint, defendants DENY.

58. Answering paragraph 58 of plaintiff's complaint, defendants ADMIT that defendant Caywood sent a letter containing the quoted statements.

59. Answering paragraph 59 of plaintiff's complaint, defendants lack sufficient knowledge or information to form a belief as to the truth of the assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

60. Answering paragraph 60 of plaintiff's complaint, defendants DENY.

61. Answering paragraph 61 of plaintiff's complaint, defendants lack sufficient knowledge or information to form a belief as to the truth of the assertions because, at the time of this answer, not all records required to respond to this allegation were available to defendants and their counsel, and therefore DENY.

62. Answering paragraph 62 of plaintiff's complaint, defendants lack sufficient knowledge or information to form a belief as to the truth of the assertions