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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

DR. SABINA BURTON,

Plaintiff,

v.

Case No. 14-CV-274

BOARD OF REGENTS UNIVERSITY OF
WISCONSIN, et al.,

Defendants.

**DECLARATION OF SABINA BURTON – CORRECTION OF MISTAKES IN
PLAINTIFF’S RESPONSE TO
DEFENDANTS’ PROPOSED FINDINGS OF FACT (Dkt. No. 55)**

Pursuant to 28 U.S.C. § 1746, Sabina L. Burton declares, as follows:

A. I am an adult resident of the State of Wisconsin, the Plaintiff in the above-named case, and I make this declaration based on personal knowledge.

Correction to Plaintiff’s Response to Defendants’ Proposed Findings of Fact (Dkt. No. 55)

B. My former attorneys, Tim Hawks and Michele Sumara failed to provide me opportunity to proof-read, edit or approve the Plaintiff’s Response to Defendants’ Proposed Findings of Facts (Dkt. No. 55) before submitting the document in my name. They made significant errors in the filing that I correct with the following:

I. UW-Platteville & Criminal Justice Department

1. UW-Platteville is organized into 24 academic departments, almost all of which are chaired by a tenured faculty members. (Throop Decl., ¶ 3.)

No dispute.

2. The Criminal Justice (CJ) department is within the College of Liberal Arts and Education (LA&E). It offers a Bachelors of Science in Criminal Justice (BSCJ), a Bachelors of Science in Forensic Investigation (BSFI), an online undergraduate degree in criminal justice (BSCJ), and an online Masters of Science in Criminal Justice (MSCJ). (Throop Decl., ¶ 4-5.)

No dispute.

3. As of 2014, the Criminal Justice department had around 16 faculty, 800 on-campus students, and 200 online students enrolled. (Throop Decl., ¶ 6; Caywood Decl., ¶ 3.)

No dispute.

4. The CJ department has been a stand-alone department at UW-Platteville since 1971. (Caywood Decl., ¶ 3.)

No dispute.

5. The criminal justice department is a hierarchical organization where faculty report to the Department Chair, the Chair reports to the Dean, who reports to the Provost, who reports to the Chancellor. (Caywood Decl., ¶ 17.)

Dispute. The curriculum of all programs in criminal justice, whether on-campus or on-line, is the responsibility of the faculty in the criminal justice program. All coordinators/directors report to the department chair, who in turn reports to the dean of the college. The Chair is responsible to the Dean, and the unclassified (faculty and academic staff) and classified personnel assigned to the Department are responsible to the Chair. The Chair acts as a liaison between departmental personnel and the Dean. (Dalecki Decl. Ex. B at 002, 003, Dkt. No. 34-1)

5. applies generally to normal business issues but not to harassment and discrimination issues. University policy and law spell out procedures for reporting such incidents and states: “University officials prepared to deal with concerns about discrimination and harassment include: the Assistant to the Chancellor for Affirmative Action and Women's Services; the Assistant to the Chancellor for Minority Affairs; the Assistant Chancellor for Student Affairs; the Assistant Director of Student Housing for Programming and Conduct; and line supervisors, such as Department Chairs, Directors, and Deans.”

<http://www.uwplatt.edu/human-resources/discrimination-and-harassment>

The department policy and procedures states: “Reporting Structure - The curriculum of all programs in criminal justice, whether on-campus or on-line, is the responsibility of the faculty in

the criminal justice program. All coordinators/ directors report to the department chair, who in turn reports to the dean of the college. Dr. Fuller was allowed to bypass this hierarchy and report directly to the Dean rather than to the department chair until late 2013. This put Dr. Burton in a difficult position as she worked for two bosses who hated each other in a dysfunctional department.

6. *The CJ department has a Department Chair, whose duties include scheduling professors to teach courses, hiring adjunct professors, maintaining course syllabi, making staff appointments, approving department expenditures and proposing a department budget, and recruiting students, among other duties. In addition, the department chair was to act as a liaison between the faculty and the Dean. (Caywood Decl., ¶ 2.)*

No dispute.

7. *The CJ department also has the following managerial positions: Director of the Online Graduate Program, Online Undergraduate Coordinator, and Director of the Forensic Investigation (FI) program (formerly called the FI Coordinator). The duties of these positions are outlined in the CJ departmental policies and procedures. (Dalecki Decl., ¶ 6, Ex. B.)*

No dispute.

8. *Per the CJ departmental policies and procedures in effect as of Fall, 2011, all three of these positions received .5 (50%) release time from teaching responsibilities if a full-time faculty member held the position. This means that 50% of contracted-for teaching responsibilities are removed for the person serving in that position. For example, professors are typically contracted to teach four, three-credit classes per semester. Someone with 50% release time will only need to teach two, three-credit classes per semester to satisfy his or her contract requirements. (Dalecki Decl., ¶ 6, Ex. B.)*

No dispute regarding substance. The source of sentence 3 is not cited.

II. The parties

9. *Elizabeth Throop (Throop) is currently the Dean of the College of Liberal Arts and Education (LA&E) at the University of Wisconsin-Platteville. (Throop Decl., ¶ 2.)*

No dispute.

10. *Throop has held this position since June of 2012. In this position, Throop oversees over two hundred employees, including both faculty and staff. (Throop Decl., ¶ 2.)*

No dispute.

11. *Throop is responsible for curriculum and personnel matters within LA&E. (Throop Decl., ¶ 2.)*

Dispute.

50 % of the LAE Dean's job is acquisition of funding.

(LAE Dean Search & Screen 2011/12 position interview questions)

Dr. Burton was a member of the LAE Dean Search & Screen committee in 2011/2.

12. Throop reports to the Provost and Vice Chancellor for Academic Affairs, Dr. Mittie N. Den Herder, who in turn reports to the Chancellor, Dennis Shields. Chancellor Shields then reports to the Board of Regents and University of Wisconsin System President, Dr. Ray Cross. (Throop Decl., ¶ 4.)

No dispute.

13. Caywood was a professor in the Criminal Justice (CJ) department at UW-Platteville between 1991 and 2015. (Caywood Decl., ¶ 2.)

No dispute.

14. Thomas Caywood (Caywood) retired from UW-Platteville in the summer of 2015. (Caywood Decl., ¶ 2.)

No dispute.

15. Caywood served in the U.S. Air Force from 1970-1974, and served one year in Vietnam. He was a member of the Missouri National Guard, Texas National Guard, and U.S. Army Reserves. In 1999, he spent nine months in Bosnia working military intelligence. He was a police officer in Missouri for almost four years before completing his PhD. (Caywood Tr. at 5:3-6-12.)

No dispute.

16. In 2006, Caywood was elected chair of the CJ department and served as chair until July of 2013. (Caywood Decl., ¶ 2.)

Dispute.

When Dr. Caywood ran for chair of the CJ department in 2005, he was unable to get the necessary majority of votes. The Dean then called for a national search. Caywood applied and became CJ chair by default.

There was never an election for a new chair between 2006 and 2013 as required by bylaw. Neither was the chair's performance annually reviewed during this time by members of the department as required by department policy.

17. Caywood was head of search and screen committee that hired Burton. (Burton Tr. at 69:1-2.)

No dispute.

18. Caywood's primary responsibilities as department chair included scheduling professors to teach courses, hiring adjunct professors, maintaining course syllabi, making staff appointments, approving department expenditures and proposing a department budget, and recruiting students, among other duties. In addition, the department chair was to act as a liaison between the faculty and the Dean. (Caywood Decl., ¶ 2.)

Dispute.

Contrary to this statement, department policy and procedures states "The Chair acts as a liaison between departmental personnel and the Dean." Policy further states "the Chair is responsible for the assignment of faculty and academic staff to their teaching responsibilities, schedules and presides at departmental meetings, is responsible for departmental committees, provides approval for all absence requests of members of the Department, maintains a file of each faculty member's academic qualifications including transcripts, and recommends Department faculty members for tenure and promotion in rank to the CRST Commission."

There is no such thing as an "adjunct professor." The plaintiff objects to the misuse of the title "Professor" in this and several other findings of fact in this document. This misuse of titles demonstrates a common problem in the department that titles, such as "Dr." and "Professor" are not properly applied to those who have earned it.

19. As CJ Chair, Caywood had no authority to set professor's base salaries. That function was performed by the Dean and Provost. (Caywood Decl., ¶ 2; Throop Decl., ¶ 44.)

No dispute.

20. In the winter of 2014-15, Caywood was a member of the CJ Department's DRB board automatically because he was a tenured professor in the department. (Dalecki Tr. at 48:10-13.)

Dispute. The CJ DRB is comprised of at least three tenured CJ faculty members and only the chair is automatically a member of the DRB. (Dalecki Decl. Ex. B at 008, Dkt. No. 34-1 at 008)

Dr. Caywood should have been removed due to the obvious conflict of interest. Caywood is a defendant in this lawsuit. Plaintiff appealed the DRB's findings and requested that Caywood be removed from the board due to this conflict of interest but her appeal was ignored.

21. Dr. Sabina Burton was hired as a tenure-track assistant professor, contracted to start teaching in the August of 2009. (Burton Dep. Tr. at 73:19-20;).

No dispute.

22. *In January 2012, Burton applied for promotion to associate professor. (Burton Tr. at 75:4-6.)*

No dispute.

23. *The Department Review Board (DRB) committee initially rejected Burton's bid for promotion because Burton's DRB file did not contain teaching evaluations from her previous position at UC Irvine. (Burton Dep. Tr. at 75:4-77:12).*

Dispute.

CRST recommended that Dr. Burton not be promoted with the statement "Has not shown evidence of effective teaching for the number of years required by URST Procedures." But Dr. Burton's DRB and personnel folder file did contain evidence of effective teaching at UC Irvine. DRB chair Professor Joe Lomax convened a reconsideration after Dr. Burton pointed that out and the DRB recommended promotion. Burton believes someone removed the teaching evidence prior to the first board meeting.

24. *When the teaching evaluations were submitted, the DRB recommended Burton for a promotion. (Caywood Tr. at 81:10-82:20.)*

Dispute.

Teaching evaluation from UC Irvine were already on file as Burton submitted them with her initial application material.

25. *Burton received a salary increase with her promotion to Associate Professor. The promotion and salary increase were both effective starting the 2012-2013 school year. The short delay in approval of Burton's promotion had no effect on her salary, and no effect on the date her promotion became effective. (Burton Tr. at 77:11-22; 475:25-476:2.)*

No dispute.

26. *At UW-Platteville, Burton has not applied for any promotions that she did not receive as a result of the events complained about in the Second Amended Complaint. (Burton Tr. at 496:21-497:6.)*

No dispute.

27. *The members of the DRB in the Spring of 2012 that voted on Burton's request for promotion to associate professor were: Caywood, Joe Lomax, Aric Dutelle, Bob Roberts, John Rink, and Mike Dalecki. (Burton Tr. at 75:18-23.)*

Dispute. The members of the DRB in the Spring of 2012 were Dr. Caywood, Joe Lomax, Aric Dutelle, Bob Roberts, John Rink, and Dr. Mike Dalecki. (Burton Dep., Dkt. No. 38, 75:18-23).

The Department chair, Dr. Caywood, served on the DRB as a non-voting member. (Dalecki Decl. Ex. B, Dkt. No. 34-1 at 008)

This statement misquotes Dr. Burton. Burton objects to the numerous misquotes of her statements in this findings of fact document.

Burton's transcript says that Dr. Caywood was on the DRB but not that he voted on Burton's request for promotion. (Burton Dep. at 75:18-23, Dkt. No. 38 Filed 11/10/15)

Department Policies and Procedures states - "The Department chair will serve on the DRB as a non-voting member."

28. In January of 2013, Burton requested tenure. Burton's tenure request was granted and she received tenure effective for the 2013-14 school year. This was the earliest she could have been eligible for tenure. (Burton Tr. at 279:3-13.)

No dispute.

29. In the fall of 2013, Burton served as the chairperson of the department search and screen committee. The committee produced two candidates for positions in the criminal justice department. (Burton Dep. Tr. at 92:3-13; Dalecki Decl., ¶ 31.)

No dispute.

30. Dr. Michael Dalecki has served in various capacities with UW-Platteville for 24 years. He has served on numerous committees and boards including, but not limited to, serving as a member and Chair of the Academic Standards Committee, serving on the Department Review Board, and serving on the Faculty Senate. (Dalecki Decl., ¶¶ 2, 4-5.)

Dispute sentence 1. Dr. Dalecki has been employed by UW-Platteville since 1999; this is 16 years, not the 24 claimed. (Dalecki Decl. ¶4, Dkt. No. 34 at 2)

31. Between August 2013 and August 2015, Dalecki served as the Interim Chair of the Department of Criminal Justice. (Dalecki Decl., ¶¶ 2, 4-5.)

No dispute.

32. Throop appointed Dalecki as interim chair of the CJ Department in July of 2013, after Caywood stepped down. (Throop Decl., ¶¶ 22-23.)

Dispute.

This statement obscures that this appointment was done in violation of university policy. Three separate investigatory committees found that Dean Throop violated policy in appointing Dr. Dalecki as interim chair.

Throop agreed that an election should have been held in the summer before opting for an external candidate.

Dr. Caywood claims he was removed from the chair position.

Dr. Burton believed Caywood was removed.

Dalecki believed Caywood was removed and that his removal was a tacit, if not overt, admission that at least some of Burton's complaints were valid. (Dkt 34-2 Exh C- Meeting Notes), Oct 17, 2013-bottom of page)

33. Dalecki's duties as interim chair included producing class schedules, overseeing hiring processes, ensuring curriculum is managed properly, addressing student concerns and problems, initiating new programs, overseeing online programs, supervising academic staff and faculty, and budgeting. (Dalecki Decl., ¶ 6, Ex. B.)

Dispute.

Contrary to this statement, addressing student concerns and problems and being a faculty mentor are not listed in the department policy as duties of the department chair.

34. In the winter of 2014-15, Dalecki was not a voting member of the CJ department's DRB board. (Dalecki Tr. at 47:9-11.)

Dispute. In the winter of 2014-15, Dr. Dalecki was an ex-officio member of the CJ Department's DRB board. (Dalecki Dep., Dkt. No. 41, 47:9-11) He was a member but he did not vote.

III. Spring of 2012 – Burton has 100% release time

35. During the spring of 2012, Burton was on sabbatical, meaning that she had 100% release time from teaching. (Burton Tr. at 17:17-18:3.)

Dispute. In the spring 2012, Dr. Burton was released from all teaching responsibilities to perform research, pursuant to the terms of a UW System faculty diversity research award, regarding working profiles of domestic terrorists. (Burton Dep., Dkt. No. 39, 411:1-22; Hawks Decl. ¶2(c), Ex. 20, Dkt. No. 53-20)

In addition to time off from teaching, Dr. Caywood signed a letter stating that "Dr. Burton's grant award period will be devoted solely to research and scholarly activity as described in her proposal document." Caywood also signed a letter verifying that "Dr. Burton will not be called upon to serve in a faculty governance or service activity which conflicts with project work."

36. *Under this arrangement, Burton received her full salary without teaching any regular courses. Burton taught and was paid an additional amount for a course she taught as an overload during the spring 2012 semester. (Burton Tr. at 17:17-18:15)*

No dispute regarding substance. Source for sentence 2 not cited.

37. *During the Spring 2012 semester, Burton served on the LA&E college search and screen committee. The committee's charge was to hire a Dean for the LA&E School. (Burton Tr. at 85:14-86:11; 92:16-19; 93:11-13.)*

No dispute to substance. Immaterial to the charges.

This assignment was before the student sexual harassment incident of Oct 10, 2012.

38. *All of the committee members, including Burton, were asked to stay on the Committee during the Spring 2012 semester. (Burton Tr. at 85:14-86:11; 92:16-19; 93:11-13.)*

No Dispute to substance. Immaterial to the charges.

This assignment was before the student sexual harassment incident of Oct 10, 2012.

39. *During the spring of 2012, Caywood asked Burton to help with student advising because the department was short staffed. (Burton Tr. at 88:1-7.)*

No dispute to substance.

In violation of his signed guidance, Dr. Caywood assigned approximately 60 advisees to Dr. Burton. He didn't ask if she could help, rather Burton received a list of advisees like the other department members, who were not on sabbatical.

During her Sabbatical Caywood also called on Burton to develop a study abroad exchange program with Germany to meet the university's goal of international education.

Burton performed her assigned tasks without complaint and with a high degree of professionalism.

IV. October 10, 2012 – Student Complaint

40. *In the fall of 2012, Dr. Lorne Gibson taught two sections of a criminal justice research methods course designed to educate students in part on various methods of collection data or how different types of experiments are conducted. (Caywood Decl., ¶ 26)*

Dispute.

The course introduces students to qualitative and quantitative data collection. The primary research methods in Criminal Justice are surveys, interviews and observation. CJ research methods curriculum does not contain discussion on how to conduct experiments or quasi-experiments.

Dr. Burton was an instructor for CJ Research Methods in 2012 using the same textbook as Dr. Gibson.

41. Caywood learned after the fact that during two different class discussions on breach experiments that occurred Wednesday October 10, 2012, Dr. Gibson passed a note to a female student during class. The note said “call me tonight 642-4160.” (Caywood Decl., ¶ 26.)

Dispute sentence 2. The note read “Call me tonight!! 642-0020,” which was Dr. Gibson’s personal cell phone number, with the word “call” highlighted in red. (Caywood Decl. Ex WW at 002, Dkt. No. 36-5; Zupec Decl. Ex. A, Dkt. No. 51-1). A copy of the note was given to the Dean and Dr. Caywood in 2012, and included in the exhibits given to the defense counsel.

42. In one section when Dr. Gibson handed the note to a female student she read the note, laughed out loud, passed the note to other students who also laughed, and the lectured continued. Nothing else was said. (Caywood Decl., ¶ 26.)

Dispute. Dr. Caywood lacks the personal knowledge to make this assertion as to the truth of the matter. Uncorroborated testimony cannot support a claim if it is based on rumor. *Darchak v. City of Chicago Bd. of Educ.*, 580 F.3d 622, 631 (7th Cir. 2009); *see also Payne v. Pauley*, 337 F.3d 767, 773 (7th Cir. 2003). The court may not make credibility determinations, weigh the evidence, or decide which inferences to draw from facts in deciding a motion for summary judgments as these are determinations to be made by the factfinder. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986).

43. In the other section he did the same thing handing a note to a female student. This student looked at the note and said or did nothing. (Caywood Decl., ¶ 26.)

Dispute. Again, Dr. Caywood wasn’t present. It therefore, cannot be a finding of fact. Dr. Gibson walked up to Alexandra Zupec and slipped the note under Ms. Zupec’s books in plain view of the five other students in her small group, sitting in a circle. At their urging, Ms. Zupec read the note to the five students in her small group and was shocked and embarrassed by it. Nervous about what to do, a student in the group suggested that Ms. Zupec talk to another teacher about the note. (Zupec Decl. ¶¶7-12, Dkt. No. 51)

44. On October 10, 2012, a student approached Burton and told her that Dr. Gibson, had handed her a note during class time that said, “call me! 642-4160”. (Burton Tr. at 135:20-25; Caywood Decl. ¶ 26; Ex. WW.)

Dispute. The note read “Call me tonight!! 642-0020,” which was Dr. Gibson’s personal cell phone number, with the word “call” highlighted in red. (Caywood Decl. Ex WW at 002, Dkt. No. 36-5; Zupec Decl. Ex. A, Dkt. No. 51-1). On October 10, 2012 at 4:30 pm Ms. Zupec approached Dr. Burton after her class, showed her Dr. Gibson’s note, and asked for Dr. Burton’s help. Dr. Burton confirmed that the note was inappropriate; she told Ms. Zupec she would notify the Department chair and determine the University official Ms. Zupec should talk to about it. (Zupec Decl. ¶¶15-18, Dkt. No. 51) (exhibit ZF) Ex. WW

45. *That evening, Burton informed Throop, via email, that there was an incident on campus that involved a student and a professor that appeared to be inappropriate. (Burton Tr. at 254:23-255:5.)*

Dispute. Burton was clear that it was an inappropriate note.

“That evening, Burton wrote an email to Throop which said “one of my student approached me today and showed me a note that she has received from one of our CJ faculty. It was an inappropriate note. I assume I’ll talk to Tom about it? Or is it better to involve student affairs.”

The dean advised Burton to take the matter to Student Affairs.

46. *The following morning, Burton told Caywood about the student complaint and showed him the note. (Caywood Decl., ¶ 27, Ex. WW; Burton Tr. at 256:3-12.)*

Dispute. Early the following morning, Dr. Burton told Dr. Caywood about the student complaint, and that Dr. Burton would inform Student Affairs in accordance with Dean Throop’s advice. Later, she emailed the photo of the note to Dr. Caywood, at his request. (Burton Dep., Dkt. No. 38, 255:8-256:6, 257:2-6)

47. *Caywood was surprised when he saw the note, and wanted to find out from Dr. Gibson what had happened. (Caywood Decl., ¶ 27; Burton Dep. Tr. At 256:3-12.)*

No dispute.

48. *Dr. Gibson was teaching that morning. Caywood sat in on both of his classes. The second class was over around noon. (Caywood Decl., ¶ 28.)*

No dispute.

49. *Caywood immediately met with Dr. Gibson, discussed the note incident with him, and reviewed his course syllabus for the previous day. (Caywood Decl., ¶ 28.)*

No dispute.

50. *Dr. Gibson explained the note was part of a lecture on breach experiments and the note was intended as an example of how to elicit a response. They talked about how the student may have misunderstood the purpose of the note. (Caywood Decl., ¶ 28.)*

Dispute the second sentence. Dr. Caywood’s speculative testimony about the student’s reaction cannot support a claim, if it is based on intuition, rumor, or is inherently implausible. *Darchak*, 580 F.3d at 631; *see also Payne*, 337 F.3d at 773. The court may not make credibility determinations, weigh the evidence, or decide which inferences to draw from facts in deciding a motion for summary judgments as these are determinations to be made by the factfinder. *Liberty Lobby*, 477 U.S. at 255. Caywood’s explanation of the students’ reactions are hearsay.

51. *Caywood instructed Gibson to email both sections of research methods to explain what happened. Gibson emailed his class an explanation at 12:47 p.m. on October 11, 2012. (Caywood Decl., ¶ 28.)*

Dispute.

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

Oct 11, 2012 (12:47 PM): Dr. Gibson sent an email to his class with what he called an “apology,” for the sexual harassment incident that he called an “experiment.”

A grievance committee called Gibson’s email to the students “slut shaming.” In this letter they wrote that Gibson’s actions were “egregious” and that Dr. Gibson showed “extremely poor judgment” and that Dr. Gibson’s email was “beyond reprehensible.” (Dkt. No. 53-32 at page 1, April 17, 2013)

52. *In the mean time Caywood emailed Burton with the explanation of why the note was passed. (Caywood Decl., ¶ 29.)*

Dispute.

Caywood emailed Burton with Gibson’s explanation of why the note was passed.

Gibson’s explanation made no sense because his class curriculum did not include any discussion on breach experiments. Breach experiments are psychological experiments and have no place in a Criminal Justice class on research methods. The text book has no discussion on conducting breach experiments.

53. *From Thursday afternoon onward, Caywood had a number of emails from Throop and Burton. By this time, the Provost and Director of UW-Platteville Human Resources were also involved in a number of emails about the incident. (Caywood Decl., ¶ 29.)*

Dispute.

This statement implies that Burton had something to do with the Provost and HR director getting involved. To infer the same would be a mistake. Dr. Burton does not know when the Provost or the Director of HR became involved. Burton did not involve them. The fact that these administrators became involved speaks to the significance of the event.

54. The Dean directed Caywood late Thursday evening October 11th to set up a meeting with the Director of HR, the Dean, Dr. Gibson and Caywood for Tuesday October 16th at 8:30 AM, which Caywood did. (Caywood Decl., ¶ 29.)

No dispute.

55. Caywood is a trained investigator and he investigated the in-class note incident that lead to the student complaint. (Caywood Decl., ¶ 30)

Dispute:

Dr. Caywood was never an investigator (forensic or criminal) but rather a patrol officer. Police officers are not considered “trained investigators.” Detectives are trained as investigators.

Talking to Dr. Gibson alone is hardly an investigation. Ms. Zupec didn’t talk to Caywood about the incident. There is no reference to the fact that Caywood ever talked to any other student from Gibson’s CJ Research Methods course about the student complaint incident.

Caywood investigated by talking to Gibson and immediately believing him. He then looked for anything Burton might have done wrong by tersely asking Burton (on Wednesday, October 17, 2012 8:42:23 AM) for a timeline of events. Burton responded with everything Caywood asked for.

