

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

DR. SABINA BURTON,

Plaintiff,

v.

Case No. 14-CV-0274

BOARD OF REGENTS UNIVERSITY OF
WISCONSIN, et al.,

Defendants.

DEFENDANT'S MOTION TO BIFURCATE

Defendant Board of Regents of the University of Wisconsin, by and through its undersigned counsel, respectfully moves the Court to bifurcate the trial between liability and damages. This motion is made in the interest of saving the court's and the parties' time and resources, and is made pursuant to Fed. R. Civ. P. 403. This case involves whether the Board retaliated against Burton for engaging in protected activity. While the retaliation claim includes an element of harm: whether the plaintiff suffered an objectively adverse employment action may require a modicum of evidence relating to consequences of the adverse action, the defendant expects Burton to testify at length regarding physical and mental health conditions suffered as a result of the defendant's actions. This testimony is not probative of liability and can unduly and improperly influence the jury.

Defendant requests that should the jury return a verdict in Burton's favor on liability, that Burton and any other damages witnesses that are allowed to testify, be allowed to offer testimony as to damages. Defendant would reserve the right to call any witnesses for rebuttal purposes if necessary. Following additional testimony, the parties would be permitted to give a short closing argument regarding damages.

Dated this 4th day of March, 2016.

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