56. Caywood tried to ascertain who the student was so he could speak to her to find out what happened. (Caywood Decl., ¶ 30.)

Dispute. On October 11 and 12, 2012, Dr. Caywood asked and received from Dr. Burton the name of the student so he could intimidate her and Dr. Burton responded that Dr. Caywood should keep the student’s name confidential, and should discuss the matter with Dean Throop. (Hawks Decl. ¶6(j), Dkt. No. 53-27)

57. Caywood was instructed at the October 16th meeting to stop trying to speak to the student. Caywood was instructed by human resources on October the 17th to quit asking Burton for information. Caywood stopped his investigation. (Caywood Decl., ¶ 30.)

Dispute.

Caywood later talked to the student about the incident.

58. Caywood was assured at the October 16th meeting that the dean or the Director of HR would contact the student. (Caywood Decl., ¶ 30.)

No dispute.

59. Caywood had no further involvement in the incident. (Caywood Decl., ¶ 30.)

Dispute.

Caywood's involvement was ongoing, as he retaliated against Dr. Burton for having reported the incident. As an example, he unilaterally created new departmental reporting procedures that conflicted with university policy. (Hawks Decl. ¶10(i), Ex. 57, Dkt. No. 53-57)

60. At some point, however, Caywood learned who the student was, and some time later he had an advisee meeting with the student in question. Caywood asked her if she had been contacted by either the Dean or Director of HR. She said she had not. (Caywood Decl., ¶ 30.)

Dispute. Dr. Caywood sought (and received from Dr. Burton) the name of the student, and Dr. Caywood later called the student into his office and told her that the note from Dr. Gibson was all a misunderstanding, in that it was an experiment that Dr. Caywood had approved, and the student told Dr. Caywood that she was uncomfortable and embarrassed by the incident. (Hawks Decl. ¶6(j), Ex. 27, Dkt. No. 53-27; Zupec Decl. ¶¶27-29; Dkt. No. 51)

61. Caywood believes the issue with the student was mishandled from the start, by nearly everyone involved, including himself. (Caywood Decl., ¶ 31.)

Dispute. The assertion is speculative. Self-serving and speculative testimony cannot support a claim if it is based on intuition, rumor, or is inherently implausible. *Darchak v. City of Chicago Bd. of Educ.*, 580 F.3d 622, 631 (7th Cir. 2009); *see also Payne v. Pauley*, 337 F.3d 767, 773 (7th Cir. 2003). The court may not make credibility determinations, weigh the evidence, or decide which inferences to draw from facts in deciding a motion for summary judgments as these are determinations to be made by the factfinder. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986).

Jeanne Durr told Dr. Caywood that Dr. Burton didn't do anything wrong. [Dkt. No. 98 Audio Exhibit A2]

Jeanne Durr wrote to Dr. Caywood that "Sabina acted quite appropriately."

Caywood admitted that he owes Burton an apology. (Caywood dep. at 50.3 to 50.5 Dkt. No. 40 Filed 11/10/15)

Therefore, this finding of fact is false. Burton did not mishandle the issue.

62. *Caywood realized that part of the problem was lack of policy that instructed what everyone was supposed to do in such a situation where a student makes a complaint about one professor to another professor. (Caywood Decl., ¶ 31.)*

Dispute. This assertion is uncorroborated, self-serving and speculative; testimony cannot support a claim if it is based on intuition. *Darchak*, 580 F.3d at 631; *see also Payne*, 337 F.3d at 773. The court may not make credibility determinations, weigh the evidence, or decide which inferences to draw from facts in deciding a motion for summary judgments as these are determinations to be made by the factfinder. *Liberty Lobby*, 477 U.S. at 255.

Caywood's "realization" was incorrect. School policy clearly describes how to handle these sorts of issues. There is no lack of policy, only lack of adherence to established policy. Ignorance of the law is not an excuse.

Caywood wrote to Throop on Feb 6, 2013 that he would use every trick available, that he wouldn't break any laws but that he would bend them to fit his needs.

63. *Caywood created a policy and distributed it at a departmental meeting that occurred sometime around October 16, 2012. (Caywood Decl., ¶ 31.)*

Dispute.

On Oct. 16, 2012 (10:20 am): Dr. Caywood sent out a department email with an attachment on "how we should deal with student complaints."

The chair is not authorized to unilaterally write departmental policy, especially a policy that contradicts university policy.

To this date Caywood's flawed instructions to the department on how to deal with student complaints has not been addressed by the department or the university even though Burton asked for an investigation into it.

64. *Caywood is a big believer in the chain of command. (Caywood Decl., ¶ 32.)*

Dispute. This testimony is speculative and self-serving. Uncorroborated, self-serving, speculative testimony cannot support a claim if it is based on intuition, rumor, or is inherently implausible. *Darchak v. City of Chicago Bd. of Educ.*, 580 F.3d 622, 631 (7th Cir. 2009); *see also Payne v. Pauley*, 337 F.3d 767, 773 (7th Cir. 2003). The court may not make credibility determinations, weigh the evidence, or decide which inferences to draw from facts in deciding a motion for summary judgments as these are determinations to be made by the factfinder. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 255 (1986).

Dr. Caywood's belief is not a finding of fact nor does it belong in a university. It also violates school policy on how to handle student sexual harassment complaints.

Caywood also does not apply this belief to his own life:

May 18, 1999 - Caywood's wife, Lana Caywood, sent a letter to Governor Tommy Thompson, UW System President Katharine Lyall and Chancellor Markee concerning a pay dispute for Caywood.

The US military has provisions for a Marine, Soldier or Sailor to disobey an illegal order or to seek help from higher authority for sex discrimination, sexual harassment or illegal actions of a direct superior.

65. Caywood believes that if he had been informed about the student note first, he could have quickly contacted Gibson and directed him to apologize to his students, and solve the problem before it got out of hand. (Caywood Decl., ¶ 32.)

Dispute. This assertion is speculative, and Dr. Caywood's speculation is misplaced at summary judgment, as the court cannot determine its credibility. Uncorroborated, self-serving, and speculative testimony cannot support a claim if it is based on intuition, rumor, or is inherently implausible. *Darchak*, 580 F.3d at 631; *see also Payne*, 337 F.3d at 773. The court may not make credibility determinations, weigh the evidence, or decide which inferences to draw from facts in deciding a motion for summary judgments as these are determinations to be made by the factfinder. *Liberty Lobby*, 477 U.S. at 255.

Dr. Caywood's stated personal belief on this occasion implies that Dr. Burton made a mistake and that made the problem got out of hand. It appears that Caywood preference would be to cover violations up so they would not interrupt "business as usual." This statement means that Caywood would have "solved" the problem by keeping it in house and interfering with a proper examination of and response to the incident.

Caywood could not have solved the Sexual Harassment incident no matter how quickly it was reported to him. By the time Burton found out about it the Sexual Harassment incident had already occurred. Caywood implies that the act of sexually harassing a student was not the problem but that the problem was that Burton did not dissemble to cover it up.

66. As it stood, Dr. Gibson was not aware there was a misunderstanding until the next day. (Caywood Decl., ¶ 32.)

Dispute.

Caywood only knows what Gibson told him. Gibson, however, was aware that handing a female student a note saying "Call me tonight!" with his personal cell phone number was inappropriate or he would not claim that he was conducting a breach experiment.

Object. This statement implies that the sexual harassment incident was a simple misunderstanding.

V. Course, Program, and Major Approval Process

67. UW-Platteville has a procedure that must be followed before offering new courses or curricula. New courses must obtain departmental approval, either through a department curriculum committee or by the department chair person's signature on a proposal. (Burton Tr. at 206:5-24.)

No dispute to substance.

This statement implies that Burton had not received permissions before attempting to do any of the listed activities but inferring the same would be a mistake.

68. If approved through the department, the course must obtain approval from the College Curriculum Committee. (Burton Tr. at 206:5-24.)

No dispute to substance.

This statement implies that Burton had not received permissions before attempting to do any of the listed activities but inferring the same would be a mistake.

69. After approval through the College Curriculum Committee, approval then must be obtained through a body called the University Undergraduate Curriculum Committee (UUCC). (Burton Tr. at 207:4-10.)

No dispute to substance.

This statement implies that Burton had not received permissions before attempting to do any of the listed activities but inferring the same would be a mistake.

70. If a new major area of study is to be established, the UW Board of Regents must approve. (Burton Tr. at 208:6-18; Caywood Tr. at 113:2-8.)

No dispute to substance.

This statement implies that Burton had not received permissions before attempting to do any of the listed activities but inferring the same would be a mistake.

71. The exception to these approvals is for Current Topics courses. A new course, taught as a "current topics" course, may be offered three times without obtaining college or university approval. If the course is to be offered more than three times, it must go through the curriculum committee for approval. (Burton Tr. at 22:10-23:18.)

No dispute to substance.

This statement implies that Burton had not received permissions before attempting to do any of the listed activities but inferring the same would be a mistake.

72. *Burton suggested having lower level classes taught by senior level faculty. (Burton Tr. at 445:6-15)*

Dispute. Dr. Burton stated that at her prior place of employment the Introduction course was taught by senior faculty and that she supported that. However, in the UWP Criminal Justice department lower level courses are regarded as less prestigious and are almost exclusively taught by junior academic staff and adjuncts members (Burton Dep., Dkt. No. 39, 444:19-445:24). Under Dalecki introduction courses were assigned as “punishment” or to humiliate senior faculty. (Burton Tr. at 444.19 to 446.5)

73. *During the 2014-2015 school year, Thomas Caywood was the most senior member of the CJ department. During this time period, he was assigned to teach the Intro to Criminal Justice course, a lower level course. (Burton Tr. at 446:15-447:1; Kieckhafer Decl. Ex. A.)*

No dispute regarding substance. The source for sentence 2 is not cited.

Object to the implication that Caywood was assigned intro courses as a good deal for senior faculty.

On Jan 30, 2014 Lana Caywood (Dr. Caywood’s wife) swore at Dr. Dalecki, banged on his car window hard enough that he thought she might break it and yelled “how dare you humiliate my husband by making him teach intro classes!”

VI. Burton's Proposed Cybercrime curriculum

74. *UW-Platteville has never offered a cybercrime course as part of its regular, undergraduate criminal justice curriculum. (Throop Decl., ¶ 7; Throop Decl., ¶ 7.)*

No dispute for the time prior to Jan, 2013.

75. *Prior to January of 2013, Burton had never taught a course or written an article, or given a paper on the subject of cybercrime. (Bensky, Decl. ¶ 4, Ex. FFFF; Burton Tr. at 4:8-10, Ex. 3; Burton Tr. at 21:13-22:4; Burton Dep. Tr. at 62:12-63:1.)*

Dispute.

Contrary to this statement, Dr. Burton has given briefings including informative papers to colleagues in Germany related to cybercrime (cyber-espionage and illegal hacking) and briefings on the threat of cyber-terrorism and online radicalization that made reference to the work she had done in this field since the late 1980s.

In fall 2012, Burton was asked to be an expert consultant to the European Union to create a monitoring System for Suspicious Online activities.

76. *As of January 2013, Burton had not published anything on the topic of cybersecurity that had been reviewed by her national peers. Peer reviewed publication is the acknowledged standard for the establishment of expertise in higher education. (Throop Decl., ¶ 21.)*

Dispute.

Cybercrime is a brand new field in higher education. Many experts in this field are practitioners. Peer reviewed publication is not the only standard for establishing expertise. Dr. Burton's unique professional background exposed her to cyber-security long before it was on the radar of her national peers. Burton had followed the development of cyber-attacks from the 1980's and had been part of expert briefings to high government officials in Germany. Burton had been privileged to information on hacking and hackers that was not made available to most people.

Burton has been identified as a valuable colleague by her peers in cybersecurity and cyber-terrorism research.

In fall 2012, Burton was asked to be an expert consultant to the European Union to create a monitoring System for Suspicious Online activities.

77. *In February of 2012, Bob Roberts, who worked with UW-Platteville's grant-writing department the Office of Sponsored Programs, suggested that Burton apply for a National Science Foundation (NSF) grant to support the development of a cybersecurity program within the criminal justice department. (Burton Tr. at 209:23-25; Caywood Decl., ¶ 44.)*

No dispute.

78. *Sometime around the Spring of 2012, Burton, together with faculty from other colleges and departments at UW-Platteville, submitted a proposal to the National Science Foundation. (Caywood Decl., ¶ 33.)*

No dispute.

79. *Caywood's understanding was that its goal was to create a cyber-security research center at UW-Platteville. (Caywood Decl., ¶ 33.)*

Dispute.

A proposal cannot, by definition, have a goal. The goal of Caywood, Dutelle, Burton, Roberts and others was spelled out by the UW-Platteville and the City of Platteville feasibility study of Aug. 10, 2012 that was uploaded to <http://platteville.org>. On page 26 it says: "The Center for Forensic Sciences [...] *will* (emphasis added) lead to the establishment of UW-Platteville as a leader in Forensic Science, Cyber Security and Criminalistics." Dr. Caywood is named as a resource on this page. Dr. Burton was named last on this list indicating that Caywood was more of a driving force for this program than Burton. (Dkt. No. 101-5 at page 26)

80. *The grant request was for several hundred thousand dollars. With a grant of that magnitude, Caywood was more comfortable putting the cart before the horse. In other words, had Burton and the others won the grant, everyone would have scrambled to find a way to make it happen. (Caywood Decl., ¶ 33.)*

Dispute. Speculation as to the circumstances that might follow if the university had received the grant are irrelevant in determining the motion for summary judgment. Uncorroborated, self-serving, speculative testimony cannot support a claim if it is based on intuition. *Darchak*, 580 F.3d at 631; *see also Payne*, 337 F.3d at 773. The court may not make credibility determinations, weigh the evidence, or decide which inferences to draw from facts in deciding a motion for summary judgments as these are determinations to be made by the factfinder. *Liberty Lobby*, 477 U.S. at 255.

Robert Roberts, UW-Platteville Sponsored Programs, and Dr. Caywood approached Dr. Burton in Feb. 2012, while she was on a sabbatical for terrorism research, to join their proposed Center for Forensic Sciences. Both convinced Burton to change her research focus from terrorism to cyber-crime as it would fit in better with their proposed forensics center. Cyber-crime was supposed to bring the money in for the Forensics Center as it had higher promise for funding.

Object to the implication that Burton was the driving force behind the NSF grant request. Burton was one of many who sought the grant.

If anyone put the cart before the horse it was Caywood.

Caywood implies that a large influx of money for a program would be a bad thing because it would require him to do work.

81. *As Burton's department chair, Caywood's signature was required on the grant application. (Caywood Decl., ¶ 33.)*

No dispute to substance.

Caywood signed the NSF grant proposal. (Dkt. No. 53-49, at 1 Filed 12/01/15)

82. *During the following few months, Burton worked with Roberts and Caywood to gather information necessary for the NSF grant application. These efforts included meeting with people at the Wisconsin Department of Justice, meeting with state legislators, looking into other programs related to cybersecurity, and having meetings to discuss logistics of how the program could be offered. (Burton Tr. at 207:19-212:9.)*

No dispute.

83. *On April 17, 2012, Burton submitted NSF grant for development of a cyber crime curriculum at UP-Platteville. Around August of 2012, Burton learned*

she did not receive the NSF grant. The NSF grant request was for about \$320,000. (Burton Tr. at 14:19-15-15; Burton Tr. at 17:10-12; Caywood Decl., ¶ 33.)

Dispute sentence 3. The NSF grant request was for \$485,932. (Hawks Decl. ¶10(g), Dkt. No. 53-49)

The NSF grant was not just to create a curriculum. It was for a full blown cyber security forensics center. A curriculum can be developed for less than \$10,000.

Objection: This statement implies that Burton was the only one who applied for the grant. It was a joint effort with Caywood, Roberts, Dutelle and many others. Caywood signed the application stating “I certify that I have reviewed the proposal and found it to be complete, including required clearances, budget, and commitments involving space, faculty/staff time, and matching funds. In addition, I certify that all resources and other provisions of any award will be fulfilled.” . (Dkt. No. 53-49, at 1 Filed 12/01/15)

84. Sometime in the fall of 2012, Caywood learned Burton and the others had not received the grant. (Caywood Decl., ¶ 34.)

Dispute.

This implies that Caywood did not receive the grant. Inferring that would be a mistake. Caywood’s signature authorized the grant so his grant request was denied. This also affected Burton and others who worked for Caywood on the proposal.

85. Caywood was aware that Burton remained interested in getting some sort of cybersecurity program (degree, certificate, or emphasis) started at UW-Platteville. (Caywood Decl., ¶ 34.)

Dispute.

Dr. Caywood was supportive until Oct. 10, 2012 and encouraged Burton to re-apply for the grant on that date (10/10/12 email)

86. Caywood supported Burton’s efforts to create and develop a new program, but had emphasized to her the need to follow the required steps for starting new courses. (Caywood Decl., ¶ 34.)

Dispute. Dr. Caywood never talked to Dr. Burton about any concerns regarding the required steps. He never mentioned a concern until Jan. 24, 2013. Dr. Burton knew the steps to create a new course and program and respected the procedure and process. Burton followed all policies and acquired all necessary approvals for each step of the process.

(Hawks Decl. ¶¶2(b), 3(a), Ex. 2, 4, Dkt. Nos. 53-2 and 53-4)

Defense has not shown any required signature that Burton failed to obtain.

87. *Burton created two websites called the Journal of Cyber Security and Journal of Criminal Justice. The website was not an official website off UW-Platteville. (Throop Decl. ¶ 11, Exs. HHH, III.)*

Dispute regarding substance. The sources are Ex. HHH and III, Dkt. Nos. 37-2 and 37-3.

Burton never claimed that any of the sites were official UW-P websites. Burton created two, single page websites in which there were a total of two pages. These website had less findability than a typical tweet. The two proposed online open source journals were never advertised and had no exposure on search engines until about January 9, 2013. The only effort made in Search Engine Optimization was to list the site with Google on about that date. Generally, it takes at least 6 months of work to get a site to come up to the top three pages of Google searches for any given keyword.

These proposed open source journals received less than one visitor per day during the time it was listed with Google.com. There was a spike in visits on Jan 22 and Jan 24 of 2013. The visitors to the site included the webmaster's visits, Dean Throop's visits and anyone else's visits to whom Dr. Burton had given a link to the site.

The odds of anyone finding the proposed online open source journals using a search engine with keyword "UW Platteville" between Oct 2012 and Jan 2013 was astronomical. One could only find the site by accident or by typing in the exact URL.

The proposed online open source journals were used as an online easel to display Burton's proposed cyber security program plans to people she felt might want or need that information.

88. *In October of 2012, Burton applied for a \$7,000 donation from AT&T to assist in the development of a cybercrime curriculum at UW-Platteville. To apply for this donation, Burton sent AT&T a summary of the NSF proposal. (Burton Dep. Tr. at 233:9-19; Throop Decl., ¶ 8; Throop Decl., ¶ 9, Ex. GGG.)*

Dispute.

Dr. Burton did send AT&T some information about the NSF proposal but not as part of the application for the AT&T grant.

89. *Burton's application for the donation stated, "The Department of Criminal Justice at the University of Wisconsin at Platteville is in the process of developing a curriculum for cyber-security. In consultation with faculty from the School of Engineering and experts from the field, Burton is working to identify and develop specialized cybersecurity training to improve workforce competency levels in the public and private sector." (Throop Decl., ¶ 9, Ex. GGG.)*

No dispute.

90. *The application also stated, “Our cyber-security curriculum will be designed to educate our students in recognizing cyber-criminals, understanding their modus operandi, identifying and articulating what evidence should be seized, and preparing reports that will hold up in court. The curriculum will include the vulnerabilities of our public and private sectors, identifying security concerns and illicit activity, and methods to provide better private and public community and security agency services.” (Throop Decl., ¶ 9, Ex. GGG.)*

No dispute.

91. *Throop did not see the grant application at the time it was submitted. (Throop Decl., ¶ 9.)*

Dispute.

It wasn't a grant application, but rather a donation request for the UW-Platteville Foundation. That is why the donation didn't benefit Burton personally and could not be used for release time. The application did not require any approval, according to the UW-Platteville Foundation and UW-P Sponsored Programs. It was a donation for a particular purpose, and was not a grant.

92. *Throop felt these statements were untrue. (Throop Decl., ¶ 10.)*

Dispute. The court cannot consider the weight of testimony in deciding a motion for summary judgment; those determinations should be left to the factfinder. *Liberty Lobby*, 477 U.S. at 255.

Caywood, Throop, the Chancellor's office and many other UW-P officials were informed of the donation in fall 2012, and responded positively at the time. No questions or concerns were voiced prior to Jan. 24, 2013.

93. *Because Throop is responsible for curriculum matters within LA&E, she knew that no such curriculum had been developed, nor had it been approved or even reviewed by the college. (Throop Decl., ¶ 10.)*

Dispute.

It is unclear as to what curriculum Throop is referring. Burton never stated that there was a cybercrime curriculum in existence, only that she was working on developing a cybercrime curriculum that, when finished, would have been proposed to the department, college, and university. This is the proper way of doing it for undergraduate course development. First the course is developed, and then is presented to the various curriculum committees.

94. *When Burton applied for the AT&T donation, Caywood was in the hospital. Burton told Caywood she was applying for additional money to support cyber-security, and Caywood reacted in a positive manner to that information. (Burton Tr. at 234:8-235:12)*

Dispute.

When Caywood was in the hospital, Burton received a verbal assurance from Jim Jermain, regional vice-president of AT&T, that AT&T would donate money to the CJ program to further cyber-security education in the amount of \$ 5000.- to \$ 7000 and Burton communicated this to Caywood. Jermain issued a written invitation to apply for the donation and Burton filled out the request after Caywood had returned from the hospital. Burton showed the application to Caywood before submitting it. (Burton Dep., Dkt. No. 38, 233:9-235:12; Dkt. No. 37-1)

95. In or around November of 2012, Throop discovered that Burton had created two online websites regarding a proposed cybersecurity program at UW-Platteville. (Throop Decl., ¶ 11.)

Dispute. Dr. Burton notified Dean Throop on October 6, 2012, by email, that she had created two open source journals regarding a proposed cybersecurity program (Hawks Decl. ¶10(d), Dkt. No. 53-46). Dean Throop reviewed them both on October 15, 2012, in her office, where Dr. Burton gave Dean Throop the URLs for the two open source journal pages. Dr. Throop typed the URLs onto her computer and viewed the two web pages with Dr. Burton. (Burton Decl. ¶16, Dkt. No. 54-9).

Object to the word “discovered”, as one cannot “discover” something they already know of.

96. Burton did not obtain permission from Throop to make any representations about the status of her proposed cyber-security program at UW-Platteville on the websites she created. (Throop Decl., ¶ 12.)

Dispute.

Both Caywood and Throop reviewed the pages in October 2012 and were impressed. They both gave their approval at that time

97. When Throop saw the websites, she had serious concerns about the representations being made because Throop was worried that students would make arrangements to come to UW-Platteville anticipating matriculating in a program that did not, and still does not, exist. Throop felt that students would be rightfully very upset if this happened. (Throop Decl., ¶ 13.)

Dispute.

Contrary to this statement, Burton sent Throop an email on Oct 6, 2012 at 10:14 PM with her proposal attached. The proposal contained the URL addresses for the proposed online open source journals. (Dkt. No. 53-44 Filed 12/01/15)

Burton showed Dean Throop the one page web sites on about Oct 8, 2012 and Dean Throop had nothing but positive comments about them. Throop gave Burton her explicit permission to continue with her efforts in cyber-security at that time, including the online open source journals.

Burton was never told, before Jan 24, 2013, that Dean Throop had any concerns whatsoever with the proposed cyber security program (a program goal that was pushed by the university and Caywood in 2012) or with the proposed online open source journal web pages.

Between Oct 6, 2012 and Jan 24, 2013 Throop did not mention any concerns about the online journals.

Students could not have found the sites in an online search, unless they used the exact URL, or scrolled through thousands of pages of search engine results.

98. In addition, Burton asserted expertise on these websites without any evidence that the CJ department, in fact, had such expertise. (Throop Decl., ¶ 13.)

Dispute. Contrary to this statement there was no assertion to any “expertise” anywhere on either website.

JournalofCyberSecurity.com - Dkt. No. 37-3

JournalofCriminalJustice.com - Dkt. No. 37-2

99. These websites were not officially sanctioned by the University, and they were not part of UW-Platteville’s website. However, Burton had placed the UW-Platteville logo on the websites. (Throop Decl., ¶ 14.)

Dispute.

The UW-Platteville logo was never on either website. (Dkt. No. 37-2, 37-3)

This surprising accusation was never brought up before this document. It was not used in Throop’s letter of direction. It was not mentioned in any notes about the subject and it was not on the defendants’ screen shots of the websites. A logo was not mentioned in Throop’s email to Burton asking for her to take off all reference to the university such as email addresses.

100. This concerned Throop because someone viewing the website could conclude that the website and its content were officially sanctioned and supported by the University. (Throop Decl., ¶ 14.)

Dispute.

False, this is in reference to the false assertions about the logo which was never on the web pages. The logo was not on the web pages and no statement was made anywhere that the University created, sanctioned or supported the websites. No logo was depicted that even remotely resembles the UW-P logo nor were the official colors of the university (blue and orange) used for the two sites.

101. AT&T approved the \$7,000 donation and someone from AT&T drafted a press release announcing the award. (Throop Decl., ¶ 15.)

No dispute.

102. Someone from AT&T forwarded a draft of the press release to Burton on Wednesday evening; the final press release was due the next day. (Burton Tr. at 247:4-247:10.)

No dispute.

103. The press release stated, among other things: UW – Platteville’s Department of Criminal Justice is currently developing the cyber security curriculum in consultation with faculty from the School of Engineering and experts from the field. The new course is expected to be available to undergraduate students beginning spring of 2012. The university is also developing an online graduate course in cyber security to be taught starting in the spring of 2014. (Caywood Decl., ¶ 36, Ex. YY)

Dispute.

Dr. Burton accidentally wrote “2012” instead of “2013” in the blank as one of her edits. It is hard sometimes even to date checks correctly in January of a new year. Burton made a simple typo that could easily be noticed by reading the context of the sentence. Clearly nobody would expect the new course to be available beginning sometime in the past. It was a simple typo. Burton was very rushed when she made the edits as she did so between classes. Burton spent a total of about 10 minutes on the edit. If Throop couldn’t tell right away that this was a typo, a 30 second phone call would have cleared it up. Throop is highly educated and can read well enough to be able to tell that the date 2012 was a typo. The article was given to Throop so she could correct little, easily recognized errors such as that.

104. Like the grant application, the release contained a number of misstatements about the existence and status of a cybersecurity program. (Throop Decl., ¶ 15.)

Dispute.

It wasn't a grant application but an application for a donation to UW-P Foundation. The donation wasn't for Burton but for the UW-P Foundation for the CJ Dept.

Defendant Throop repeatedly mischaracterizes the nature of the application. She is fully aware that the \$ 7000.- was a donation and not a grant. Contrary to Throop's statement, she has identified no misstatements in the application or the press release except her ridiculous assertion that a typo indicated that Burton expected to go back in time and teach a course that had not yet been developed. The only misstatement in the press release was a typo "2012" vice "2013."

105. Throop was concerned that Burton was making representations about a program that had not received the required approvals from the CJ department, the college of LA&E, or the University's faculty. (Throop Decl., ¶ 15.)

Dispute

Throop had no reason to be concerned. Burton had received all the required approvals for the stage her efforts were in. Burton had made no misrepresentations except an easily recognizable typo.

The application did not state, imply or even hint that UW Platteville has a full blown cyber security program, complete with classrooms and facilities and staff ready to teach already in existence but was very clear in stating that the funding was to be used to develop a curriculum. No reasonable person would expect that a meager amount of \$7000 would be able to institutionalize an entire cyber-security program with buildings and staff etc. However, it can aid in developing a component of a small program such as early class curriculums. (Dkt. No. 37-1)

Throop applies disparate treatment. Before the student complaint, nobody in the entire university took offense to language chosen by the UW-P Sponsored Programs announcing that the NSF grant would lead to institutionalization of a Cyber-Security program with a BS degree in cyber-security at UW-P. No proposals were submitted to any curriculum committees at that time (not at department, college, university or UW-system level). Nor is that the case for any application of grants. Dr. Gibson, Dr. Caywood and Mr. Dutelle have all submitted grant proposals prior to having their proposals approved at any level of the university approval process. This is clearly disparate treatment.

106. Throop drafted an email to the Provost, Mittie N. Den Herder, on January 24 when she learned of Burton's misrepresentations. (Throop Decl., ¶ 16.)

Dispute.

Burton made no misrepresentations in the AT&T donation application. Dkt. No. 37-1. Burton made only one misrepresentation on the press release, an easily recognized typo.

107. Although Throop was concerned about Burton's misleading statements and insisted that they be corrected in the release, she made sure to express her support for Burton's initiative and efforts in obtaining the \$7,000 grant and for her work and her passion in the CJ department. (Throop Decl., ¶ 17.)

Dispute.

Burton made no misleading statements in the AT&T donation application. Burton made only one misrepresentation on the press release, an easily recognized typo. Rather than asking Burton to correct the typo Throop withdrew all support.

On Jan 24, 7:14 PM, 2013 Throop wrote "I have backed you on every single issue you discuss below except for the cybersecurity one. "This email also contained a number of lies about conversations that never happened. Throop wrote "You and I have had numerous discussions, in person and in email, about moving forward with cyber-security--that you are not empowered to do that without your department's backing." There were no such discussions. Throop in fact was willing to sign off on another cyber-crime grant application to NSF in October 2012. When Sponsored Programs couldn't submit the application to her with enough time to review it, she refused to sign it. She felt rightfully rushed by Sponsored Programs. Burton emailed her on Oct. 11, 2012, and in the same email she mentioned the student incident, stated that she understood Throop's reason and also felt too rushed by the university office of Sponsored Programs. Throop's statement is therefore incorrect and misleading.

On Jan 24, 2013 the rug was "pulled out from under" Burton. (Dkt. No. 98 Audio Exhibit A6 CD II)
Dkt. No. 37-1. (Dkt. No. 101-16)

108. As a result, Throop wrote Burton an email on January 24, 2013, reiterating support for her efforts and explaining Throop's concerns. (Throop Decl., ¶ 17.)

Dispute

Throop did not explain her concerns. She used very vague and ambiguous statements implying that Burton had made mistakes, but she did not specify or explain any mistakes, misleading statements, misrepresentations or anything at all that Burton had done wrong.

Throop conspired with Den Herder to decide how best to blindside Burton rather than talking to her and asking for evidence of her expertise.

Throop has never told Burton that any of her actions had anything to do with any misrepresentation of expertise, except through the processing of this lawsuit. But in a letter to

Provost Den Herder she wrote that Burton misrepresented herself as an expert in Cyber-Security. (Dkt. No. 101-16)

109. Around January 24, 2013, Caywood received the press release regarding a \$7,000 grant from AT&T. Burton gave it to Caywood to obtain his approval. (Caywood Decl., ¶ 36; Burton Tr. at 247:4-249:4)

Dispute

Burton gave the article to Caywood to show him the proposed press release. She was not asking for approval at that time, but just informing him of the press release. Burton did not write the release. It was written by AT&T. At that time Burton had only had a few minutes to even consider editing the release as she had to get ready for class. The \$ 7000 was a donation and not a grant.

110. Upon review, Caywood objected to what was stated in the press release and had very serious concerns because he believed there were errors in it. (Caywood Tr. at 11:13-22; Caywood Decl., ¶ 36.)

Dispute

In the morning of Jan 24, 2013, Burton spoke with Caywood before classes and Caywood said nothing about any concerns about the press release or the online open source journal web pages. Although he saw Burton twice before his “Letter to Sabina” that he sent her in the early afternoon he didn’t say a word about any concerns.

Caywood blindsided Burton with his “letter to Sabina” of Jan 24, which was much farther reaching than pointing out errors in a press release. He also sent this letter to Dean Throop before Burton could address his concerns. He sent the letter after learning that Burton’s father was dying.

111. Specifically, Caywood’s concern was that neither the Criminal Justice Department nor the university faculty governance had approved a cybersecurity curriculum, but the press release, to him, implied otherwise. (Caywood Tr. at 15:22-17:18.)

Dispute

Contrary to this statement: The press release did not state or imply that the university had approved a cyber security curriculum.

112. Around that same time, Caywood also reviewed the websites Burton had created and posted to the Internet. The content of the websites concerned him, in part, because they were unclear as to whether they were personal websites, or websites purporting to be projects of UW-Platteville’s Criminal Justice Department. (Caywood Tr. at 16:13-22.)

Dispute

Caywood had already reviewed the websites on October 6, 2012 in his office with Burton present. He knew they were personal websites as Burton told him so. He was very impressed by them before the student complaint incident.

Burton emailed the proposal to Caywood on Oct 6, 2012 with URL addresses for the proposed online open source web pages. The proposal included very clear indication about the ownership of the registration of the domain names used to address the proposed online open source journals. (Dkt. No. 101- 7)

113. Prior to January of 2013, Caywood was aware that Burton intended to teach a graduate online cyber-security course, but Caywood had not seen the proposal, and it had not been approved by the Graduate Council. (Caywood Decl., ¶ 35.)

No dispute.

114. As of January 2013, Burton had not submitted any cyber-security course proposals through the College Curriculum Committee or the University Curriculum Committee. (Caywood Decl., ¶ 35.)

No dispute.

115. As of January 2013, Caywood was aware that not all CJ faculty supported a cyber-security program, and was unsure as to whether the CJ department, as a whole, would support development of a cyber-security curriculum. (Caywood Decl., ¶ 35.)

Dispute.

Burton knew that Dutelle did not support the Cyber Security program, but everyone else in the department expressed their approval. It was Caywood's task to make sure he had support for a Forensics Center plan that he allowed to be published in Aug. 2012. His leadership was that of a dictator who was known for unilateral decisions and even stated that he was willing to bend rules to make things happen. Dutelle's Fingerprinting program was pushed through despite vehement disapproval by people within the CJ department.

As of January 24, 2013, Caywood had never expressed to Burton that she needed to gain any more support than what she had in order to continue work on her cyber security program efforts. In fact he had encouraged her on numerous occasions to pursue funding and to continue with her work in cyber-security.

116. As of the spring of 2013, Burton had not submitted a proposed cyber-security curriculum to Caywood or to anyone else at the university, to obtain departmental or university approval. (Burton Tr. at 242:12-243:4; 245:14-22; Throop Decl., ¶ 10.)

Dispute.

March 18, 2013: Burton submitted a completed form requesting permission to develop the graduate course “cyber-crime” into Dr. Caywood’s mailbox for his signature. Unlike undergraduate course development, the UW-P graduate counsel must approve the development of a graduate course. Unlike undergraduate course development, graduate course development is a paid activity. Syllabus draft had been approved by CJ Graduate Studies Director Dr. Fuller prior to being submitted to Caywood. This was Burton’s first official request for approval of a cyber-security course.

117. The purpose of the AT&T grant was to explore the development of a cybersecurity program that had not yet been formally proposed at UW-Platteville. (Burton Dep. Tr. at 242:23-244:18.)

Dispute

Burton objects to the numerous misquotes and mischaracterizations of her testimonies in this document.

The purpose of the AT&T donation is described in the grant application as “To support the development and implementation of a cyber-security curriculum for undergraduate and graduate students at the University of Wisconsin-Platteville with the objective of educating students in the interests of establishing a safe, secure and resilient cyber-ecosystem.” (Dkt. No. 37-1)

118. On Monday January 30, 2013, AT&T presented a large \$7,000 check to Burton in a public ceremony attended by Vice Chancellor and Provost Mittie N. den Herder, Caywood, and a number of others. (Throop Decl., ¶ 18; Caywood Tr. at 11:19-22; Throop Decl., ¶ 18.)

No dispute.

119. Throop asked to meet with Burton and Caywood, then the CJ chair, to discuss the AT&T incident and to attempt to resolve any differences moving forward. Burton refused to meet. (Throop Decl., ¶ 19; Ex. KKK.)

Dispute

Burton did not refuse to meet. Burton was near a nervous breakdown after the defamatory remarks by Caywood that day and just learning a few hours prior that her father was dying. She stated that she couldn’t handle a meeting with Caywood and didn’t expect it to go well. On Friday morning she had to call in sick for the first time in her teaching career as her migraine

headaches grew more intense over the night. She informed both Caywood and Throop of sick status.

Burton was surprised, confused and overwhelmed by the sudden and obvious withdrawal of support by both Caywood and Throop. She felt that she could not endure meeting the two of them in a room at that time. She even wrote Throop an email saying that under the circumstances she did not think she could accept the donation.

On January 25, 2013 4:04:30 PM Burton wrote “I am an emotional mess today but perhaps you can find time to talk to me tomorrow.” Throop was not available so Burton wrote back saying that she could meet on Tuesday morning.

120. Instead, Burton sent an email to Caywood and Throop with a link to a webpage from the Wisconsin Department of Workforce Development’s Equal Rights Division that related to employment discrimination, with no further explanation. (Throop Decl., ¶ 20; Ex. KKK.)

Dispute.

Dr. Burton’s email stated: I am not available to meet with you and Tom tomorrow. I don’t expect much good to come out of it. I need some time to myself & family from this petty office stuff. I am tired of being bullied and manipulated at work. Frankly I found your comments to the AT&T press release unnecessarily harsh and discouraging. I thought you would be pleased with the accomplishment. (Dkt. No. 36-5 at 002)

Burton objects to the use of the word “instead.”

121. Throop believed that Burton was attempting to provoke Caywood and Throop, while at the same time refusing to discuss the concerns they both had expressed regarding her misleading statements about the proposed cybersecurity program. As a result, Throop advised Caywood not to respond. (Throop Decl., ¶ 20.)

Dispute

Informing Caywood and Throop that retaliation for a protected activity is illegal is hardly a provocation if the recipients Caywood and Throop believed they acted correctly and legally. Burton felt that her rights had been violated and was desperate for the adverse employment actions to stop.

Burton sent an apology right away. She had been blindsided and was suffering from emotional trauma that she had never experienced before.

Burton felt that Caywood had lied to Throop to convince her that Burton had done something wrong when she had not. Burton felt that Caywood’s statement to Throop were made in retaliation for her having assisted a student with a sexual harassment complaint. Burton felt that Throop had decided to back Caywood.

The link was sent not as a provocation but as a shield against further retaliation, much like a person being mugged will put up their arms to block the blows.

Burton had no reason to try to provoke her boss and boss's boss who held all the power and already had caused her great emotional and physical pain with promise of financial damage to come. A person being mugged does not put up their arms in defense to provoke their attacker.

122. As of January 2013, Throop did not believe that Burton was an expert in cyber-security. (Throop Decl., ¶ 21.)

Dispute

Throop never asked Burton whether she had any expertise in cybersecurity or cybercrime investigation. She never asked if she was in contact with national and international cybercrime experts. Burton had been identified as valuable colleague by her peers in cyber-security and cyber-terrorism research, and had published twitter posts that were retweeted by some of the top names in cyber security.

Burton had followed the development of cyber-attacks from the 1980's and had been part of expert briefings to high government officials in Germany. Burton had been privileged to information on hacking and hackers that was not made available to most people. In fall 2012 Burton was asked to be an expert consultant to the European Union to create a monitoring System for Suspicious Online activities. Burton included the information in her DRB file for the January 2015 review and Throop had access to Burton's DRB binder and it was her job to review the binder.

There was no requirement for Burton to be an expert in cyber-security in order to accept or ask the AT&T donation.

There was no requirement for Burton to be an expert in cyber-security in order to develop a curriculum in cyber-security.

Throop called Burton an expert in cyber-security at a faculty forum on April 3, 2014. (video exhibit V1)

123. Throop examined Burton's publication record, and Burton had not published anything on the topic of cyber-security that had been reviewed by her national peers, nor had she presented at any national peer conferences on the topic that Throop was aware of. (Throop Decl., ¶ 21.)

Dispute

Throop was fully aware of Burton's professional background in Germany and connections to the international intelligence community. She never inquired if Burton worked or published on cyber-security or related matters. Many publications of sensitive matter are limited to the intelligence and federal law enforcement community.

In fall 2012 Burton was asked to be an expert consultant to the European Union to create a monitoring System for Suspicious Online activities. Burton included the information in her DRB file for the January 2015 review and Throop had access to Burton's DRB folder.

Throop only looked for articles by Burton on the University database. That is a very limited view. Throop did not ask Burton for any information that would establish her expertise. Throop called Burton an expert in cyber-security at a faculty forum on April 3, 2014. (video exhibit V1)

124. Burton included the fact that she had received the AT&T donation in her DRB file, and she could cite the fact that she had facilitated the donation when requesting consideration for things like merit pay. (Burton Tr. at 251:23-252:4.)

No dispute.

125. Burton chose not to pursue grants after January of 2013. (Burton Tr. at 56-58; 200:19-201:17.)

No dispute.

VII. Burton's efforts to create an online graduate course in cybersecurity

126. In October 2012, Burton was in the process of proposing a new online graduate course in cybersecurity. (Caywood Decl., ¶ 19.)

Dispute. Dr. Burton entered into an agreement to develop the online CJ7430 Cyber-Crime course in 2013. (Burton Dep., Dkt. No. 39, 404:6-13; Hawks Decl. ¶2(b), Ex. 2, Dkt. No. 53-2)

At that time Burton only provided the idea to Dr. Fuller but did not have time to devote to course development because of her teaching and overload obligations in the CJ undergraduate program. Also, at that time UW-Platteville Sponsored Programs with approval of Dr. Caywood was still working with Burton on grant writing efforts for cyber-security.

127. New graduate courses must be approved through a governing body called the Graduate Council. Around October 22, 2012, Caywood was copied on an email from Dr. Fuller, director of the CJ graduate program, instructing Burton that the Graduate Council must approve the course before Burton is issued a development contract, and advising that the development contract must be submitted in January (of 2013). In November, 2012, Dr. Fuller informed Burton of a December 13, 2012 deadline to submit course materials to the Grad Council. She did not submit such materials prior to the deadline. (Caywood Decl., ¶ 20; Ex. TT.)

Dispute

Burton informed Dr. Fuller around that time that there was no way that she could make the December deadline because of her contractual teaching obligations. Fuller still wanted Burton to

pursue the grad course development and said we could submit the course material in early spring 2013.

128. Around March 18, 2013, Burton's proposal was placed in Caywood's mailbox. The Graduate Council was scheduled to meet on Thursday March 21st. Caywood reviewed the proposal and had several concerns. (Caywood Decl., ¶ 21; Ex. TT.)

No dispute.

129. Rather than refuse to sign, Caywood took it upon himself to seek out the advice of Dr. David Van Buren, then dean of the graduate school, and one of the smartest people Caywood knew at UW-Platteville. Caywood wanted to get Dr. Van Buren's advice on Burton's proposal. (Caywood Decl., ¶ 21.)

Dispute.

Rather than risk being held accountable for his refusal to sign, Caywood attempted to lay the blame for his refusal on an unwitting person. He talked to Dr. David Van Buren, who wrote that he didn't tell Caywood that he thought the course wouldn't be approved. In fact he told Caywood that he thought the topics in the course description "looked fine."

Caywood marked Burton's proposal with a red pen as if it was an undergraduate student paper.

Caywood later reprimanded Burton for having contacted Dr. VanBuren directly about the matter.

130. Caywood's understanding of his conversation with Dr. Van Buren was that Van Buren had objections to some of the wording and the focus of the course. (Caywood Decl., ¶ 21.)

Dispute.

Contrary to Caywood's statement in (Caywood Decl., ¶ 21.) Van Buren wrote that he thought the course description "looked fine."

131. Caywood passed these concerns on, and indicated that Throop and Caywood would approve if Dr. Van Buren's suggestions were implemented. (Caywood Decl., ¶ 21.)

Dispute.

Caywood didn't indicate such thing in his comments. He called it a bare-bone proposal even though the proposal exceeded the volume and content of many approved Graduate Counsel course proposals that often were only one paragraph long.

Contrary to Caywood's statement in (Caywood Decl., ¶ 21.) Van Buren did not offer concerns. He told Caywood that he thought the course description "looked fine."

Burton made only very minor changes to the draft proposal given to Caywood on 3/18/13 and the proposal was well received by the graduate council with one notable exception. Caywood's demand that Burton take out a cyber-forensic component, encryption, was criticized by senior grad council members and that component was re-inserted.

Caywood questioned Burton's ability to teach about encryption asking "Are you bringing in experts to discuss encryption?" Burton wrote in an email of March 20, 2013 (12:18 pm): to Caywood reminding him that cyber-security is part of her professional expertise. She asked him "why do you question my expertise?" He never answered this question.

132. The intent was to ensure passage at the Graduate Council without objections from other members of the Council. (Caywood Decl., ¶ 21.)

Dispute.

Caywood's intent was to delay, harass and retaliate against Dr. Burton since there was no valid reason for the changes Caywood demanded, especially since he knew Burton was leaving on an overseas trip to visit her father's grave and assist her 82 year old mother.

Burton made only very minor changes to the draft proposal given to Caywood on 3/18/13 and the proposal was well received by the graduate council with one notable exception. Caywood's demand that Burton take out cyber-forensic component, encryption, was criticized by senior grad council members and that component was re-inserted.

133. Burton made the requested changes. Caywood signed off on the form and personally took it to the Dean's office for her signature. (Caywood Decl., ¶ 22.)

Dispute

Burton made only very minor changes. She changed the order of two course objectives and eliminated one. She also took out education on encryption.

Caywood signed off on the form after making Burton jump through unnecessary hoops immediately before her trip to Germany to bury her father. Burton wrote in her grievance against Caywood: "The fact that I must defend simple requests like this in order to get required approval shows that he is looking for opportunities to undermine me and hinder my efforts. The fact that he did it when I was on my way to bury my father shows a lack of humanity."

134. The emails Caywood was copied on indicate that Burton was aware as early as October of 2012, but no later than November 2012, that she needed to submit course approval to the Graduate Council in December 2012 to keep on schedule of having her development contract issued. (Caywood Decl., ¶ 23.)

Dispute

Burton had talks with Fuller in regard to the timing. Fuller wanted to have the course implemented in her graduate program and gave Burton an extension. Burton made it clear to Fuller that she couldn't work on the proposal until early 2013.

According to Dr. Fuller the deadlines for the graduate proposal were flexible. She asked the Distant Learning program for an extension. No one on the graduate council made objections to the "late" submission, neither did Dr. Van Buren, the Dean of Graduate Studies.

135. Burton did not submit her proposal to Caywood until the middle of March, 2013, when several people had to scramble to make sure the Graduate Council approved the course. (Caywood Decl., ¶ 23.)

Dispute.

Caywood did not need to scramble. The proposal did not contain anything that Burton had not previously discussed with Caywood. There was no reason to delay signing the proposal. It was merely a request to develop a course and not a request to certify a completed course. It was not a "bare bones proposal," as he falsely stated. Caywood made Burton "scramble" unnecessarily at a time when Caywood knew she was preparing to leave for Germany to visit her father's grave and be with her grieving mother. Burton was the one forced to scramble getting the proposal together before leaving for Germany. She scrambled because she wanted to accommodate Dr. Fuller's wishes to have a new graduate course developed.

136. UW-Platteville compensated Burton \$3,750 for developing the online graduate course in cybercrime. (Burton Tr. at 404:6-15.)

No dispute.

VIII. Burton's declining demeanor toward her colleagues

137. By the fall of 2012, the numerous email complaints sent by Burton took a toll on Caywood's work environment. (Caywood Decl., ¶ 45.)

Dispute.

Employees don't create a hostile work environment to their supervisors. There was a power differential and Caywood controlled the situation. By his own admission in the grievance hearing of April 12, 2013 he handled the student complaint "very poorly" and in his deposition he stated that "he probably owes Burton an apology." Caywood took a toll on Burton's work environment. He misconstrues facts here. Burton's email complaints were all deserving of resolution but they were not resolved properly. Many of her questions remain unanswered.

Example: Burton wrote in an email of March 20, 2013 (12:18 pm): to Caywood reminding him that cyber-security is part of her professional expertise. She asked him "why do you question my

expertise?” He never answered this question but instead reported to Dean Throop that she made misleading claims of expertise without sharing his report with Burton.

138. Burton had a habit of involving upper management, by cc-ing them in email, in her various complaints. (Caywood Decl., ¶ 45; Throop Decl., ¶ 33.)

Dispute.

Caywood and Throop fail to identify which emails they refer to here. Matters of great importance for the university or college and allegations of retaliation, discrimination and bullying should be shared with upper management. Burton’s notifications to management of various retaliatory incidents were not out of “habit” but out of desperation to resolve the severe retaliation she was suffering.

Uncorroborated speculation about Dr. Burton’s email habits cannot be considered by the court in determining a motion for summary judgment, if it is based on intuition. *Darchak*, 580 F.3d at 631; *see also Payne*, 337 F.3d at 773. The court may not make credibility determinations, weigh the evidence, or decide which inferences to draw from facts in deciding a motion for summary judgments as these are determinations to be made by the factfinder. *Liberty Lobby*, 477 U.S. at 255.

139. Caywood felt caught between her, other faculty in CJ, Throop, human resources, and the Provost. (Caywood Decl., ¶ 45.)

Dispute.

This offers further motive for Caywood’s retaliation. He lashed out at Burton to relieve himself of his trapped feeling rather than dealing with her complaints appropriately. According to his own words, Caywood felt trapped because Burton asked HR and Dean Throop for help in what she understood to be retaliation. Example: HR Director Durr’s email to Caywood from Oct. 2012 in which Durr stated to cease all communication with Burton about the student incident was perceived by Caywood as entrapment by Burton and HR.

Burton cannot be held responsible for any unfair pressure exerted on Caywood by Throop, the provost, other faculty members or HR. This bespeaks the corrupt environment that is entrenched in UW-Platteville where every level of administration is pressured to “keep a lid” on the next lower level. An in depth investigation is warranted into upper management conduct that would pressure a department chair to retaliate against an employee rather than processing her complaints appropriately.

Caywood does not specify what other faculty he is referring to her. He is vague on purpose.

Caywood’s assertion is uncorroborated and self-serving, and cannot support a claim if it is based on intuition, rumor, or is inherently implausible. *Darchak*, 580 F.3d at 631; *see also Payne*, 337 F.3d at 773. The court may not make credibility determinations, weigh the evidence, or decide which inferences to draw from facts in deciding a motion for summary judgments as these are determinations to be made by the factfinder. *Liberty Lobby*, 477 U.S. at 255.

140. Much of Caywood's time during the 2012-2013 school year had been spent dealing with Burton's actions, reactions, and disgruntled behavior. (Caywood Decl., ¶ 45.)

Dispute.

This statement cannot be verified. Attending to employment matters is one of the tasks of a chair. Blaming the victim of a retaliation is hardly a finding of fact. Burton wasn't disgruntled but stated repeatedly that she was retaliated, harassed, and bullied by Caywood, the same person who here blames her for reporting his alleged acts of retaliation which is a protected activity.

141. As had been Caywood's experience with Burton, when she did not get what she wanted, she engaged in accusatory email-writing and complained to the dean, provost, and chancellor. (Caywood Decl., ¶ 25.)

Burton worked for Caywood from August 2009 until the student sexual harassment incident of Oct 2012 in a difficult working environment but made very few requests. During that time Dr. Burton was a recipient of awards and recognitions, and her standing in the department and University was good. Caywood's experience with Burton up until Oct 2012 was that she was a model employee and he stated so in his DRB letters. Caywood's statement is vague and unsupported by evidence. It is not a finding of fact but his personal opinion.

142. In 2012 and 2013 Caywood was dealing with his own serious health issues, as well as a death in his immediate family, and his seriously ill mother. (Caywood Decl., ¶ 45.)

No dispute.

143. Burton's frequent, virulent, and often lengthy emails caused consternation for the entire CJ department. (Throop Decl., ¶ 35.)

Dispute. This uncorroborated assertion cannot support a claim. *Darchak*, 580 F.3d at 631

Burton kept the emails regarding the student incident, allegations of retaliation and bullying between her and Caywood, or between her, Caywood, the Dean and HR. She never once included fellow faculty or staff member in any of those emails. Throop may be referring her to the "Call a Spade a Spade email" communication from June 6, 2014. This can hardly be called frequent emails that caused consternation unless Caywood or Dalecki spoke about them with other CJ members.

The consternation in the department was not caused by Burton's emails but by an environment of hostility and dysfunction in the department that was identified by the grievance committee in April 2012. The Dean ordered mandatory communication training for the CJ department in

spring 2010 and the Chancellor ordered mandatory communication training for the CJ department in summer of 2013. The administration, chair Caywood and interim chair Dalecki failed to implement those orders because they were the problem within the department. Almost all problems, especially communication issues, have ceased to exist as a problem in the CJ department since new chair Dr. Staci Strobl took over in June of 2015. Dr Staci Strobl, has been very pleased with Dr. Burton (Throop Dep. Dkt. No. 42 Filed 11/10/15).

Throop does not identify the emails she speaks of. In her letter of direction she claimed that Burton had written “dozens” of emails” but only listed one email that was a complaint about retaliation, a protected activity. That email was removed from Burton’s email account. Throop denied that she had reprimanded Burton for that email.

144. Burton repeatedly attempted to undermine Dalecki’s leadership during his time as interim chair between August 2013 and August 2015. (Throop Decl., ¶ 36.)

Dispute. On November 6, 2013, Dr. Burton filed a grievance against Dean Throop, challenging Dean Throop’s appointment of Dr. Dalecki as interim chair of the Department without an affirmative vote by the CJ faculty, and on December 13, 2013, the University Complaints and Grievances Commission agreed that Dean Throop’s appointment of Dr. Dalecki as interim Department chair violated the process required by the LA&E constitution and the faculty bylaws. (Hawks Decl. ¶¶6(p), (q), Ex. 33, 34 Dkt. Nos. 53-33, 53-34)

Burton repeatedly attempted to be heard in grievances against Dalecki and Throop but fair due process was denied her. Grievance Hearing Procedures were rewritten while she waited for her grievance hearings to be scheduled. The procedures did not comply with law and were not approved by the Faculty Senate. Burton’s requested grievance hearings were delayed indefinitely and derailed. Burton was never heard.

Burton repeatedly attempted to get the department to follow policy and law. Since Dalecki was a major policy violator, he felt threatened by Burton’s actions. In the end, Dr. Dalecki was “undermined” by various members of the department other than Burton as she was on sick leave when the new chair, Dr. Strobl, was selected. Dr. Dalecki was heard (by Ron Jacobus) complaining that people were “hypocrites” to explain why he was not allowed to continue as the permanent chair.

145. For example, Burton drafted an email to the chancellor, vice chancellor, Throop, and Shane Drefcinski on July 11, 2013, even before Dalecki was officially appointed, stating “To be on record: I formally oppose the nomination of Mike Dalecki as interim’s chair of the Department of Criminal Justice.” She then said, “Dr. Caywood’s recommendation was accepted. I was not asked. Even though not happy about the choice I originally accepted the appointment. Since Lana Caywood called my home today and implied that Dalecki would treat me unfairly I must now oppose the appointment. The abuse must stop.” (Throop Decl., ¶ 34, Ex. SSS.)

Dispute.

Defendants list this as an example for #144 but Burton's email was in July before Dalecki began serving as interim chair in August.

Burton's statement was a protected activity under the 1st Amendment. Burton did not call to boycott Dalecki or incite a riot, she voiced her opposition to the appointment. His appointment was later found to be in violation of policy and law and Throop admitted that she should have held an election as Burton had requested.

146. Burton would complain if other faculty members received an award or praise about an accomplishment because she felt this was somehow retaliation against her. (Dalecki Decl., ¶ 38.)

Dispute.

Burton made valid inquiries into perceived fraud waste and abuse of power. She made requests for investigations where warranted. Most of her requests were ignored or delayed indefinitely because she was right. When she was shown to be wrong, as in her request for an investigation into Reed's award, she stopped inquiring further.

Burton was suffering severe retaliation and a hostile work environment. She was not able to prove every single one of her complaints so she did not try to prove the unprovable and focused on those complaints for which she has evidence.

147. Dalecki received an email from Burton on September 18, 2013 demanding to know why a second-year faculty member was receiving the college Professional Development Award, and requesting that the nomination be withdrawn. (Dalecki Decl., ¶39, Ex. H.)

Dispute.

Object to the word "demand." Burton asked for Dalecki to look into a peculiar award for a newly hired faculty member. Two other senior faculty members also found the award to be suspect. When it was explained to her that there was no violation of policy, Burton dropped the issue immediately.

Exaggerations such as this are consistently thrown at Burton in repeated attempts by administration to make her "requests" seem to be "demands" or "dictates" and her "suggestions" to be "threats" and her "inability to attend" to be "refusal to meet." For example; When Burton "respectfully requested" that Provost Den Herder not be assigned to do the investigation into the cancellation of class issue, the Chancellor wrote back that Burton could not "dictate" who would do the investigation. When Burton informed Throop that she could not meet on Jan 24, 2013, Dean Throop wrote to Den Herder and Caywood that Burton "refused" to meet.

148. Burton wrote, "I am deeply disturbed by the decision to give the professional achievement award to Rex Reed this October. This is just another retaliation against me. The award is void as it is in violation of the nomination procedure . . . What has Rex done in the last year that

outshines me (besides being a male which seems to count a lot in our department and obviously in LAE)? This action just validates my desire to have this matter resolved on a higher level.” (Dalecki Decl., ¶ 39, Ex. H.)

No dispute.

149. Burton also demanded to have “this nomination of Rex Reed repealed” and further insisted, “I want an investigation to determine whether documents were falsified or if someone without authorization spoke in the name of the CJ DRB and nominated Rex Reed” for this award. (Dalecki Decl., ¶ 39, Ex. H.)

Dispute.

When Burton spoke to Dr. Fuller, DRB chair of 2014, and Dr. Gates, DRB chair of 2013, neither one of them could dispute that the award to Reed was not for professional achievement. The award was scheduled to be given at an LAE awards event. LAE awards are based on achievements in the DRB binder. Once Burton found out that the award was an alumni award she withdrew her allegation immediately and apologized for her sensitivity to Dalecki. Dalecki called her contrite. (Dalecki Decl., exhibit C page 2) The defendants are using a mistake that Burton made and apologized for against Burton.

Reed’s award was listed on an announcement under awards from LA&E not under Alumni awards.

150. In another instance, Burton railed against Dalecki for praising other colleagues, complaining, “When we gave our poster presentation for the Germany trip last October you didn’t even show up. You never praised my work in a department email but at the same time called Diana [Johnson] and Dana [Cecil]’s enlistment of CJA brilliant. You didn’t praise my efforts publicly verbally either. You call me your ‘star’ but keep that under cover so nobody can see me shine. I am your closet star...You don’t want to offend Caywood, Dutelle, Johnson and Cecil by praising my work.” (Dalecki Decl., ¶ 40, Ex. D.)

Dispute.

Opposing the word “railed” as it is an exaggeration. Burton pointed out several valid, pertinent, material and true issues that show the ongoing retaliation. Dutelle and Johnson left the school without giving proper and timely notice. Dutelle was accused of taking bribes in spring 2013. Both Dutelle and Johnson oversaw a Forensic Investigation program that was called a “train-wreck” by a nationally acclaimed expert evaluator, hired by the Dean’s office to assess the FI program in spring 2014. Dana Cecil left the program a few months later giving only 2 weeks to find a replacement to teach her classes and coordinate the undergraduate online program during ongoing teaching session. Burton did not bring these matters up for months but responded emotionally after Dalecki put her in place in an email sent to the entire department.

151. On May 9, 2014, Dalecki sent an email to the CJ Department advising them that graded materials should not be left outside of faculty offices as it is a FERPA violation. Dalecki's intention was not to call out a specific staff member, but to address the entire department as a whole. Burton responded in an email to the entire CJ Department calling out Caywood for the violation. (Dalecki Decl., ¶ 35; Bensky Decl., Ex. J.)

Dispute

Burton did not cc any other department members on the email but sent it only to Dalecki, and no others

Defense's Declarations exhibit J is a salary letter that has nothing to do with this issue. Bensky does not reference an Exhibit J in her declaration.

152. In the fall of 2012, Burton sent Dalecki an email requesting he allow one of her students to take an exam late. The student had approached Dalecki late and he had to write a separate exam for him. (Dalecki Decl., ¶ 37.)

Dispute.

There was no requirement for Dalecki to write a separate exam for a student who has a valid excuse to miss an exam. Dalecki did not "have to" write a separate exam. Dalecki gave the entire class 20 essay questions to prepare and picked some (Burton remembers 2) for the exam. Dalecki could have easily picked other test questions out of the 20 questions. Giving makeup exams is something caring professors do often. Students are routinely excused for field trips in other classes or athletic events. We as faculty and teaching staff are called on by the administration to work with the students

The conference was scheduled a bit over three weeks after the fall semester started http://www.mcja.org/uploads/2/7/7/3/27735317/mcja_2012_final.pdf. The student, W. Miles Eichholtz, had very little time to prepare for his first ever professional presentation. Miles was very nervous and concerned about doing a good job. Dalecki placed undue hardship the student by requiring him to take the exam prior to the conference under the circumstances. The student Eichholtz was forced to drop Dalecki's class after the conference.

153. Dalecki told Burton that the student should have been more responsible by notifying Dalecki in advance of his inability to take the exam at the scheduled time, and that by her enabling his behavior the "monkey is on your back, not on his, where it belongs." (Dalecki Decl., ¶ 37.)

Dispute.

Contrary to this statement, Burton was not enabling any behavior that would warrant an inappropriate comment such as "the monkey is on your back." Burton was helping four undergraduate present at their first professional conference early in the semester.

The students didn't take the day off from Dalecki's class for a minor field trip, but for a challenging event. Burton was challenging her undergraduate students to perform at a graduate level.

Dalecki was confrontational, showed no empathy and discouraged the student from going above and beyond. Dalecki added unnecessarily to the student's stress and treated Burton in a less than collegial manner. The student was later forced to drop the class because of Dalecki's lack of support.

154. Burton falsely told the student that Dalecki had called him a monkey, causing the student to become very upset. (Dalecki Decl., ¶ 37.)

Dispute.

Burton did not even know what "the money is on your back" meant. It is an idiom with which she was unfamiliar. The student was nervous and concerned about Dr. Dalecki's lack of support. Burton told the student that she wasn't sure what Dr. Dalecki meant when he said "the monkey is on your back, not his, where it belongs." The student made his own determination about the meaning of the idiom. The student was distraught about Dr. Dalecki's behavior toward him. The student dropped the course because of Dalecki's unreasonableness.

155. In June of 2014, after several members of the faculty left positions at UW-Platteville, Burton wrote an email to Dalecki and copied the entire department, titled "Can we call a spade a spade?" (Dalecki Decl., ¶ 35; Throop Decl., ¶ 35, Ex. UUU.)

Dispute.

Oppose the term "several." Two members of the FI program left on short notice.

156. Burton's June 6, 2014 email accused colleagues who had recently resigned of unethical behavior and threatening to involve the Wisconsin Attorney General's office in investigating what she characterized as a conspiracy. Burton's email accused her colleagues of being inconsiderate and unprofessional, and refers to the departure of the two faculty members as a "train wreck." (Dalecki Decl., ¶ 35; Throop Decl., ¶ 35, Bensky Decl., ¶ 3, Ex. YYY.)

Dispute

Defendants purposely misquote Burton. The email was a reply to Dalecki's email that addressed the news of two FI employees abrupt departure, and included attachments of two very devastating reports by 2 independent evaluators of the FI program. Burton did not accuse her two former colleagues of unethical behavior but stated that she never had worked with such "unprofessional" colleagues. Dutelle accepted a position at another school which means he could have given several months' notice allowing for a proper search to fill his position. Johnson gave her notice the same day she cleared out her office admitting that she made up her mind about leaving months earlier. Burton never threatened to involve the AG's office. Burton never

referred to the colleagues' departure as a "train wreck." Dr. Stan Stojkovic used the term to describe what happened to the FI program. Stojkovic was hired by Dean Throop to evaluate the FI program and issued a report that Dr. Dalecki distributed the same day. He stated that the Deans must shoulder responsibility for the "train wreck," that occurred, that students were poorly educated and deceived about the job opportunities available to them. Another report by Dean Ault, also paid by Throop to evaluate the FI program, gave a very similar negative evaluation. The defendants Throop and Dalecki knew exactly who used that term "train wreck." Burton wrote this email as constructive criticism and ended with the following: "We have a chance now to make some difficult decisions and effect some changes for the better. Let's do it right this time. Let's start being transparent in our dealings. Let's keep open minds as we look to the future of our department. Let's work together for the good of the school and students. Let's follow policy. Let's follow policy and law. Let's use some good old common sense going forward. I have many ideas for moving past this point in our department's history. Most of my suggestions in the past have been ignored or have been thrown back in my face. I hope those days are behind me. I hope those of us remaining in the department can act like professionals."

157. Burton provided no basis for her claims, but indicated that she intended to involve UW-Platteville students in the issue. (Throop Decl., ¶ 35.)

Dispute.

That is a lie. Throop knows about the basis for Burton claims, as she was the one who ordered the evaluation by two independent experts in the field, Dr. Dan Stojkovic and Dr. Allen Ault, who wrote devastating reports about the FI program. Dr. Stojkovic blamed the Dean's Office for the "train wreck." It is also a lie that Burton intended to involve students in the issue. Burton intended to let students know that the abrupt departure of two colleagues in FI put the department in a difficult situation and that the remaining members would work hard to salvage the problem. She also intended to give students a more realistic picture of job opportunities in the tri-state area in accordance with the findings of the evaluators.

158. Throop did not reprimand Burton for this email at that time. (Throop Decl., ¶ 35.)

Dispute.

Dr. Fuller shared with Burton on June 25, 2014 that Throop and Dalecki talked about terminating Burton's employment.

159. In a subsequent email on the subject, Burton stated, "I think your response to me was uncalled for. When you perceive that others are out of line you choose to keep quiet (not to step on anyone's toes or give them the benefit of the doubt, probably as an attempt to garner support for your election as chair in this department). I just got my first ever pedicure-so get off my toes!!!!" (Bensky Decl., ¶ 3, Ex. YYY.)

No dispute.

160. In an email response, Dalecki asked Burton to speak with him in person and stated that he did “not intend to get in long email discussions about these things.” (Bensky Decl., ¶ 3, Ex. YYY.)

Dispute.

He did so while responding in a lengthy email that he cc'd to everyone in the department.

161. In response, Burton emailed the CJ department saying, “Then why, WHY did you not call me or ask me to talk to you? You had my number. Your previous long email ‘incited a strong emotional response.’ Next time follow your own advice.” (Bensky Decl., ¶ 3, Ex. YYY.)

Dispute.

Burton replied to Dalecki, but Outlook emails to everyone included in the email unless the sender adds another step and de-selects the function.

162. Burton’s initial email concerned Dalecki because he was worried about being sued for defamation, and he was worried that if Burton shared her conspiracy theory with the Criminal Justice students, she would destroy the confidence of the students in their major. (Dalecki Tr. at 167:12-168:3.)

Dispute.

Defendant is falsely stating facts. Burton didn’t have a conspiracy theory. She addressed the problems in the FI program as outlined in the two evaluations by Stojkovic and Ault. Stating the truth is not defamation.

163. Burton made allegations against Dalecki that he coerced her to drop her lawsuit by stating to her “you can’t file a lawsuit without consequences” and that nobody wanted to hear about her complaints anymore. (Dalecki Decl., ¶ 7.)

No dispute.

164. During Dalecki’s first year as Interim Chair, he had several conversations with Burton about her success in the Criminal Justice Department. (Dalecki Decl., ¶ 7.)

No dispute.

165. Dalecki wanted Burton to think about her actions and how those actions presented her in a certain light to other people, including the present lawsuit. (Dalecki Decl., ¶ 7.)

Dispute.

By “presented her in a certain light to other people”, Dalecki meant “exposed her to certain retaliation by Dean Throop and himself.” Prior to April 14, 2014 Dalecki praised Burton as the most valuable member in CJ, just never in public, only in his office. Dalecki was not supposed to address the lawsuit, yet he repeatedly probed Burton about it and told her to drop it. He said repeatedly that she was “doing well and successful” and that her legal actions would jeopardize my position in the department. He wasn’t concerned about me but about Throop.

166. The Department Chair serves at the pleasure of the Dean, and the Dean has to have confidence in that person’s abilities that they will pursue the Dean’s agenda and policies. (Dalecki Decl., ¶ 7.)

Dispute.

Throop violates faculty governance. “Pursuing the Dean’s agenda” as a requirement is very problematic as the chair should follow policy and law before following the dean’s agenda. The chair of the CJ department is not a political position connected to a particular individual. The chair should not be asked to pursue the Dean’s agenda, like discouraging a faculty member from legal actions against that dean, but a chair should pursue the goals of the college of LAE as agreed on by the members of that college. Dalecki stated to Burton that he was the better choice for chair because “he knew where the skeletons were buried.” (Dalecki declaration)

Dean Throop made the conscious and considered choice to violate policy in appointing Dalecki as interim chair. (Dkt. No. 101-20)

167. Dalecki wanted Burton to think about what things she had done to make people believe she has the background and experience to serve as Chair, such as serving on university-wide committees. (Dalecki Decl., ¶ 7.)

Dispute.

Contrary to Dalecki’s declaration statement Dalecki wrote to John Lohmann on Aug 8, 2014 that “In her (Burton’s) mind the position on the CRST is prestigious; it’s just another service position in everyone else’s mind.” The CRST is the college committee that handles recommendations for Retention, Salary, and Tenure.

Dalecki stated to Burton that he was the better choice for chair because “he knew where the skeletons were buried.” (Dalecki dec. Dkt. No 34, Filed 11/10/15)

168. Burton alleged that Dalecki threatened a graduate student who had reported a colleague’s defamatory statement against her. (Dalecki Decl., ¶ 8)

No dispute.

169. Dalecki does not believe he “threatened” the graduate student. Dalecki attempted to mentor him as Dalecki did not think, as a graduate student, that he should get in the middle of a dispute between two faculty members. (Dalecki Decl., ¶ 8)

Dispute.

A personal belief is not a statement of fact. Dalecki threatened the graduate student, letting him know that his employment with UW-P depends on which side the student was on. The student, Ronald Jacobus III, audio-recorded the entire conversation and signed a declaration. Deb Rice made defamatory statements about Burton, stating Burton “has a mental illness,” “would leave the university soon” and “disliked East-Germans.” Sharing these defamatory statements with the victim of the defamation is not getting between two colleagues. It is mindboggling that a chair of a criminal justice department would want to discourage a person from reporting a criminal activity (defamation is a crime in Wisconsin) and dismiss such illegal activity as a dispute between two equal members. Dalecki elevated Deb Rice to faculty level in this statement. Yet, she is only an academic staff member, not holding an advanced degree. Deb Rice was awarded a full staff teaching position by Dalecki without having gone through the search & screen process as normally required.

This testimony is uncorroborated and is self-serving. *Darchak*, 580 F.3d at 631; *see also Payne*, 337 F.3d at 773.

170. Dalecki learned during his deposition in this lawsuit that the graduate student had audio recorded his conversation with Dalecki and given it to Burton. (Dalecki Decl., ¶ 8.)

No dispute.

171. Dalecki has a background in organization theory. To Dalecki, leadership is helping people improve themselves to assist them with their academic growth or to be successful in their careers. (Dalecki Decl., ¶ 9.)

Dispute.

This testimony is irrelevant to the case. Other members of the department, including Burton, have worked with organization theory. Burton comes from one of the nation’s top schools in criminology. According to this statement she would be more than qualified to have been the chair of CJ. The statement is uncorroborated and is self-serving. *Darchak*, 580 F.3d at 631; *see also Payne*, 337 F.3d at 773.

172. Dalecki often informally attempts to mentor students and faculty who are under his leadership. (Dalecki Decl., ¶ 9.)

Dispute.

Dalecki's poor social skills are known by faculty, staff and students alike. Students have left the program because of Dalecki. Intimidating a student who did the right thing is not mentoring. Ronald Jacobus III reported to interim HR director John Lohmann. Lohmann did not have any problems with Ron coming forward and took the student seriously. Lohmann did not share the name of the reporting student to protect the student. Dalecki assumed it was Jacobus and lectured Jacobus instead of Rice. This behavior is a direct dispute of statement 171.

Dalecki also "attempted mentoring" of secretary Sheri Kratcha for communicating with Burton in April 2014 (Jacobus Declaration) and yelled at her for violating the gag-order against Burton.

173. When Dalecki speaks to people, he often speaks in metaphors. It is natural for Dalecki to use language that is colorful and varies in its nature. (Dalecki Decl., ¶ 10.)

Dispute.

Dalecki does not use more metaphors than most other people. Talking in metaphors does not minimize the wrongfulness of threatening or insulting someone else.

174. Burton has alleged that Dalecki limited her assistance with the visiting delegation of German students. In the fall of 2013, Burton came to Dalecki office and asked him to support her bringing some German students to Platteville. (Dalecki Tr. at 27:16-17, 125; Dalecki Decl., ¶ 11.)

Dispute.

The German student and instructor group was a responsibility of the UW-P. International Programs extended an invitation to the school in Germany in return for the German school hosting students from Platteville. On behalf of International Programs Burton helped in facilitating the invitation and assisted with preparations of the visit by communicating with the school in German. Burton did not ask for support as the invitation was part of the agreement of a short study abroad program that the UW-P entered with the FHPol in Brandenburg, Germany. Dalecki "inherited" the counter-visit when he accepted the appointment to CJ chair. Dalecki was not interested in fulfilling this responsibility.

175. Dalecki told her he would support it as long as it did not cost the department any resources as he was still new as Interim Chair and did not yet have a complete handle on spending tempos and budget issues. (Dalecki Tr. at 27:16-17, 125; Dalecki Decl., ¶ 11.)

Dispute.

Dalecki never made such a statement, nor does the statement make any sense. The counter-visit was part of the short study abroad arrangement in fulfillment of the CJ department's commitment to Internationalization Initiative led by Provost Den Herder. The counter-visit was not Burton's responsibility to host but the obligation of the CJ Department under Dr. Dalecki. Dr. Dalecki

signed the invitation (Dalecki declaration). Dr. Burton donated her speaking honorarium of over \$ 6000 from the prior visit to Germany to the International Program's account for this Study Abroad Initiative in July 2013

176. Burton emailed Dalecki on June 9, 2014 and told him that she did not want to worry about the German delegation visit due to her mother's health and told that Dalecki "It is on you" and that Caywood gave her the order to create a short study abroad exchange program "So it's not my initiative. You inherited it as Chair." (Dalecki Tr. at 27:16-17, 125; Dalecki Decl., ¶ 11, Ex. D.)

No dispute.

177. Dalecki had to spend about 15 hours the week before the German students came to campus making arrangements, and another 40 hours during the week of June 16, 2014 driving them around and attending to them while they were on campus, in addition to Dalecki's normal duties as Interim Chair. (Dalecki Decl., ¶ 12.)

Dispute.

Fulfilling the department's obligation to host the German delegation visit was part of Dalecki's normal duties. Most departments at UW-P have short study abroad programs. The University frequently hosts counter-visits from foreign schools such as the partner school in China and Brazil.

Dalecki and Throop expected Burton to handle the entire German delegation visit with no assistance or support or pay and even disciplined her for not fulfilling the tasks she had volunteered to help out with. Dalecki admonished Burton for not doing enough to prepare for the visit at the same time he complained that she did too much and was interfering. Dalecki never thanked Burton for providing well over \$6,000 of her own honorarium to pay for transportation, meals, lodging etc. for the German delegates but instead denied her request to use the money she had donated to pay for sandwiches.

178. Three other CJ faculty members helped out with the German delegation visit by driving the students around and organizing trips. (Dalecki Decl., ¶ 13.)

No dispute.

179. Two of those faculty members were paid for their work, while the other faculty member and Dalecki were not paid. (Dalecki Decl., ¶ 13.)

Dispute.

Deb Rice is not a faculty member. She is academic staff. The fact that the defendants can't seem to get the rank straight demonstrates how easy it is to confuse people into believing one person outranks another when the opposite is true. The defendants have used this against me from the beginning of my troubles. My title is often left off my name in written documents, I am introduced as Mrs or Ms instead of Dr. Burton. My rank as associate professor was changed to assistant professor on the university website etc.

Rice and Stackman were both paid using funds Burton donated to the exchange. Dr. Fuller, and Dr. Dalecki were paid by the university for performing their normal duties, which included hosting the German delegation.

Dr. Dalecki never paid Dr. Burton for her services in regard to the visit. This is an adverse employment action and disparate treatment.

Dalecki misused the funds by paying members of the department.

180. There was to be a welcome ceremony for the German delegation the morning after their arrival. (Dalecki Tr. 170:25-171:22.)

No dispute.

181. Dalecki had to pick the German students up at the Dane County Regional Airport in Madison on June 16, 2014. (Dalecki Dep. Tr. 171:15-172:17; Dalecki Decl., ¶ 14.)

Dispute.

Oppose the word "had to." Dalecki could have delegated to an employee of UW-P.

182. On their way to Platteville from the airport, a tornado struck Platteville. (Dalecki Tr. 171:15-172:17; Dalecki Decl., ¶ 14.)

No dispute.

183. Dalecki received a call while in the shuttle from the resident director of the dorm that the residence hall in which the students were supposed to be staying had broken windows and was flooded and that the delegation would need to be taken elsewhere. Dalecki was further informed that part of the roof was torn off. (Dalecki Tr. 171:15-172:17; Dalecki Decl., ¶ 14.)

No dispute.

184. Dalecki arranged for the delegation to be housed in another residence hall. (Dalecki Tr. 171:15-174:5; Dalecki Decl., ¶ 14.)

No dispute.

185. There was no power anywhere in town and the university had shut down and Dalecki asked his wife to bring flashlights for the German students. (Dalecki Tr. 171:15-174:5; Dalecki Decl., ¶ 14.)

Dispute.

This lacks a temporal element. It was likely true that the power went out when the tornado struck. Power was restored to Pioneer Crossing dining facility on campus before breakfast time.

186. Dalecki settled the guests in at approximately 1:30 a.m. At that point, the German students had been awake for many hours due to their travel and Dalecki had been awake for approximately 20 hours and had been experiencing extreme back pain all day. (Dalecki Tr. 171:15-174:5; Dalecki Decl., ¶ 14.)

No dispute.

187. The day was one of the most emotional and painful Dalecki experienced in his life. (Dalecki Tr. 171:15-174:5; Dalecki Decl., ¶ 14.)

Dispute. This testimony is uncorroborated and is self-serving. *Darchak*, 580 F.3d at 631; *see also Payne*, 337 F.3d at 773.

During these days Burton was worried about losing her mother, worried about her sister's health who just suffered a second heart-attack, worried about her brother's health, and was still mourning the loss of her father, while also being the victim of retaliation at work. This certainly has been the worst time of Burton's life. The nightmare began shortly after Oct. 10, 2012 and Burton has still not seen justice, or even received a simple apology. Burton's health deteriorated at that time to the point where she had to be admitted to the hospital and a few months later developed a life-threatening condition that required her to take a longer leave of absence.

Dalecki and Rice did not believe that Burton's mother was ill.

188. Dalecki had not had the opportunity to inform the assistant chancellor of the new arrangements until she telephoned him early the following morning to ask about the status of the delegation. (Dalecki Dep. Tr. 174:2-14.)

Dispute.

Dispute to relevance and proof of fact. The phones were still working after the tornado.

189. At the time that the delegation visited, Dalecki was suffering from sciatica, to the point where he was riding a cart around campus to get around. Dalecki had back surgery to relieve this condition three weeks later on July 8, 2014. (Dalecki Tr. 170:25-171:22; Dalecki Decl., ¶ 15.)

Dispute

Dalecki felt good enough to take the delegation skeet shooting, one of his favorite past time activities and from what Burton heard, he did fire several rounds himself. Burton's health condition, her severe headaches, nausea and stomach pain at the same time were disregarded by Dalecki.

190. In the aftermath of the tornado, the university had essentially shut down. Kids on campus went home and registrations were canceled. The university put cold food out for people because the power was out and they were unable to cook anything. (Dalecki Tr. 174:2-22.)

Dispute

Contrary to Dalecki's statement on 17 Jun 2014 07:59:29 - - Anderson sent Burton an email (cc: to Dalecki) and wrote "Nina Elskamp received a message from Mark Redfearn in Campus Dining this morning. The power is out in the MPSC so the delegation will not be able to eat in the Platteville Room as planned this morning at 9:00 a.m., but they can feed the group in the Pioneer Crossing (downstairs)." Ex. 1, Dkt. No. 102-1 is a true and correct copy of a thread of emails showing that breakfast was available that morning.

191. Dalecki took the German delegation to nearby Cuba City to eat because there was no plate in Platteville to eat. Dalecki did not tell Burton about the change in schedule for the welcome ceremony because he was dealing with these unforeseen events and changes to the itinerary associated with the tornado hitting Platteville. (Dalecki Tr. 174:2-175:11.)

Dispute

Contrary to Dalecki's statements: Dalecki called Burton on June 17, 2014 at 08:00 AM – Dalecki called Burton on her cell phone #608-331-0203, from his cell phone #608-732-7336, and spoke for two minutes. He said that the school was closed and that Burton wouldn't be able to get in because of the tornado. This was the first time Burton had heard that the tornado hit the school. Burton offered to help and wanted to attend the welcome breakfast but Dalecki said that there would be no breakfast. He did not tell Burton about the plan to take the delegation to Cuba City. Burton went to campus to join the delegation and was able to get into campus easily. She found students eating breakfast at Pioneer Crossing but the delegation was not there.

192. Burton has alleged that Dalecki told her “I know where the skeletons are buried.” By this statement, Dalecki meant that he knows who the people are that are issues on campus, Dalecki knows what pushes people's buttons, and Dalecki knows how people respond to particular types of situations. (Dalecki Decl., ¶ 16.)

Dispute.

To state what Dalecki meant is not a finding of fact. It is common knowledge what the saying means, even to someone born outside the U.S. If the statement bears any validity, no candidate from outside of Platteville could ever be considered for a chair position. Yet, Dr. Staci Strobl was appointed as chair of the CJ Dept. in June 2015 and Dean Throop joined UW-P just a few years ago. Neither of them knew where the skeletons are buried.

193. Dalecki has never seen a letter of appointment issued to Burton that says she must teach 25% of her normal course load online. (Dalecki Decl., ¶ 17.)

Dispute.

As Interim Chair, Dalecki had access to Burton's appointment letter which states that her primary responsibilities include teaching “on campus and online.” Burton also shared other documents with him that indicate that she was hired to teach .25 online as part of load. If he never saw it, it is that he chose not to look for it.

194. Online are huge money losers when fulltime professors teach them as part of their normal course load. During the time Dalecki was CJ Department Chair, UW-Platteville had a bit of fiscal crisis and the CJ Department is short by 3 or 4 full-time faculty members. (Dalecki Tr. at 202:8-16.)

Dispute the first sentence. Dr. Fuller, who runs the CJ online programs, describes the online program as “cost-recovery” programs, which means that “[t]hey're not part of an FTE formula like regular on-campus courses. The distance learning programs are managed and organized through the Distance Learning Center. . . .Recovery cost means that we have to have enough students in the class before we can run the class . . . It's a self-revenued program.” (Fuller Dep., Dkt. No. 46, 9:10-10:1)

Dispute the second sentence is an uncorroborated assertion, which requires a credibility determination inappropriate at summary judgment.

This reasoning does not diminish the fact that Burton was hired to teach .25 online. The fact that the department was short on faculty was the only valid reason to ask Burton to teach on campus rather than online. If Dalecki had admitted to Burton that she had been hired to teach online and asked her to teach on campus until the department could hire new faculty this argument would have been valid. But he refused to admit that she was hired to teach online. Dalecki did not keep Burton teaching on campus because of a shortage of faculty but because he refused to admit that she was hired to teach online as part of load.

Burton was hired to teach in the online grad program because the Higher Learning Commission requires 50 % of on campus faculty to teach in the online learning program. UWP000975

Dalecki violated not just Burton's contract but also HLC accreditation requirements.

195. Burton sent Dalecki an email on April 2, 2015, which she copied the Dean, Provost, and Assistant Chancellor, stating her discontent with the fact that Dalecki assigned a probationary faculty member to a course she wanted to teach. She contends that as a tenured associate professor, she should have priority over a probationary assistant professor. (Dalecki Decl., ¶ 24; Bensky Decl., ¶ 3, Ex. ZZZ.)

Dispute.

Defendants neglect to include that the course in question is the last core course for graduating seniors. In the past, this course was always taught by the most senior faculty on campus, which now is Dr. Burton. Dr. Dalecki rejected Dr. Burton's request to teach CJ/FI seminar assigning that seminar to a probationary faculty member, and assigning to Dr. Burton a lower level course that the same probationary faculty member had taught before, all despite the fact that Burton is the most senior CJ faculty member for on campus teaching. (Ex. CCCC, Dkt. No. 43-5) The new CJ chair, Dr. Strobl, has corrected this adverse employment action and has asked her most senior faculty, Dr. Burton, to teach seminar in spring 2016 and again in fall 2016.

196. As Interim Chair of the CJ Department, Dalecki had to concern himself with scheduling courses for all faculty and academic staff within the department. Rearranging a schedule for one faculty member has a domino effect for the rest of the department. (Dalecki Decl., ¶ 25.)

Dispute. The second sentence is an uncorroborated assertion, which requires a credibility determination inappropriate at summary judgment.

This argument is invalid because:

1. It assumes that the schedule is always set. That is false.
2. Changes do not automatically cause a domino effect, such as swapping two instructors to and from each other's classes.
3. Dalecki assigned the courses with pretext. He assigned Burton to a 3 hour course after hours (Current Topics on Monday evenings 5-8 pm). Such courses are never assigned to a full time faculty or staff member without their consent since the course is after normal business hours. Also, many faculty and staff member dislike the 3 hour format as it is more stressful to teach for most.
4. That's part of the chair's job.
5. The argument that "I have to put in more effort to be fair to you" is not a valid business reason for writing unfair schedules.

197. If Dalecki moves one person's schedule around, then he has to rearrange everyone else's schedule. Because the CJ Department was short several full-time staff members during the spring of 2015, the remaining staff members had to pick up that load. (Dalecki Decl., ¶ 25.)

Dispute.

It is not true that moving one person's schedule around mandates moving everyone else's schedule. Swapping two instructors for classes to which they have already been assigned affects only those two instructors.

The second sentence is not clear and does not make a statement of fact.

198. It was Dalecki's goal to facilitate everyone's schedules so as not to overload them or assign staff to courses they had not taught in previous semesters. (Dalecki Decl., ¶ 25.)

Dispute

This is not a statement of fact. Dalecki gave Burton a very undesirable 3 hour evening class that is usually only taught by adjuncts who come to campus once a week. Dalecki's goal was not to facilitate everyone's schedule but to target Burton.

1. Dalecki never once gave Burton the classes she requested unless he had no alternative available.
2. When HR Director John Lohmann asked Dalecki to offer Burton "half a loaf" Dalecki refused to do so.
3. Dalecki assigned Burton to low level classes even though she was a senior member of the faculty.
4. Dalecki ignored all of Burton's requests for class assignments.

199. The DRB is composed of tenured faculty, of which Caywood was one. Dalecki did not assign him to the DRB. (Dalecki Decl., ¶ 26.)

Dispute. See Defendants' proposed finding of fact ¶20.

200. As Dalecki was Interim Chair of the CJ Department, he was not a voting member of the DRB at that time and had no knowledge as to why Burton received a lower peer evaluation. (Dalecki Decl., ¶ 26.)

Dispute.

Contrary to Dalecki's declaration, Department policy states "The Department chair will serve on the DRB as a non-voting member." (appendix XIII) If Dalecki was following departmental procedures he should have served on the DRB. He knew who was on the DRB, what was discussed concerning Burton's evaluations, that Caywood was a member of the DRB and that Caywood was a defendant in Burton's lawsuit. He also knew that nobody peer evaluated Burton's teaching while he was chair in the CJ Department, yet she was given a peer-evaluation.

201. *Around June 26, 2014, HR Director John Lohmann suggested mediation between Burton and Dalecki. Jen DeCoste, the Chief Diversity Officer and Assistant Chancellor for Diversity and Inclusion, also attended the mediation. (Dalecki Decl., ¶ 28.)*

No dispute.

202. *DeCoste told Burton the she believed Burton was engaging in bullying behavior. (Dalecki Decl., ¶ 28.)*

DeCoste later apologized to Burton at a meeting on Wed 13 Aug, 2014 for calling her the bully without hearing Dr. Burton's account – (two days before Burton was hospitalized for severe stress related issues) (Dkt. No. 98 Audio Exhibit A12 at 06:40 to 07:17)

John Lohmann characterized DeCoste's comment as a "mistake" saying "I think again it's a cultural mistake. I think she misunderstood the directness as bullying." (Dkt. No. 98 Audio Exhibit A30 1:06:40 to 1:06:51)

The mediation meeting was not conducted as it should have been. (Dkt. No. 98 Audio Exhibit A12 at 22:39 to 23:07)

Burton was not given opportunity to express her points against Dalecki but Dalecki gave the mediators his version of events before the meeting and was allowed to make a closing statement which showed his unwillingness to discuss any past events.

Dalecki lied during the mediation meeting about class assignments but DeCoste did not call Dalecki a bully. (Dkt. No. 98 Audio Exhibit A3 at 19:56 to 20:48)

DeCoste allowed Dalecki to close the meeting saying that a re-hashing of the past would not be productive. (Dkt. No. 98 Audio Exhibit A3 at 20:48 to 21:14)

203. *Burton surreptitiously audio recorded multiple meetings and conversations with ever telling participants of the conversations that she was recording them. (Burton Tr at 193:14-24.)*

Dispute

Sentence does not make sense "with ever telling ..."

Also, WI is a one party consent state. I had every right to record conversations and as it turned out very good reasons.

204. *On October 7, 2014, Burton emailed a colleague and demanded, "I need the following information for my complaint: a) Who authorized your directed study with Alex Marsh in Fall 2013? B) For how many credits did he signed up with you? C) Did Alex pass the study? What was his grade? D) What was the title of his paper/project? What was it for? E) Who was the project turned in to? F) Please provide me a copy of the paper of the directed study. (Throop Decl., ¶ 34, Ex. RRR.)*

Dispute.

Burton didn't demand. Burton stated she needed the information. Burton was very short and to the point with a person who defamed her. As defendants stated above Burton wrote "please provide me ..." That is not demand.

Dalecki and Throop are quick to use terminology that makes Burton's actions seem worse than they are.

Dean Throop failed to conduct mandated communication training, so any issue she has with a faculty member's email "tone" should be mitigated by her own failure to provide mandated guidance. (Dkt. No. 101-7)

Throop admonished Burton for a minor and unwarranted complaint from a staff member while ignoring that staff member's defamatory statements.

205. In October of 2014, Burton threatened a junior faculty member's tenure bid over email after what the faculty member engaged in what Burton believed was a violation of policy. (Throop Decl., ¶ 37; Ex. VVV.)

Dispute. Dr. Burton wrote to the second-year faculty member, Dr. Solar, to point out his violation of CJ Department policies and procedures in his conduct as a search committee chair and her responsibility to record that in the customary annual letter regarding a junior faculty member's tenure prospects. (Dkt. No. 37-15 at 035-036)

Burton's accusation that the faculty member violated policy was correct, true, accurate and fully supported by evidence that she provided. (Dkt. No. 98 Audio Exhibit A11).

206. The junior faculty member, Dr. Pat Solar, attempted to resolve the issue with Burton, who refused to budge on it. (Throop Decl., ¶ 37; Ex. VVV.)

Dispute. Dr. Burton refused to overlook Dr. Solar's policy violation. (Dkt. No 37-15 at 035-036) Dr. Solar didn't attempt to resolve the issue. He asked Burton to drop the allegation "in the spirit of collegiality" and lied to Burton about his actions.

207. Dr. Solar then expressed a concern that he would not be treated fairly by Burton. (Throop Decl., ¶ 37; Ex. VVV.)

Dispute.

Dr. Solar is the one who didn't treat Burton fairly and with respect.

Contrary to this statement Burton, treated Solar fairly, in fact she advocated for him during his 2nd year CRST evaluation in early November 2014. (Dkt. No. 98 Audio Exhibit A17 at 27:00 to 31:00). Burton was fair, unlike Solar.

Exhibit VVV does not exist in the files.

208. *Throop did not reprimand Burton for this email at that time. (Throop Decl., ¶ 37.)*

Dispute.

Exhibit VVV does not exist in the files.

Throop did discipline Burton, for Solar's insistence that he did not do the things Burton alleged, in the letter of direction a few days later. This even without an investigation or giving any weight to Burton's claims.

209. *In light of the escalating issues between Burton and her colleagues, Throop issued an October 28, 2014 letter of direction to Burton. (Throop Decl., ¶ 38; Ex. WWW.)*

Dispute.

Burton didn't escalate matters; Throop did. If Throop had been interested in de-escalation she would have tried to find out the truth. She would have apologized for falsely accusing Burton of cancelling classes. Throop failed to identify who was really the problem and admonished Burton for exposing violations of policy and law.

210. *Throop's intention in writing this letter was to encourage Burton to resolve any legitimate disagreements she had with her colleagues through the proper channels—namely by addressing such issues at the local level first without involving unnecessary groups or individuals, such as students or the chancellor, in these disputes. (Throop Decl., ¶ 39, Ex. WWW.)*

Dispute.

Throop admonished Burton in the letter for not handling the problem with Solar on a local level. But Burton did address all of her issues at the local level first. Only after her attempts to handle the matter locally failed did Burton take the issue to higher authority.

Discouraging and admonishing an employee for a protected activity (asking for a grievance against Dalecki when she believed that he retaliated against her for the lawsuit), is against federal law.

Admonishing Burton for asking the chancellor to investigate what Burton perceived to be retaliation (a protected activity) is against federal law.

Admonishing Burton for exposing violations of policy and law is against federal law.

211. *In the letter, Throop directed that Burton work to resolve her differences at the local level without involving the administration, to "cease all email activity making groundless and unwarranted accusations against Dalecki or any other members of the university community," to "treat [her] colleagues in the criminal justice department with respect," to apologize for her*

inappropriate comment regarding the junior faculty member's tenure bid, and to "cease involving students in [her] personal disputes and grievances." (Throop Decl., ¶ 39, Ex. WWW.)

Dispute.

Burton repeatedly objected to the content of this statement and was prepared to provide evidence for the wrongfulness of Throop's accusations. Yet Burton's repeated request for a grievance hearing to address the letter of direction was delayed until Nov. 2015 when her attorney Tim Hawks advised her to inform the grievance committee that the letter would now be addressed in court.

Burton informed Throop that she could not accept the letter of direction.

By issuing the letter of direction Throop violated Burton's due process rights.

In the letter of direction, Throop admonished Burton for properly requesting a warranted investigation in an Oct 2, 2014 at 8:40 PM email.

Burton's email was deleted from her email account, and Throop falsely denied referring to this email in her letter of direction.

All of Burton's attempts to exercise university policies to gain resolution to her legitimate complaints were refused, ignored, delayed indefinitely, delayed unreasonably, delayed without explanation, conducted unfairly, and/or overturned by the Chancellor.

212. In response, Burton disregarded the direction to resolve her issues at the local level and field a grievance against Throop. (Throop Decl., ¶ 40, Ex. XXX.)

Dispute.

Throop filed a letter of direction with allegations that were false. In fact, the deposition of Dr. Stackman revealed that Throop and Dalecki told Stackman, that Stackman should take offense to Burton asking her to housesit. Throop wrote Burton up for asking Stackman if she might be able to housesit as previously offered in summer 2014. Throop stated that Stackman was uncomfortable, yet Stackman denied that there was a problem. Burton could have challenged each point in Throop's letter. Burton asked for a grievance hearing to defend herself against the allegations.

Throop's direction to resolve retaliation claims on "local level" is against the law.

Burton informed Throop that she could not accept the letter of direction.

Object to the word "disregarded." Burton did not disregard the letter, in fact she took quick action to address the issues presented.

Burton filed a grievance against Throop in an effort to resolve the issues presented in the letter of direction.

The grievance was unfairly and unreasonably delayed for over eleven months despite Burton's repeated requests to expedite the hearing. Burton ultimately withdrew the grievance concerning the letter of direction and placed the matter in the hands of the court as she was denied access to fair grievance process on the university level.

213. Burton submitted a lengthy "rebuttal," in which she stated that Dalecki and Throop were bullies and that the letter of direction had violated Buton's due process rights guaranteed by the U.S. Constitution. (Throop Decl. ¶ 40; Ex. XXX.)

No dispute.

214. Among other allegations in her response, Burton stated, “I looked for the email I sent to the Chancellor on October 2, 2014 but it has disappeared from my account. Fortunately I have a copy of it. I have also noticed that other important emails . . . have disappeared from my account as well. So it seems that someone is going through my email account and systematically deleting incriminating files. Throop’s denial of the existence of an email that she reprimanded me for is an indication of a cover up.” (Throop Decl., Ex. XXX.)

Dispute.

This is not an accurate quote of Burton’s statement. Burton objects to quotes being placed around text that is not an exact copy of her statements and sold as hers. Contrary to the above statement Burton wrote “Dean Throop’s denial of the existence of an email that she reprimanded me for is an indication of cover up.” By removing Throop’s title from the quote defense makes Burton seem less professional in this statement. Burton has tried to consistently show respect for Throop’s position if not for Throop herself. Also by changing “indication of cover up” to “indication of a cover up” defense makes Burton’s statement seem to apply only to this one instance of cover up. However, in this sentence Burton intended to indicate that this one instance of cover up is an indicator of cover up on a broad scale; as the tip of an iceberg is an indicator of much more ice beneath the surface.

215. Rather than apologize to Dr. Solar for threatening his tenure bid, Burton explained that she wrote her statements to him “because Solar violated policy and state law, lied to me, demonstrated his ineptitude and failed to follow Dalecki’s directions at the department meeting on August 29, 2014.” (Throop Decl., Ex. XXX.)

Dispute. See paragraphs 205, 206, above.

Contrary to this statement Burton did not threaten Dr. Solar’s tenure bid. Burton objects to the defense taking liberty to alter her statement such that the quote is not an exact copy of her actual words. Ex. XXX Contrary to this statement Burton wrote “because Solar violated policy and state law, lied to me, demonstrated his ineptitude and failed to follow Dr. Dalecki’s directions at the department meeting of Aug 29, 2014.” (Ex. XXX)

Burton’s accusation that the faculty member violated policy was correct, true, accurate and fully supported by evidence that she provided. (See paragraph 205 for exhibits about this.) Burton demonstrated a desire to apologize for her actions when she felt that she might have unintentionally offended someone, knowing that her directness due to her German heritage, can sometimes cause others to feel offended when offense was not intended. (Dkt. No. 98 Audio Exhibit A25)

Burton wrote nothing to Solar for which an apology was warranted. Burton had told Throop that she could not accept the letter of direction, was denied a timely grievance, and thereby was not held to its mandates.

Burton attempted to quickly resolve the issues she had with the letter of direction but her attempts to address the issue in a fair grievance hearing were delayed and denied.

216. She went on to say, "I did not threaten Dr. Solar with consequences to his potential tenure bid. I said I would write about his policy violation in my annual letter concerning his prospects for tenure. It is no more a threat than a police officer issuing a traffic citation to a motorist who she caught speeding. I informed Dr. Solar that I would hold him accountable for his violation and suggested that he might mitigate the damage to his possibilities for tenure by moving forward in compliance with policy in the future." (Throop Decl., Ex. XXX.)

No dispute.

217. Burton concluded "I believe Dean Throop wrote this letter of direction with ill intent and malice. I believe the letter is intended to provoke me, cause me stress related health issues, make me want to quit my job and to lay the groundwork for her to fire me on fabricated charges sometime in the future. I believe the letter is written as retaliation against me for having filed a federal lawsuit against her." (Throop Decl., Ex. XXX.)

No dispute.

218. At no point in her response did Burton take any responsibility for any of the issues Throop had raised, nor did she indicate any intent to follow the directions in the letter. (Throop Decl., Ex. XXX.)

No dispute.

219. Around the winter-spring of 2014, after UW-Platteville had hired Dr. Valerie Stackman, a new professor, Dalecki assigned Burton to be Stackman's mentor. Sometime thereafter, Burton asked Stackman to house-sit for Burton. Stackman declined to house-sit, and reported to Dalecki that Burton had asked her to house-sit. (Dalecki Dep. Tr. at 176:7-15.)

Dispute.

This is an inaccurate statement. Stackman did not "decline" to house-sit because Burton never "asked" or "demanded" that she house-sit. Burton asked if Stackman would be available sometime in the future and Stackman said she would be available if Burton needed someone to house-sit.

Dr. Stackman agreed to house sit for Dr. Burton, but, in inadvertent conversation with Dr. Dalecki, he cautioned her not to do so because Dr. Stackman could be liable for any damage to Dr. Burton's house or horses and because Dr. Burton would be in a position later to vote on Dr. Stackman's tenure. (Stackman Dep., Dkt. No. 47, 13:11-15:2, 37:13-22)

Dalecki and Throop implanted the idea in Stackman that Burton's inquiry was somehow a problem. Stackman never complained about the house-sitting inquiry to anyone. Stackman was

not made uncomfortable by the inquiry about house-sitting. (Dkt. No. 98 Audio Exhibit A25 4:09 to 4:15)

Burton was never given a reason for the removal of her mentoring assignment prior to issuance of Throop's letter of direction; in fact, she was told that she had never been assigned to mentor Stackman as explanation for Dalecki excluding her from the mentoring luncheon. (Dkt. No. 98 Audio Exhibit A24 at 18:40 to 24:21)

220. Around the summer of 2014, Dalecki then removed Burton as Stackman's mentor, because Dalecki felt such a request, from a senior tenured faculty member to a new junior faculty member who had just been hired, was not appropriate. (Dalecki Dep. Tr. at 101:10-102:4.)

Dispute.

See response to paragraph 219.

Dr. Stackman agreed to house sit for Dr. Burton, but, in inadvertent conversation with Dr. Dalecki, he cautioned her not to do so because Dr. Stackman could be liable for any damage to Dr. Burton's house or horses and because Dr. Burton would be in a position later to vote on Dr. Stackman's tenure. (Stackman Dep., Dkt. No. 47, 13:11-15:2, 37:13-22)

221. In light of Burton's repeated and public criticisms of Dalecki, Throop determined that Burton could not objectively evaluate his candidacy for permanent chair of the CJ department. (Throop Decl., ¶ 41.)

Dispute.

Throop assigned Burton to the search committee for a new chair on about 10-15-14.

When Burton met with Throop and Dr. Zauche on 10-15-14, Throop told Burton "Tim (Zauche) and Mike (Dalecki) shared a communication that they had with me saying that they are not going to have any communication until this search is over (exhibit A15)."

Also in that meeting, Throop said to Burton "Just as Tim is distancing himself from Mike, I want you to do the same thing." Between 10-15-14 and 12-8-14 Burton did not send any emails criticizing Dalecki nor did she publicly criticize him. In fact Burton withdrew her grievance against Dalecki during that time.

222. Throop explained this reason to Burton and ultimately removed her from the search and screen committee when she refused to recuse herself from considering Dalecki's candidacy. (Throop Decl., ¶ 41.)

Dispute.

December, 2014, Throop demanded Burton limit her involvement in the search to an extent that would make her membership on the committee irrelevant to the outcome of the search. Throop pressured Burton to recuse herself from the search, and when Burton refused to voluntarily recuse herself, Throop removed her from the search committee.

Because Burton had not made any new public criticisms of Dalecki during the time from being assigned to the search committee and the time Throop removed her from the committee, this reasoning does not make sense. If this were Throop's real reason for removing Burton from the committee, she would not have assigned Burton to the search committee in the first place.

Contrary to this statement, Throop assigned Burton to the search committee for a new chair so that Burton would not be able to apply for the chair position due to conflict of interest rules, with the intention of forcing Burton to recuse herself from the committee after it was too late for her to apply for the chair position.

223. In December of 2014, Throop heard from another professor that Burton cancelled classes. Throop wrote an email to Burton indicating Burton would be disciplined. Throop's email did not say that Burton would be fired. (Dalecki Dep. Tr. 114:7, Ex. 42; Throop Tr. at 13:22-14:11, 14:21-25; Burton Tr. at 357:12-14; Bensky Decl., ¶ 3, Ex. AAAA.)

Dispute.

Dean Throop's email stated: "I will be forced to pursue disciplinary measures as a result." (Dkt. No. 43-3, at 002)

Burton repeatedly asked who the "other professor" was and never received a clear answer. Burton asked for an investigation into the matter, but no investigation findings were ever delivered to her.

In Throop's deposition, she claims that Deb Rice reported the student complaints. Yet Rice is not a professor. She is a lecturer. Throop further states that she "double checked" by asking Deb Rice again to verify. This is problematic for many reasons: 1. Throop knew that Burton had alleged that Deb Rice had made defamatory statements in a public place, and in the presence of students, about Burton. 2. Double checking something by asking the same source is not double checking. 3. Throop claims that Rice claimed that there were students who reported the cancellation of class but cannot come up with any names. 4. Rice claims that she did not report to Throop that Burton cancelled class. (Rice's deposition) 5. Throop wrote several emails to Burton explaining her source of information and the story changes in each email. 6. Throop wrote that Burton did not have permission. This means that somehow the department chair had to be involved, yet Throop did not say she talked to Dalecki. 7. In Throop's admonition, she cc'd Dalecki but in her withdrawal she did not. By not informing Dalecki that her claim was withdrawn, Burton was put in a situation where her chair could take action against her based on his misperception that she had cancelled class. 8. The Chancellor's findings state that Throop "did not publish this information to an uninvolved third party." Since her email admonishing me for cancelling class was cc'd to Dalecki he must have been "involved." 9. Dean Throop should not have acted to discipline Burton for cancelling class. This would be the position of the department chair. 10. Dr. Burton had missed only one other class for any reason, in her entire career, including her time at UCI and UW Platteville. There had never been any prior complaints about Burton missing class, in fact her students often complained that she never let them out. Many faculty members in the department routinely miss classes without first getting permission. (Audio meeting with Lohmann) 11. Burton's reason for going to Germany that weekend was to say her "good byes" to her godfather who was cancer-stricken on his deathbed,

and to pick up her elderly mother, who has severe dementia and bring her back to Platteville for the Christmas vacation. The long trip was exhausting and difficult with Burton suffering from multiple severe and deep gastric ulcers. She returned to Platteville early Monday morning. She then went to school and performed a full day of work. 12. Throop could have easily called Burton to ask her if she cancelled class but she did not.

224. The information Throop received was incorrect; Burton did not cancel her classes. (Bensky Decl., ¶ 3, Ex. AAAA.)

Dispute.

The problem wasn't the "information." Several professors on campus have canceled class when the driving conditions aren't good or for other personal reasons. Dr. Burton is known for her outstanding attendance record. Yet, the first time there appears to be an issue, the Dean (and not the chair) involved herself.

Throop stated that Burton wasn't chair material because she couldn't handle things on a local level in Dec. 2013. She also stated that she didn't want to get involved in departmental matters. Yet it was Dean Throop, not chair Dalecki, that addressed Burton's alleged "cancellation of class." That is pretext for retaliation.

(Rice's deposition)

225. *Upon receiving Throop's email, Burton emailed all of the students in her class—there were over 30 students—saying:*

Subject: I need your help!!!

Dear Student,

Dean Throop falsely accused me of canceling my class last Friday and wants to fire me over it. Please see the email below to see her extremely harsh and false accusations.

I ask that you please reply to this email with your confirmation that I did teach my class last Friday, Dec 12, 2014 to prove to Dean Throop that I did not cancel the class. This is extremely important for me. Dean Throop wants to fire me. If you came to class on Friday, Dec 12, 2014 you know that I was there. Dean Throop wants to discipline me for not being at the class. She is just looking for reasons to "discipline" me. Your confirmation that I was in class on that day will convince her that she has her facts wrong and could save me from severe discipline that I don't deserve.

Why does Dean Throop want to hurt me you ask? Well, since I am asking you for an honest response I will give you an honest answer to this question.

On Oct 11, 2012 a female student came to me with a complaint of a sexual advance by a male faculty member. I helped the student report the complaint to Student Affairs. I have been mercilessly harassed since then for my actions in assisting that student. I have tried to keep students out of this conversation but the Dean has put me in a position where I need students to confirm my presence in my classes last Friday. I need your help. Please reply to this email as soon as you can with your confirmation that I was in class on Friday, Dec 12, 2014.

Thank you so much,

Below is Dean Throop's email to me:

(Dalecki Tr. 114:7, Ex. 42; Bensky Decl., ¶ 3, Ex. AAAA.)

No dispute.

226. Burton believed it was appropriate to send her students this email during their final exams. (Burton Dep. Tr. at 373:13-25.)

Dispute.

Object to the word “appropriate.” That is untrue and not at all what Burton said. Burton believed she had no other choice than to ask the students for help. Throop had already falsely denied the existence of an email when Burton requested clarification on an email reference that was included in the letter of direction. She also scolded Burton multiple times for not keeping things on a local level. Throop denied Burton the opportunity to challenge her letter of direction. Her accusation and announced discipline was unprecedented and disproportionate for the alleged violation of having canceled class. I had never before even been accused of canceling class ever. It wasn't the job of a Dean to check and address attendance issues but the job of the chair. Dalecki and colleagues saw Burton multiple times on the day Burton allegedly canceled class. Burton had nowhere to go but to her students who were unbiased. She sent the email on Dec 16, 2014 at 10:41 PM because Dean Throop sent her threatening email on Dec 16, 2014 at 4:51 PM at the end of business day. Burton made the email urgent to the student, trying to make them understand what was at stake for Burton. It was finals' week and many students have a bad habit of checking emails and failing to respond to emails on time or at all. Students were more concerned with their final exams and preparing to leave campus for winter break than to confirm something as “trivial” as class. Burton was extremely stressed and knew she was under attack. At that time she already suffered from multiple, deep, and life threatening ulcers. She was in extreme pain and hadn't slept for 4 days as she did a trip to and from Germany leaving on Friday night, returning on Monday morning at 3 am. She did all her duties on Monday and Tuesday without any issues but was confronted with a threat to be disciplined and probably fired for something she didn't do. Dr. Fuller had told Burton in June 2014 that Throop and Dalecki had discussed terminating Burton's employment.

Burton did not believe it was “appropriate” to send this information to students she believed it was “necessary.”

227. In an email Burton wrote to Governor Walker, Burton referred to Throop, Caywood, and Dalecki as "liberal bastards." (Burton Dep. Tr. at 335:16-19; 345:16-19.)

Dispute.

Burton did not write that Throop, Caywood and Dalecki were liberal bastards nor did she refer to them by name.

Burton wrote the electronic message to Governor Walker after a few days earlier she learned that the graduate student Ronald Jacobus III was terminated from his graduate assistant position because he let Burton know about the defamatory statements made behind her back. Jacobus was

very upset when he informed Burton. On the same day her ex-lawyer Tim Hawks botched his first deposition of the defendants, the deposition of Caywood, by being not prepared and having his documents in a disarray. Hawks had to ask for multiple breaks to find things and made multiple serious mistakes in the questions he asked the defendant. He ended early because he didn't know what else to ask the key witness. Burton was present and not informed that she could interject in the deposition. So she remained silent and in shock.

Burton is a strong believer and advocate of a socially just and fair system, rights and protections for all, democratic values and due process. Burton despises people who say they care about people's rights but in truth oppress other people's rights for their own advancement, break laws and policies and betray the values they claim to have. She calls such people traitors and bastards. Certain people at UW-P, like Caywood, Dalecki, and Throop, who bullied, defamed, retaliated against, lied about Burton and denied her due process all claim to be liberals. They did all that while Burton lost her father to a severe and painful illness, and almost lost her mother, while they caused her severe and life threatening health issues. True liberals would never stand for sexual harassment, sexual discrimination, and retaliation. That is why Burton referred to them as liberal bastards.

At that time Burton believed that Gov. Walker could even the playing field that was clearly favors the defendants.

IX. Faculty Compensation

A. Base Salary

228. *Base salary is the amount of money professors are compensated for teaching four courses during each the spring and fall semesters during a nine-month academic year. (Throop Decl., ¶ 42.)*

No dispute.

229. *The provost, in consultation with the dean, is responsible for setting base salaries for incoming professors. (Caywood Dep. Tr. at 108:21-109:1.)*

No dispute.

230. *The base salary also requires some academic advising and service to the university, where such service typically involves sitting on department, college, or university committees. (Burton Dep. Tr. at 82:20-83:10; Throop Decl., ¶ 42.)*

No dispute.

231. *A professor may also earn additional compensation by developing graduate courses, supervising summer interns, and obtaining grants that cover payments for salary over and above one's teaching responsibilities. (Throop Decl., ¶ 43.)*

No dispute.

232. *The Provost, in consultation with the Dean of the college, is in charge of setting base salaries. (Throop Decl., ¶ 44.)*

No dispute.

B. Overload courses

233. *UW-Platteville professors have several ways to earn extra income. The most common way is by teaching overload courses. Any course a professor teaches during the nine-month school year that exceeds four classes each semester counts as an overload. (Throop Decl., ¶ 43; Caywood Decl., ¶ 9.)*

Dispute.

Supervising interns during the summer months or teaching courses during winterim and summer is just as much a common way to earn extra income in the CJ department. These extra opportunities can amount to a significant pay increase.

234. *There are a handful of ways to be assigned overload courses: a professor may request to teach an additional class that is a topic of interest, the department chair may ask particular professors to teach an overload course to fill in for a professor who, because of sabbatical or other release time, is not teaching, or a department chair may ask for volunteers to teach overload courses. (Burton Tr. at 125:7-17; check cite.)*

No dispute.

235. *Faculty earn extra money when they teach overload courses and the extra compensation is a flat per-class rate based on rank. (Caywood Decl., ¶ 9.)*

Dispute.

During winterim session and summer session, course compensation is pro-rated if a class has less than 14 students enrolled. It still counts as overload.

236. *The department chair needed to approve overload assignments. (Caywood Decl., ¶ 9)*

Dispute.

This statement is incorrect.

After Dr. Fuller's complaint to the LAE dean (at that time Mittie Nimmocks-Den Herder) about sexual harassment by Dr. Caywood, Dr. Caywood didn't let me teach online graduate courses as part of load anymore and refused to sign the overload forms for the online graduate course. Dr. Fuller had to have the form approved by the LAE Dean without Caywood's signature on it. Therefore, overload courses didn't need to be signed by the chair because no disciplinary issues were ever issued by the Dean or the Chancellor to Caywood for refusing to sign my overload forms.

237. *Often, faculty has the opportunity to teach on-campus overload courses. (Caywood Decl., ¶ 10.)*

Dispute.

Every semester I have been employed, there was a need for overload teaching. Either on campus and/or in the online undergraduate and/or graduate program. If the chair cannot get enough volunteers the course has to be taught by an adjunct faculty member. That is the reason that the CJ department also contracts adjunct-instructors with only Bachelor degrees for their undergraduate and only Master's degrees for the graduate program even though that is in violation of the HLC accreditation requirements. The term "often" therefore does not apply.

238. *All professors must complete a form called "Request for Additional Payment" to obtain approval and compensation for teaching an overload course. Approval is typically required from the department chair, the dean of the college, and the provost of the university. (Caywood Decl., ¶ 9; Crowley Decl., Ex. R.)*

Dispute.

Object to the word typically.
Caywood repeatedly violated this requirement.

239. *Before each semester, when overloads were requested, Caywood would receive a stack of overload request forms, and would sign them. (Caywood Decl., ¶ 9.)*

Dispute.

Object to "would sign them."
Caywood refused to sign any of my overload forms for the graduate online program that Dr. Fuller coordinated from spring 2010 to summer 2013 in retaliation for the investigation into discrimination of Fuller by Caywood in spring 2010.

240. *Caywood does not recall ever refusing to sign an overload request form that had been submitted for his signature. (Caywood Decl., ¶ 9.)*

Dispute.

Dr. Caywood refused to sign overload requests for online, graduate teaching. (Burton Dep., Dkt. No. 39:395-23; Hawks Decl. ¶6(a), Ex. 18, Dkt. No. 53-18)

241. *On November 2, 2012, (after the student complaint incident) Caywood signed an overload request form that Burton submitted to him. Caywood's signature indicated his approval for*

Burton to teach and be paid for teaching CJ 4630, Cybercrime, which she taught in the Spring of 2013. (Burton Tr. at 417:8-23; 418:3-5.)

Dispute.

Object to “indicated his approval.”

Dr. Caywood as interim chair, Dr. Dalecki, and current chair, Dr. Strobl, rely heavily on faculty and staff teaching overload. The CJ department is understaffed. With approx. 900 students in the undergraduate program and 250 students in the graduate program we have 6 faculty members (this includes the chair) and 6 academic staff members. Caywood often requested repeatedly for department members to take on an additional overload course.

His signature for the on-campus overload course therefore does not indicate approval for Burton but reflects the understaffed CJ department’s need for overload teaching.

Everybody else in the CJ program had requested and received overload courses. Burton was not a unique case.

242. Throop approved of Burton's overload request to teach CJ 4630 on November 26, 2012. This overload teaching provided Burton an additional \$3,375. This was soon after the student complaint incident. (Burton Tr. at 418:13-20.)

Dispute.

It wasn’t a request or a sign of support. The course schedule was already submitted to the Registrar’s Office and scheduled in PASS, the student online enrollment center. Student advising season for fall semesters always ends before Thanksgiving and at that time the course was already overenrolled. Our CJ course offering already put many students on waiting lists or required them to take courses outside of CJ. Throop couldn’t afford to not sign the course at this time even if she wanted to do so.

243. On November 21, 2012, soon after the student complaint incident, Caywood and Throop signed an additional payment request from Burton to advise, via distance learning, two graduate seminar papers. This additional work compensated Burton \$1,000. (Burton Tr. at 418:23-420:1.)

Dispute.

Graduate seminar students are assigned to instructors approximately 1 semester prior to actually taking seminar. At that time the instructor will review the capstone seminar paper for approval before the Director of the online graduate program signs off on it. By policy and HLC accreditation requirements, the graduate program is required to have the capstone paper advised by on-campus faculty, however, this requirement can usually not be met because we have more graduate seminar students than faculty members willing to advise.

C. Grants & course development monies

244. Professors can also make additional compensation by obtaining grants that cover payments for salary over and above their teaching responsibilities. (Caywood Decl., ¶ 44; Ex. ZZ.)

No dispute.

245. Dutelle, Gibson, and Caywood received a two-year UW system grant for prior learning assessments. (Caywood Decl., ¶ 44.)

Dispute.

This opportunity was not shared with the department. Burton was not asked to be part of this opportunity. Burton was not even made aware of this grant even though she was senior to Gibson and academically more qualified than Dutelle (Dutelle had a 1 year online MS degree; Dr. Burton has a Ph.D. from UC-Irvine, a nationally acclaimed research institution).

246. Bob Roberts, who worked in the sponsored programs office, contacted Caywood, Dutelle, and Gibson about grant money available from the Lumina Foundation through the U.W. System to explore offering veterans university credit for their prior learning experience serving in the military. (Caywood Decl., ¶ 44; Ex. ZZ.)

Dispute.

Again, this opportunity was not shared with the department. Acts like those are the reason Dr. Fuller reported Caywood to the LAE Dean for sexual discrimination in early 2010. Burton was not offered this opportunity. Burton was not even aware of this grant. Dutelle has never served in the military.

247. In the proposal, Caywood, Dutelle and Gibson requested the following salaries for their work, which was to cover a two year period: Caywood: \$6,500 (for 130 hours at \$50/hour), Dutelle: \$13,050 (290 hours at \$45/hour), Gibson: \$13,050 (290 hours at \$45/hour). (Caywood Decl., ¶ 44; Ex. ZZ.)

Dispute.

Caywood didn't act responsibly. While Gibson requested salary for 290 hours Caywood also approved Gibson for 2 extra overload courses in CJ for those semesters which put Gibson at 150 % service on campus.

248. The grant would temporarily bump up their base salaries for two years. (Caywood Decl., ¶ 44; Ex. ZZ.)

Dispute.

It wasn't the grant but Caywood's discriminatory practice that increased the male faculty members earnings.

This opportunity was not shared with the department. Burton was not asked to be part of this opportunity. Burton was not even aware of this grant.

249. *The grant application was submitted in late 2011. (Caywood Decl., ¶ 44; Ex. ZZ.)*

No dispute.

250. *Caywood, Dutelle and Gibson created a report which they provided to the Lumina Foundation. When their work was complete, Caywood, Dutelle and Gibson's base salaries returned to normal. (Caywood Decl., ¶ 44.)*

Dispute.

Dutelle's base-salary increased when he was given the Director position in Sponsored Programs after he was accused of taking bribes by a contract partner of the DOD.

251. *Between October 2012 and the present, Burton did not apply for any grants that she did not receive as a result of the events complained about in the Second Amended Complaint. (Burton Tr. at 496:13-20.)*

Dispute.

Burton could not apply for any grants as Caywood pulled the "rug from under her feet." (April 2012 Grievance Committee Statement). You need the chair's approval for a grant application. Caywood made it clear after the student incident that he didn't support Burton anymore. Dean Throop's email to AT&T and statement that she wasn't even sure whether to allow AT&T official check presentation after UWP Foundation already cashed the check alienated AT&T. AT&T regional vice-president, Jim Jermain, stated to Burton on at least 2 occasions that AT&T was very interested in continuing to fund Burton's efforts. After Throop's email Mr. Jermain never reached out to Burton again.

D. Internships, graduate seminars, and miscellaneous income

252. *Professors also earn money over and above their contracted-for teaching by taking on interns. (Caywood Decl., ¶ 11.)*

No dispute.

253. *As CJ Chair, Caywood was responsible for assigning interns to faculty. (Caywood Decl., ¶ 11.)*

No dispute.

254. *To do this, Caywood would take the total number of interns and divide them by the total number of faculty available to take on interns. (Caywood Decl., ¶ 11.)*

Dispute.

Caywood repeatedly favored certain department members over others. This unfair practice caused Burton to speak up for the first time against Caywood's practice in June 2012. In spring 2012, Caywood assigned interns to Bob Roberts even though Roberts was no longer with the CJ department in summer 2012. Roberts took on a position in Sponsored Programs. Dalecki made a similar move in 2015 for the summer 2015 internships. He assigned Rex Reed (who resigned from CJ in May 2015) an intern and assigned interns to Ed Ross (who retired in Dec. 2014) and to Joe Lomax (who retired in Dec. 2013). These are examples of disparate treatment.

255. *Faculty would be paid a flat rate per student, where the flat rate was based on the professor's rank. (Caywood Decl., ¶ 11.)*

No dispute.

256. *Sometimes, students would drop their internship, or fail to pay the registration fee. If that was the case, the professor to whom the intern was assigned would not be paid for the intern who dropped his or her internship. (Caywood Decl., ¶ 11.)*

Dispute.

Every summer at least a couple of students would sign up late for internships. They were always accepted as interns even if registering late. Some police departments and other institutions would offer internship positions "last minute" or a student would get a vacated internship last minute. The chair then could even out the numbers if he wanted to do so.

257. *On December 5, 2012, Caywood signed a form that approved for Burton being paid an additional \$250.00 for taking on an intern. This approval was provided within two months after the student complaint. (Burton Tr. at 420:2-421:3.)*

Dispute.

Burton didn't ask for the intern. Everybody in the department worked overload. Taking an intern during regular semester while teaching overload is a burden. \$ 250 is not worth that effort. Burton again stepped up to the task while teaching overload and handling seminar students. When Burton was assigned the intern, she believed it to be an adverse employment act to give her too much to work so she couldn't fight the discrimination anymore.

258. *In the summer of 2015, Dalecki assigned Burton interns based on his understanding of her medical restriction that she was not to drive long distances. He assigned either interns that were in the Platteville area, or interns who were doing long distance internships where communications would be accomplished through Skype. (Dalecki Tr. at 146:7-147:4.)*

Dispute.

Burton informed Dalecki that she could handle internships within a driving distance of 1 hour (incl. Madison). The student who supposedly interned in Platteville dropped out of the internship during spring semester. Dalecki assigned other interns who were within moderate driving distance or who were Skype candidates to other individuals. Staff member Deb Rice, who defamed Burton in fall 2014 in presence of Dr. Dalecki, got among others an intern in Darlington (approx.. 30 mins from Platteville) Rex Reed, who resigned from UWP in May 2015, received an intern; Retirees Ed Ross (who retired in Dec. 2014) and Joe Lomax (who retired in Dec. 2013) received additional interns who could have been given to Dr. Burton. These are examples of disparate treatment.

Dalecki assigned fewer interns to Burton than to the other department members even though Burton is the most senior faculty member on campus. (Internship assignments Sum15)

<http://www.uwplatt.edu/employee-handbook/employment-stipulations> It seems that this page does not allow for retired or former employees to be used for internships. It says “A limited number of faculty and teaching academic staff, on a rotating basis when practicable, will also be employed for summer teaching.” For this reason I believe Dalecki violated the policy by assigning interns to Reed and Ross for Summer 2015.

X. Process of Assigning Professors to Teach Courses

259. *The CJ department had between 12-14 full time faculty and academic staff, and often needed to hire adjunct instructors to teach. (Caywood Decl., ¶ 4.)*

Dispute.

Oppose the word often. The CJ department used adjuncts in their on campus and online programs every semester since Burton joined UWP in 2009.

260. *The department generally offered about 40 on-campus classes during both the spring and fall semesters. (Caywood Decl., ¶ 4.)*

Dispute

To Burton’s knowledge there were often additional sections offered (e.g., Introduction to CJ) which brought the class number often well above 40. Defendants didn’t submit any documentation.

261. *As Department Chair, Caywood needed to secure classrooms that could accommodate the class size, schedule professors, making sure they were not doubled up on teaching time, and work around professor sabbaticals and release time. (Caywood Decl., ¶ 4.)*

Dispute.

Object to word “sabbaticals (pl).” Burton had the only sabbatical ever awarded to a member of the CJ department. Release time were only given to former senior faculty member Mr. Lomax (.25) and (.50) to Mr. Dutelle and in fall 2013 to Dutelle’s girl-friend, Ms. Dana Cecil, who then was the most junior staff member in the program.

262. Not every professor is qualified to teach every course. (Caywood Decl., ¶ 4.)

No dispute.

263. One consideration that Dalecki and Caywood made when assigning courses was to reduce the number of preparations one professor would need. Where possible, Caywood kept one professor teaching two sections of the same course, so that the professor would not have to prepare for too many courses. (Dalecki Tr. at 157:5-22; Caywood Decl., ¶ 5.)

Dispute

This is not a finding of fact, but a self-serving statement that distracts from the issue in question. While the named consideration may be applied to many instructors, both former chairs have deviated from that standard on numerous occasions and especially when intending to punish an instructor. E.g., an instructor would be assigned to courses outside of his/her interest or to lower level courses or this “consideration” would be used as an excuse to keep an instructor from teaching the course of interest. Being able to show that one has taught a variety of courses will make an instructor more competitive on the job market. Reducing an instructor to teaching always the same courses is stifles the instructor’s potential and can reduce the instructor’s passion, especially when the instructor has an advanced degree like a Ph.D.

264. Dalecki believed that the worst schedule one could have would be to be teaching four sections of four different courses. Teaching two sections of the same course reduces the number of necessary preparations. (Dalecki Dep. Tr. at 157:5-22.)

Dispute.

Defendants make statements that are irrelevant and not a fact. A professor with a quality education will welcome teaching a variety of courses. Burton has taught and developed well over 20 courses in her teaching career. The repetitiveness of teaching the same subject matter can demotivate. Many universities in the U.S. do not offer multiple sections of the same course but teach introductory courses in large classroom. While teaching several sections of the same course may be common place at technical colleges it is discouraged at university level.

265. When scheduling courses, Caywood first considered the needs of the department. Then, if Caywood could, he considered special requests made by professors. (Caywood Decl., ¶ 5.)

Dispute.

This is a self-serving statement that cannot be corroborated. Under Caywood the CJ department kept the same course offerings in CJ that the department had for 20 years. That can hardly be in the interest of the CJ department.

266. Often special requests to teach courses cannot be accommodated, because the department chair must be concerned with the schedules of many professors. Sometimes, changing one person's schedule can have a domino effect on everyone else's schedule, and can create unworkable scheduling problems. (Dalecki Tr. at 160:1-19.)

Dispute.

These are uncorroborated, self-serving assertions that cannot support a claim if based on intuition, rumor, or is inherently implausible. *Darchak*, 580 F.3d at 631; *see also Payne*, 337 F.3d at 773.

Dalecki gave the most important course in CJ, CJ seminar, to a newly hired faculty member instead of letting Burton, the most senior faculty member on campus, teach the course. That can hardly be excused by trying to avoid a “domino effect.” Dalecki also gave the newly hired faculty member the Restorative Justice course to develop and teach to the newly hired faculty member even though Burton is the one that, just the year prior, brought a Restorative Justice project on campus, put 20 students through mediation in RJ training, advised multiple directed studies on RJ, and was featured on the Pioneer Link (the UW-P website) and on Dubuque Radio in a one hour radio show on her Restorative Justice student projects. Burton was also the advisor for the first Restorative Justice Conference at UW-Platteville. Dalecki also reassigned the Comparative Criminal Justice Course to a junior staff member who has never worked outside of the U.S. instead of letting Burton teach the course. Burton has extensive international law enforcement experience and education. She taught the course the year prior with stellar student course evaluations.

267. CJ faculty is given the opportunity to volunteer to teach online. As the CJ Chair, Caywood was not responsible for finding faculty to teach online. (Caywood Decl., ¶ 6.)

Dispute.

Caywood did not let CJ faculty teach in the online graduate program as part of load after spring 2010. The Higher Learning Commission HLC requires that 50% of online grad courses are taught by on campus faculty. UWP is in violation of that accreditation standard. The undergraduate and graduate online programs are part of the Criminal Justice Program. The chair of the CJ department is responsible for following HLC standards.

268. Online courses are assigned by the coordinator of the online CJ program. They are then approved by the Department Chair. (Dalecki Decl., ¶ 18.)

Dispute.

The former Department Chair, Dr Caywood, refused to sign and approve several teaching assignment forms for the CJ graduate online program.

269. The CJ Chair's signature is required on professor's contract to teach online. (Caywood Decl., ¶ 6.)

Dispute

Because Fuller reported directly to the dean, this was not the case from May 10, 2010 through about Oct. 2012. Caywood refused to sign the contracts during this time, yet Burton was still able to teach online.

270. Caywood does not recall ever refusing to sign a contract to teach online that had been submitted for his signature. (Caywood Decl., ¶ 6.)

Dispute.

Dr. Caywood refused to sign contracts for online graduate teaching. (Burton Dep., Dkt. No. 39:395-23; Hawks Decl. ¶6(a), Ex. 18, Dkt. No. 53-18)

271. Dr. Cheryl Banachowski-Fuller is the director of the online Criminal Justice Graduate program and has been director of that program for several years. (Caywood Decl., ¶ 7.)

No dispute.

272. She is responsible for assigning professors to teach courses in the graduate online program. (Caywood Decl., ¶ 7.)

No dispute.

273. Since about 2014, Dr. Banachowski-Fuller has also acted as the online undergraduate coordinator. The undergraduate online coordinator is responsible for scheduling faculty to teach the online undergraduate courses. (Caywood Decl., ¶ 8.)

No dispute.

274. Amy Nemmetz was the undergraduate online coordinator from about 2007 to 2011. Dana Cecil served as the undergraduate online coordinator from about 2011 through 2014. (Caywood Decl., ¶ 8.)

No dispute.

275. *The online courses are typically assigned to adjunct professors, who are part-time department members, or may be taught by full-time department members as an overload. (Caywood Decl., ¶ 9; Dalecki Decl., ¶ 18.)*

Dispute.

Burton assignment was .25 for the graduate online program in fall 2009 and spring 2010. In spring 2010, after Dr. Fuller made allegations of sexual discrimination and sexual harassment against Caywood, he retaliated against her by reassigning Burton in a unilateral decision to 100 % on campus teaching. He refused to sign Burton's overload contracts for the online grad program the following semesters.

Oppose the term "adjunct professors." There are no adjunct-professors only adjuncts or adjunct instructors or lecturers. A professor is a faculty member. HLC requires that 50 % of online grad courses are taught by on campus faculty.

276. *Teaching online courses are not a typical part of full-time faculty members' regular load because on-campus undergraduate courses took priority over online courses. (Caywood Decl., ¶ 10.)*

Dispute.

Contrary to this statement, according to Higher Learning Commission the university needed to have over 50%+ of "on campus" faculty teaching in the online programs (there cannot be more adjuncts than "on campus" faculty). This statement applies only to faculty hired after Burton, whose contract does not contain online teaching as a primary duty. Contrary to Caywood's declaration, Burton was hired to teach online so her typical assignment should have included online teaching as part of load. Burton was assigned online teaching as part of load for her first two semesters. Caywood changed that in retaliation against Fuller.

277. *During Dalecki's time as Interim Chair, he does not recall an instance where a full-time CJ faculty member taught an online course as part of their normal course load. (Dalecki Decl., ¶ 19.)*

Dispute. This is an uncorroborated, self-serving assertion that cannot support a claim if based on intuition, rumor, or is inherently implausible. *Darchak*, 580 F.3d at 631; *see also Payne*, 337 F.3d at 773. Dalecki has never been a faculty member of the CJ department. Even as interim chair he was not faculty. When Dalecki took over as chair, the schedule for fall 2013 was already written by Caywood. After that, Dalecki refused to honor Burton's contract. After Burton was hired, she was assigned to teach at least one course in the online graduate program.

278. *For online overload courses, professors are paid \$260.00 per student enrolled in a course. (Dalecki Decl., ¶ 20.)*

No dispute.

279. Face to face upper level courses typically have an enrollment of 25-30 students per course and lower level courses typically have an enrollment of 40-50 students per course. Online elective courses generally have between 8-14 students per class, while online core courses average around 17-20 students per class. (Dalecki Decl., ¶ 21.)

Dispute.

This statement is false. Dalecki's own face-to-face sociology courses rarely had over 20 students enrolled and often were in single digits.

Burton has taught in the CJ program since fall 2009. Upper level courses are capped by the Registrar's office at 20-25 but can, with permission of the professor, be opened up to 30. Seminar, a 4000 level course, shouldn't have more than 20 students enrolled. 1000 and 2000 level courses are capped at 30 but often run around 35 students (rarely 40 or more). Lower level courses in CJ and FI typically have enrollment of 30 to 45 students, rarely over 45.

280. Due to the lower enrollment rates of online courses, it is not fiscally responsible to have full time faculty teach online courses as part of their normal course load, as those courses do not generate as much revenue for the university as face to face courses. (Dalecki Decl., ¶ 22.)

Dispute.

Irrelevant statement and not a finding of fact. Dalecki wasn't a member of the search and screen for the position Burton applied for. Dalecki did not write the contract nor was involved in any way in the hiring of Burton.

Burton was hired to teach at least 25% in the graduate online program to fulfill the requirement of the HLC. According to Higher Learning Commission, that handles the accreditation of UWP, the university needed to have over 50%+ of "on campus" faculty teaching in the online programs (there cannot be more adjuncts than "on campus" faculty).]

Dalecki believes saving money is more important than following HLC requirements for accreditation and honoring Burton's contract. (Dalecki Decl., ¶ 22.)

281. During Dalecki's time as Interim Chair, the CJ Department was short-staffed. As such, Dalecki needed full-time, experienced faculty members like Burton on campus teaching face to face courses. (Dalecki Decl., ¶ 23.)

Dispute.

The CJ department has been short-staffed for years. That is no secret at UWP. Dalecki's actions show that he didn't care about covering courses by full-time faculty. Burton was hired at a time when the department was short staffed. Her contract was written at a time the department was short staffed. Under Dalecki, 7 full-time members of the department left the department. Such an exodus is unprecedented at the CJ Department. Dalecki tried to make me leave as well and in June 2014 even discussed the termination of Burton with Throop. In summer 2014 Dalecki gave a junior faculty member with no experience in hiring academic faculty the chair position for three faculty searches. That person wasn't able to hire a single person while Burton was able to attract 4 qualified candidates the year prior for 1 position. The department ended up hiring two of Burton's candidates because another concurrent search didn't yield any qualified candidates. If

Dalecki cared about having full-time, experienced faculty members he would not have excluded Burton but would have relied on her ability to run successful faculty searches.

282. *Caywood made assignments based on various factors, including but not limited to: expertise, regular course schedule (one professor cannot teach two courses at the same time), multiple section offerings (e.g., if a professor was already teaching two sections of Intro to Criminal Justice, it would make sense for the professor to teach a third section as an overload, because no additional preparation would be required of the professor), and asking for volunteers. (Caywood Decl., ¶ 10.)*

Dispute.

This is not a finding of fact. Various factors could also include retaliatory motives, racial motives, sexual motives. Caywood himself expressed to Throop that he was not opposed to “bending the law.” (Throop’s notes)

XI. Salary Comparisons & Comparators

283. *Burton's salary as of her April 2009 hire date was \$48,000. Prior to the 2009-2010 school year, on July 28, 2009, Burton received a \$2,000 pay raise for a market adjustment. Her salary as of July 28, 2009 was \$50,000. (Crowley Decl. Ex. J.)*

No dispute.

284. *Burton's base salary remained at \$50,000 through the 2011-2012 academic year. Burton's salary letter indicated an inability to fund pay plan increases. (Crowley Decl. Ex. K, L.)*

No dispute.

285. *Due to Burton's promotion to Associate Professor, on June 8, 2012, Burton's base salary was raised by \$1,750 to \$51,750. (Crowley Decl. Ex. M, N.)*

No dispute.

286. *On March 26, 2014, Burton received a base salary adjustment, from \$52,268 to \$56,000. Her new base salary, retroactively effective August 19, 2013, was \$56,000. (Crowley Decl. Ex. O, P.)*

Dispute.

Dalecki called this adjustment a raise in April 2014 and was angry when he learned that I filed a federal lawsuit in April 2014. He yelled “you just got a raise!” after he asked me about my legal case against the school.

287. *Lorne Gibson holds two PhDs, one in criminal justice and one in education. (Burton Tr. at 98:13-17.)*

No dispute.

288. *Gibson was hired in 2011. His starting salary was \$50,000. (Crowley Decl. Ex. LL, MM.)*

No dispute.

289. *In May, 2012, Gibson was awarded a temporary upward adjustment to his base salary because he received a Prior Learning Assessment (PLA) Grant. This grant gave him a temporary salary boost to \$56,525. (Crowley Decl. Ex. OO.)*

No dispute.

290. *Gibson's temporary salary adjustment carried through to the following year, so that his base salary was \$57,090. (Crowley Decl. Ex. PP.)*

No dispute.

291. *In October 2014, Gibson's PLA grant work was complete and his base salary returned to \$51,465. (Crowley Decl. Ex. QQ.)*

No dispute.

292. *Aric Dutelle's tenure track appointment began in 2010. His starting salary was \$48,000. (Crowley Decl. Ex. Y, Z.)*

No dispute.

293. *In June, 2012, Dutelle received a \$1,750 salary increase because he was promoted to associate professor. (Crowley Decl. Ex. BB.)*

No dispute.

294. *In May of 2012, Dutelle was awarded a temporary upward adjustment to his base salary because he received a Prior Learning Assessment (PLA) Grant. This grant gave him a temporary salary boost to \$54,525 (salary before the \$1,750 promotion). (Crowley Decl. Ex. CC.)*

No dispute.

295. *In September of 2013, Dutelle's temporary salary adjustment carried through to the following year, so that his base salary was \$58,100. The temporary adjustment to Dutelle's base salary was to terminate on December 31, 2013. (Crowley Decl. Ex. CC.)*

No dispute.

296. *In August of 2013, Dutelle accepted a position as the Interim Director of Sponsored Programs in the Office of Grants, Research & Sponsored Programs Department. In this position, his base salary was \$72,000. This base salary did not include the temporary base salary increase due to the PLA Grant. (Crowley Decl. Ex. GG; II.)*

Dispute.

Dutelle was forced to leave the CJ department after allegations of bribery surfaced. Dutelle was in fact so upset about removal from the CJ department that he contacted Attorney Mary Kennelly in summer 2013. When I had my first meeting with Mary Kennelly in August 2013 she told me that an Aric Dutelle from Platteville contacted her as well but she wasn't impressed with his "professional" background and wasn't interested. Dutelle once walked into Dr. Dalecki's office which was next to mine and yelled at Dalecki that he wouldn't let anyone push him out of the FI.

297. *Dutelle resigned from his position as Interim Director, Office of Sponsored Programs, effective June 6, 2014. (Crowley Decl., Ex. JJ.)*

No dispute.

298. *Aric Dutelle published three books while he was teaching at UW-Platteville: Introduction to Crime Scene Investigation, (2010), Criminal Investigation, and Ethics for the Public Service Professional. While he was at UW-Platteville, Dutelle authored more textbooks than any other instructor or professor in the criminal justice department. (Burton Tr. 99:16-101:25;107:12-17; Ex. 4.)*

Dispute.

Statement isn't correct. Dutelle was also on 50 % release time while writing his books. The new CJ chair just authorized a new course textbook adoption for the FI course "Introduction to Crime Scene Investigation" because our newly hired FI instructor found too many mistakes in Dutelle's book.

(Burton declaration 441.13 to 441.19.)

299. *Dutelle was the program coordinator of the forensic investigation program, which is a degree program within the Criminal Justice Department. (Burton Tr. at 105:14-16; Caywood Decl., ¶ 37.)*

No dispute.

300. *Dutelle worked on bringing grant money to UW-Platteville. He was the principal investigator for two United States Department of Justice grant proposals, and as of 2011, he had obtained over \$100,000 in grants and external funding for UW-Platteville's forensic investigation program. (Caywood Decl., ¶ 41; Burton Tr. at 108:1-10, Ex. 5.)*

Dispute.

Oppose the vagueness of the statement. Dutelle took credit for donations that Diana Johnson, FI faculty member brought to campus as well. Defendants used Burton's Deposition as a reference, yet Burton never confirmed the information. Despite any grant work that Dutelle did or may have done, the FI program was called a "train wreck" by an independent evaluator. His report stated: "Departmental leadership is important to addressing the problematic nature of the FI major, but the consequential problems as a result of the creation and perpetuation of the FI program goes well beyond departmental leadership. Campus administration and the dean's office must shoulder some responsibility for the train wreck that occurred much later." A second expert auditor had similarly harsh words for the FI program.

301. In March 2014, Throop recommended Burton for an equity adjustment effective August of 2013, without a request from her. Burton ultimately received that adjustment to her base salary. (Throop Decl., ¶ 44.)

Dispute.

Burton isn't sure what the "adjustment" really was. Dalecki called it a salary raise in April 2014. Burton has been serving on the CCC, the College Compensation Committee, since fall 2014. Equity adjustments are not awarded to faculty who didn't request them. In fact, CJ DRB chair Dr. Fuller commented on Dr. Gibson's equity adjustment request that he submitted with his DRB binder in Jan. 2014 that he didn't fulfill the rigid requirements of explaining why he rated equity adjustment. "Without meeting those requirements," she said, "you cannot be considered." Burton felt that the equity adjustment that she didn't request was a bribe to drop her legal complaint against Throop.

Just last week the CCC submitted their recommendation for equity adjustment to the Dean. None of the members who didn't request adjustment were even looked at. According to the files, Burton would still qualify for equity adjustment as her salary as tenured is still far below where it should be.

302. Specifically, Throop provided Burton with an equity adjustment to cure a salary inversion. (Throop Decl., ¶ 44.)

Dispute. Dean Throop requested an inequity/inversion adjustment to Dr. Burton's salary because "[s]he is a tenured associate professor but is making less than Dr. Pat Solar, a first-year tenure-track professor." (Hawks Decl. ¶6(u), Ex. 38, Dkt. No. 53-38)

Equity or compression adjustments have to be requested. The College Compensation Committee reviews the request and makes recommendations to the Dean, who forwards her recommendations to the Provost. Burton's equity adjustment was disparate treatment. The suspect timing suggests that Throop tried to bribe Burton not to pursue her legal actions against Throop.

303. An equity adjustment to a professor's salary reflects a change due to a factor other than promotion. (Throop Decl., ¶ 45.)

Dispute.

Equity adjustments have to be justified. Defendants are vague here. “A factor other than promotion” could include bribery.

304. Such an adjustment may be recommended because the market for similar talent demands a higher salary, or to cure a salary inversion. (Throop Decl., ¶ 45.)

Dispute.

Throop leaves out that such adjustments have to go first through the CCC, the College Compensation Committee. The adjustment was disparate treatment and as such pretext.

305. An equity adjustment is not an admission that there was any sort of discrimination occurring at UW-Platteville, regarding either Burton or any other individual. (Throop Decl., ¶ 45.)

Dispute.

The equity adjustment was disparate treatment as equity adjustments are usually only granted to faculty who request it and pass the review by the CCC first. (Burton 2nd Declaration) The adjustment was disparate treatment and as such pretext. Burton understood it to be a bribe.

306. A salary inversion occurs when a lower-ranking faculty member is paid more at the time of hire than a higher-ranking faculty member. This may occur for any variety of reasons. (Throop Decl., ¶¶ 45, 46.)

Dispute.

This was not a problem that only affected Burton. The equity adjustment was disparate treatment as equity adjustments are usually only granted to faculty who request it and pass the review by the CCC first. (Burton 2nd Declaration) The adjustment was disparate treatment and as such pretext. Burton understood it to be a bribe.

307. The incoming faculty member, Dr. Solar, was hired at a higher salary than others before him because he had highly desirable academic credentials and over thirty years of professional experience in policing, including experience as a police chief. (Throop Decl., ¶ 46.)

Dispute.

Dr. Burton was a member of the Search & Screen that evaluated Dr. Solar. Dr. Solar’s academic credentials met the requirements for the position; they didn’t exceed the requirements. In 2015, the Ethnic Studies Department reported Dr. Solar to the LAE Dean’s office for offensive racial

remarks and a highly offensive racial poster outside of his office. He was forced to remove the poster.

308. His salary was the product of negotiations between Dr. Solar and the University. (Throop Decl., ¶ 46.)

No dispute.

309. After Dr. Solar was hired, Throop requested the equity adjustment for Burton to cure the disparity. (Throop Decl., ¶ 46.)

Dispute. See paragraph 302 above.

Throop requested the equity adjustment in January 2014, during the time when Throop and Dalecki were trying to get Burton not to file a lawsuit by occasionally supporting her. (Salary-compression) When Dalecki learned that Burton filed a federal lawsuit he called her into his office and yelled at her. He was upset that she filed despite getting a “raise.” (Burton 2nd Declaration)

XII. Criminal Justice Course Assignments, Fall 2009 through Fall 2014

310. David S. Kieckhafer is employed by the University of Wisconsin-Platteville as the University Registrar. (Kieckhafer Decl, ¶ 1.)

No dispute.

311. He created a spreadsheet representing Criminal Justice and Forensic Investigation courses taught at the University of Wisconsin-Platteville between Fall 2009 and Fall 2014. (Kieckhafer Decl, ¶ 2, Ex. A.)

No dispute.

312. All course information resides in UW-Platteville's Pioneer Administrative Software System (PASS) – the student information system operated by Oracle's PeopleSoft Campus Solutions. The course list was produced using a query in PASS. (Kieckhafer Decl, ¶ 3.)

No dispute.

313. Course information is obtained directly from academic departments as we prepare for registration each semester. The Registrar's office receives the information and enters it into PASS. The academic departments review the course information in PASS for accuracy prior to

student registration. Instructor names must be accurately maintained in order for each instructor to access class rosters and enter grades. (Kieckhafer Decl, ¶ 4.)

No dispute.

314. The course information in PASS are regularly kept business records of the University of Wisconsin-Platteville, to which the Registrar's office has access. (Kieckhafer Decl, ¶ 5.)

No dispute.

315. The course information listed in Exhibit A must be interpreted as follows: Column A: Term (Fall, Spring, or Summer); column B: Year (The calendar year of the term); column C: Subject (the department of the course including departments which offer related courses to Criminal Justice or Forensic Investigation. This includes subjects where the same course is offered through multiple departments); column D: Catalog Number (1000 – 4000 level are undergraduate courses; 5000 – 7000 are graduate level courses); column E: Section (Numbers under 50 are on-campus; those 50 and higher are distance education—online offerings; those with an 'L' are lab sections; those with 'AE' are in the Adult Education program); column F: Course title; column G: units (the credits or semester hours of the course); column H: First Name (of the Instructor); column I: Last Name (of the Instructor); column J: Enrolled (the number of students enrolled in the section of the course). (Kieckhafer Decl, ¶ 6.)

No dispute.

316. At some point, Dalecki denied Burton's request to teach one of her regular courses online because the department was short-staffed and Dalecki needed her to teach in the classroom. (Dalecki Tr. at 54:8-13.)

Dispute.

Burton didn't request, but informed Dalecki that she was hired to teach at least one course for the CJ online graduate program.

The Higher Learning Commission accreditation requires that the university needed to have over 50%+ of "on campus" faculty teaching in the online programs (there cannot be more adjuncts than "on campus" faculty).

XIII. Forensic Investigation Program

317. In 2003 Provost Carol Sue Butts asked department chair, Joe Lomax, whether we as a department could develop a forensic related program. (Caywood Decl., ¶ 12.)

Dispute.

Not a statement of fact but hearsay. Caywood refers to what two other people may have said as a statement of fact.

At the time of hire Burton was told that the CJ Department under Lomax and Caywood approached former Provost Carol Sue Butts about FI.

318. *The department had the backing of the administration through the entire development process providing funding and more importantly positions to start the forensic investigation program. (Caywood Decl., ¶ 12.)*

Dispute.

When Dr. Burton started at UW-P in Aug. 2009 Dr. Fuller told her that the FI program was a very controversial program at UW-P, as many questioned the academic quality of Forensic Investigation. FI had probably the backing of many but not all of the administration. Dr. Fuller's position is that of an administrator. She one of the strongest critics of the FI program. (Burton 2nd Declaration)

319. *A nation-wide search was held late 2003 and early 2004. (Caywood Decl., ¶ 12.)*

No dispute.

320. *Aric Dutelle was hired, as academic staff, to start the FI program beginning Fall 2004. He has a Master's degree in forensic sciences. (Caywood Decl., ¶ 12, 37.)*

No dispute.

321. *The CJ Department had several FI classes approved through all related curriculum committees by the time Aric Dutelle arrived on campus for the Fall semester. (Caywood Decl., ¶ 13.)*

Dispute.

Oppose the wording "through all related curriculum committees." Contrary to this statement, there existed no department curriculum committee during this time. (Burton deposition 486.12 to 15) (Caywood Decl., ¶ 14.) The department chair is responsible to establish a curriculum committee with at least five departmental members.

322. *Dutelle was brought in as teaching academic staff. It took five years to get this position as a tenure track position. (Caywood Decl., ¶ 37.)*

Dispute.

Tenure track position require a Ph.D. in the discipline of hire or a related field. Mr. Dutelle had a one year online MS degree in Forensic Sciences from a for-profit online program in CA. Dutelle was allowed to write his own "tenure track position." Dr. Burton was a member of the FI Search & Screen Committee in 2009/10. (Burton 2nd Declaration)

323. *A national search was conducted and he was hired in 2009 or 2010. Dutelle was hired, and he was given two years toward tenure by the Dean and Provost. (Caywood Decl., ¶ 37.)*

Dispute.

The national search was a joke. Dutelle wrote the job description for the position to which he was hired. The department had two other applicants, one with a Ph.D. in forensic psychology. Caywood discussed every step of the search with Dutelle and shared information about the other candidates. None of the other candidates were invited on campus. Dutelle was the only “on campus visit.” Usually, searches are called failed if only one candidate remains. When Burton asked if that was ok, she was told by Caywood to just go along. Dr. Fuller, an outspoken critic of Dutelle, was excluded from the search even though she was a tenured faculty member of the CJ department.

324. *Dutelle received 50% release time because he was the FI coordinator. This 50% release time was written into the policies and procedures for the criminal justice department. (Caywood Decl., ¶ 38.)*

Dispute.

This was a unilateral decision by Caywood. He spoke “for the department.” The grievance committee referred to the practice in the CJ Dept. under Caywood in their April 2013 report as “favoritism.”

The department never voted or approved the 50 % release time for Dutelle.

325. *The department policies also indicated that the undergraduate online coordinator, and the director of CJ online graduate program, would receive 50% release time if they were fulltime faculty. (Caywood Decl., ¶ 38.)*

Dispute.

This was another unilateral decision by Caywood. Caywood called them department decisions, yet he didn’t allow the department to vote on them.

326. *As coordinator, Dutelle’s duties included leading, planning, and managing the undergraduate FI program, managing the FI budget, providing faculty oversight, training faculty, developing and revising courses, supervising, recruiting and managing program personnel, advertising the program and recruiting students, and performing other duties assigned by the CJ Chair. (Caywood Decl., ¶ 39.)*

Dispute.

Contrary to this statement, the duties of FI coordinator do not include recruiting students or advertising the program.

Dutelle was allowed to develop courses without departmental approval. This was disparate treatment. Compare to the harsh scolding of Burton for working on a course proposal without the approval of a department curriculum committee that didn't even exist before May 2013.

327. Unfortunately, not everyone in the CJ department was supportive of the FI program or of Mr. Dutelle's qualifications; nevertheless, it was backed by a majority of the department, and curriculum and courses were approved, when such approval was required by the CJ department, LA&E College, UW-Platteville, and/or the UW System Board of Regents. (Caywood Decl., ¶ 13.)

Dispute.

The required approval by the CJ department was never given. The CJ department under Caywood didn't have a curriculum committee as required. Decisions for the CJ department were made unilaterally by Caywood. Caywood does not specify who the supporters and critics of Mr. Dutelle were. If the majority of the department were supportive it is suspect that there didn't exist a CJ curriculum committee as required by LAE constitution. There existed no department curriculum committee during this time. (Burton dep. At 486.12 to 15) (Caywood Decl., ¶ 14.) The department chair is responsible to establish a curriculum committee with at least five departmental members.

328. When the FI program was developed, the CJ department did not have its own curriculum committee. (Caywood Decl., ¶ 14.)

Dispute.

Opposed to wording. The department chair is responsible to establish a curriculum committee with at least five departmental members.

329. Prior to the department curriculum committee, the process for obtaining course approvals was by discussion and consensus among the faculty. (Caywood Decl., ¶ 14.)

Dispute.

Course approvals were given unilaterally by Caywood without allowing discussion among faculty. The department chair is responsible to establish a curriculum committee with at least five departmental members.

XIV. Office assignments

330. In January 2009, the criminal justice department moved from Warner Hall to the suites in Ullsvik Hall. (Caywood Decl., ¶ 15.)

No dispute.

331. *Office space was assigned by seniority – meaning, who had been at UW-Platteville the longest. Faculty with higher degrees did not get preference. (Caywood Decl., ¶ 15; Caywood Tr. at 90:15-91:8.)*

Dispute.

It isn't clear from the statement who made the assignments and who decided on what constituted seniority. Other departments at UW-P give their most prestigious offices to faculty and not to academic staff that only have a yearly contract.

When Burton came to the department she had a PhD but was given an office with no window while several members of the department who did not have PhDs were in offices with windows. A newly hired assistant professor, like Burton outranked any academic staff yet academic staff members had window offices while Burton was assigned to a windowless office.

332. *Cheryl Banachowski-Fuller, as director of the graduate program, and Caywood, as CJ department chair, were assigned the two largest offices. (Caywood Decl., ¶ 15.)*

No dispute.

333. *Tenure track faculty and academic staff, by seniority, picked which office each wanted. Kathy Winz opted not to take a window office as she was retiring in May. (Caywood Decl., ¶ 15.)*

Dispute.

Burton was hired as faculty and had seniority by rank over academic staff members. Burton didn't get to pick her office.

334. *Otherwise, the senior staff picked windowed offices and Junior staff picked remaining offices. (Caywood Decl., ¶ 15.)*

Dispute.

Caywood assigned Burton an undesirable office with no window and poor lighting. On Oct 12, 2013 Burton visited the doctor's office because one of her eyes was flame red. The doctor suggested that natural lighting would be less straining than fluorescent lights and wrote a letter requesting an office with natural lighting. Burton delivered the letter to Caywood on about Oct 16, 2013. Caywood ignored her request.

335. *Burton was not in the CJ department when the offices were initially assigned. (Caywood Tr. at 90:10-11.)*

Dispute.

No office assignments in an academic setting are permanent. Staff yield to faculty and junior faculty yield to senior faculty.

XV. Intern Assignments

336. Around May of 2012, Burton was upset about not having enough summer interns, and told Caywood she had received an unsolicited job offer and she may have to entertain future offers if her income diminished. (Caywood Decl., ¶ 18.)

Dispute.

Caywood told Burton at her on-campus visit in March 2009 that she could make \$10,000 in overpay during the summer and an additional 12,000.- during the 9 months contract period if she wanted to do the work. This would offset the relatively low salary that UW-P offered.

Caywood told Burton that a “woman’s salary was secondary to that of a man, because the man was the primary bread-winner.” For that reason Caywood gave Bob Roberts, who at that time just accepted a position in Sponsored Programs, several interns to advise.

On May 31, 2012 8:42:44 PM Burton wrote “I have received an unsolicited job offer from D.C. that I will not pursue as I am happy here at UWP and the family enjoys living in Platteville. However, I may have to entertain future offers if my yearly income (incl. summer pay) continues to diminish so my financial and time sacrifices for a traditional Ph.D. were not in vain.”

On Jun 01, 2012 10:00 PM Burton wrote an email to Caywood in which she wrote “I am not happy with the internship distribution this year but will make do and move on. There is room to improve and hopefully we can come to a better solution next term. I hope you can understand my inquiry into this issue. Thank you for providing an environment where we safely can vent our grievances. Thank you for taking them seriously and considering them in future decisions.”

337. In response, Caywood discussed the challenges of dividing interns among faculty, and told Burton that she is a valuable member of the department Caywood also said if opportunities were available elsewhere Caywood wished her the best. (Caywood Decl., ¶ 18.)

Dispute.

In his written response to Burton’s grievance charges Dr. Caywood said he saw Burton’s email as a “veil threat.” [sic]

XVI. Search and Screen Committees

338. In the CJ Department, new professors are hired via committee called a “Search and Screen Committee.” (Throop Decl., ¶ 47.)

No dispute.

339. The CJ department chair appoints a faculty member to be the Search and Screen chairperson. (Throop Decl., ¶ 47; Dalecki Decl., ¶ 30.)

No dispute.

340. *Search and screen committees are made up of typically three or four faculty members, one student and one diversity representative. (Throop Decl., ¶ 47; Dalecki Decl., ¶ 30.)*

Dispute. All faculty members in the CJ Department are invited to serve on search and screen committees, which must follow all University policy and procedures governing the hiring of faculty, and there are no stated diversity requirements in CJ policies and procedures. (Dkt. No. 34-1 at 008-009)

341. *The Search and Screen committees are used to search for and assess prospective CJ faculty candidates, and recruits, interviews, and recommends one or more professors to hire for the department. (Throop Decl., ¶ 47; Dalecki Decl., ¶ 30.)*

No dispute.

342. *Similarly, the LA&E College has a search and screen committee to search for a new Dean. In 2012, Burton sat on the College search and screen committee that hired Dr. Throop. (Burton Tr. at 92:16-24)*

No dispute.

343. *Burton was the chair of the CJ department's search and screen committee that hired Dr. Lorne Gibson in 2011. (Caywood Decl., ¶ 16.)*

No dispute.

344. *In the fall of 2012, CJ was short faculty, and by the end of semester CJ had four or five different faculty searches ongoing. (Caywood Decl., ¶ 16.)*

No Dispute.

345. *Instead of running five separate searches with five different committees, the dean and the director of human resources agreed to reduce the number of different search committees and allow each committee to search for multiple positions. (Caywood Decl., ¶ 16.)*

Dispute.

The CJ department ran 4 faculty searches in fall 2012.

346. *That is how Lorne Gibson became chair of two searches and Aric Dutelle became head of two searches. (Caywood Decl., ¶ 16.)*

Dispute.

In early fall 2012, Burton was assigned to chair her second search & screen committee. A couple of week's later, Caywood stated that HR recommended combining the two searches. Caywood wanted Gibson to chair the searches so Gibson could build his DRB file. Caywood promised Burton the next search so she could increase her DRB file as well. After the student sexual

harassment complaint, Caywood gave the next searches to Dutelle without consulting the department. This bumped up Dutelle's record to 5 searches and newly hired Gibson to two while Burton had only chaired one.

347. Dalecki appointed Burton to chair the 2013 CJ department's search and screen committee that produced two candidates that were hired. (Dalecki Tr. at 35:13-14; Dalecki Decl., ¶ 31.)

No dispute.

348. In the fall of 2014, a search and screen committee was formed to hire three new faculty members. Burton wanted three separate committees, but there was only a need to form one committee, as it was a more efficient use of time. Dalecki assigned another faculty member to Chair that search as it is his duty to spread the work around amongst all of the faculty members in the CJ Department and generate committees which will produce the best results. (Dalecki Decl., ¶ 31; Bensky Decl., ¶ 3, Ex. DDDD.)

Dispute.

Contrary to this statement Burton did not ask for three separate committees; she asked to chair one committee. Dalecki's decision was not a more efficient use of time. Solar was inexperienced in conducting academic searches. He didn't read the university policy concerning searches until after he had already violated the policy. He failed all three searches at a time the department was very short-staffed and in dire need of more employees.

349. Dalecki does not recall any other faculty member ever complaining to him while he was Interim Chair that they were not on a search and screen committee. (Dalecki Decl., ¶ 32.)

Dispute.

Contrary to this statement, department members made numerous complaints about search and screens.

Contrary to the statement, any member of the department should be allowed to sit on a search and screen committee.

350. Members of a search and screen committee do not receive release time from teaching, and they do not receive additional pay. (Burton Tr. at 483:10-13.)

No dispute.

XVII. Conferences

351. *On January 15, 2013, Burton requested to use CJ funds to take students to Washington D.C. for a conference. (Caywood Decl., ¶ 23.)*

No dispute.

352. *Although the CJ department had already covered costs for a different trip Burton took with students in the fall of 2012, Caywood approved funding for the second trip. (Caywood Decl., ¶ 23.)*

Dispute.

Caywood resisted approving the request and forced Burton to ask repeatedly in order to get the approval. Burton took 4 students to a criminal justice conference in Chicago where they presented; Burton presented as well. Burton and her students traveled in the same car. The students shared a room.

Caywood only approved after another faculty member requested funds for the same conference. Caywood approved \$ 100.- for Burton and each of her two students for a flight and stay in Washington, D.C. to present at the most prestigious forensic conference, the American Academy of Forensic Sciences.

While Burton's colleague and her students stayed at the conference site for a week, Burton and her students stayed only 2 nights at a hotel half the cost and a 20 minute walk away from the conference site to save costs. Only Burton's students presented at the conference.

353. *Caywood's approval was given on January 22, 2013. (Caywood Decl., ¶ 23.)*

No dispute.

354. *Prior to Caywood's approval of funding Burton's second conference trip, he was not aware of any other time in the 21 years he had been at UW-Platteville when the CJ department provided funding to a faculty member for two different conferences during the course of one school year. (Caywood Decl., ¶ 23.)*

Dispute.

This statement is speculation. While the Chancellor encouraged faculty and staff repeatedly to pursue scholarly activity, Caywood discouraged the unpaid efforts of Burton. (Burton deposition 486.12 to 15) (Caywood Decl., ¶ 14.)

XVIII. Projects

355. *On February 12, 2013, Burton requested Caywood's approval for three PACCE projects. (Caywood Decl., ¶ 24.)*

No dispute.

356. Caywood reviewed her projects which seemed to Caywood to be very labor intensive. (Caywood Decl., ¶ 24.)

Dispute.

This is speculation. Caywood never before cared about Burton's workload. While working on her research project during spring 2012 that required her to write an extensive research report to the funding agency, Caywood assigned Burton 60 advisees and a short study abroad program to develop despite having signed off on her release time.

357. Caywood was aware of Burton's overload course, intern supervision, and graduate seminar paper supervision (all of which resulted in her receiving additional funds). Burton was also developing a short study abroad trip to Germany that spring. (Caywood Decl., ¶ 24.)

Dispute.

Caywood was not aware of Burton's workload, nor did he show any consideration for Burton's obligation while she was on sabbatical. Burton wasn't developing a short study abroad trip during spring 2013. By that time the short study abroad trip was already signed by him and approved by the college curriculum committee.

Burton was not paid for her work on the short study abroad trip.

Burton never once didn't do the work that was assigned to her or cut any corners. She had an outstanding performance record.

358. Caywood was concerned she was doing too much. (Caywood Decl., ¶ 24.)

Dispute.

This is an uncorroborated statement. Caywood didn't care about Burton. He attacked her on Jan. 24, 2014, the day she learned that her father was dying, in a harsh letter after she secured a donation to the CJ department. He was informed about her father's condition. When she was on sabbatical, Caywood didn't honor her release time from all departmental duties and assigned advising students and the development of a short-study abroad program.

Caywood didn't care about the work-load. He made Burton ask for everything at least twice. He was difficult, harsh, and hostile toward Burton. At times he belittled her.

Caywood assigned Gibson, a junior faculty member, to teach two overload classes during spring 2013 while Gibson also committed time to a grant program but tried to limit Burton. (Dkt 33-1 KIECKHAVER EXHIBIT A – 19, 020)

359. Despite Caywood's concerns, he signed the paperwork and put in her mailbox. (Caywood Decl., ¶ 24.)

Dispute.

There were no concerns. Burton didn't create more work, she just designed prestigious and interesting projects for her students to work on to meet the course requirements. Burton had a 25 year FBI veteran work with her students on cold case investigative projects as part of their Police Function class. Students loved the projects and learned a lot. Burton always looks for ways to enhance her course curriculum and give students the best learning experience. The PACCE funding provided the financial means for student research into cold cases and the printing of their posters.

XIX. Tenure

360. Burton requested early tenure in 2013. Caywood initially did not support this request because he could not recall that anyone at any time since he was at UW-Platteville had been granted early tenure. (Caywood Tr. 79:4-11.)

Dispute.

Burton and Dutelle were the first faculty members to request and receive tenure during Caywood's chairship. If this statement were true, Caywood should not have supported Dutelle's request for tenure. Dutelle was hired as faculty member one year after Burton and he did not have a Ph.D. like Burton. Dutelle only had a one-year online degree in FS from a for-profit school. Yet, Caywood strongly supported Dutelle's request for tenure. Caywood only gave in to vote for Burton's tenure after Dr. Fuller, the other tenured faculty member in CJ threatened not to support Dutelle's tenure bid if Caywood wouldn't support Burton. Caywood voted for Burton reluctantly because "it wasn't worth the fight."

361. Caywood was hesitant about Burton's tenure request. She had only been at the university for four years. (Caywood Decl., ¶ 25.)

Dispute.

Caywood was upset with Burton when she requested tenure. He became very hostile after she submitted her DRB binder with the request letter. Caywood knew from Burton's application in 2009 that Burton taught for one of the most prestigious and highest ranked universities in the U.S., the University of California at Irvine, since 1996. Burton came highly endorsed by her peers from UC-Irvine and was called the most flexible instructor at UC-Irvine. Unlike Dutelle, Burton had also an impressive international work and education background.

362. Usually, tenure is granted in the fifth or sixth year. (Caywood Decl., ¶ 25)

Dispute.

Burton knows of other cases where tenure was awarded early when faculty performance records were strong. If it was that unusual, Caywood should not have supported the tenure request of Burton's colleague Dutelle, who was junior to her and didn't have a Ph.D. Dutelle attempted to get a Ph.D. in 2009 when he applied for the position in the CJ department that Burton got, but he never managed to get his Ph.D. while at UW-P.

Burton's outstanding record warranted early tenure.

363. Caywood changed his mind and despite Caywood's reservations, he agreed to support Burton's tenure. (Caywood Tr. at 79:4-80:8; Caywood Decl., ¶ 25.)

No dispute.

XX. Criminal Justice Department Chair Search and Appointment

364. In July of 2013, Caywood stepped down as the chair of the CJ department. (Throop Decl., ¶ 22.)

Dispute.

Contrary to this statement, Caywood claims he was removed from the chair position. Burton believed Caywood was removed. (grievance against Throop) Dalecki believed Caywood was removed and that his removal was a tacit if not overt admission that at least some of Burton's complaints were likely valid. (Dkt 34-2 Exh C- Meeting Notes), Oct 17, 2013-bottom of page) Caywood believed he had been removed.

365. With the new school year set to begin in less than sixty days, Throop chose to appoint an interim chair while a national search was conducted. (Throop Decl., ¶ 22)

Dispute.

When Dr. Dalecki was appointed by Dean Throop, there was no national search for the CJ chair position conducted. The national search did not occur until fall 2014.

Three separate committees found that Dean Throop violated policy in appointing Dr. Dalecki as interim chair.

Throop agreed that an election should have been held in the summer before opting for an external candidate.

366. Throop selected Dalecki as interim chair based upon recommendations from others, and because she believed that someone from outside the CJ department would be a good choice while a nationwide search was conducted in light of the personality conflicts between certain individuals in the department, including but not limited to Burton. (Throop Decl., ¶ 23.)

Dispute.

This is a lie. When Throop selected her friend and neighbor Dalecki, who didn't have a background or degree in Criminal Justice, there wasn't a nationwide search conducted. The CJ department members asked for a search at their first meeting but Throop declined. Throop incorrectly called Caywood's retaliation against Burton "personality conflicts", and further punished Burton for having reported a student sexual harassment complaint while protecting Caywood's reputation by falsely stating that he "stepped down." At the same time, the

administration moved Dutelle to a much higher paying and prestigious director position in Sponsored Programs after a contractor of the DoD accused Dutelle of soliciting bribes. After the grievance hearing in Dec. 2013, Throop agreed that an election should have been held in the summer before opting for an external candidate. Throop applied disparate treatment against Burton.

367. Burton did not nominate herself or express any desire to Throop to be considered for the permanent chair position of the CJ department in 2013 or 2014. (Throop Decl., ¶ 24, 32; Burton Tr. at 379:25-380:2)

Dispute.

Burton was very interested in applying for the chair's position, but Throop made it clear to Burton that Burton wasn't a qualified candidate for the position because she "couldn't handle things on a local level." (Throop statement at the Dec. 2013 grievance hearing). When Burton indicated to Dalecki in fall 2013 that she was interested in the chair position, Dalecki mocked Burton stating that her reputation was ruined. He also said Burton wasn't the right choice because "she didn't know where the skeletons were buried."

On July 8, 2013 Dr. Burton demanded that Dean Throop immediately hold an election for a new CJ chair as required by LA&E Constitution in a grievance package she handed to Chancellor Shields.

On Oct 3, 2013 Throop excluded Burton from consideration without asking if she was interested in the chair position.

Throop agreed that an election should have been held in the summer before opting for an external candidate.

368. In September of 2013, an election was conducted for the chair of the CJ department. Of the eight eligible voting members, no individual received a majority of votes in the election. (Throop Decl., ¶ 25.)

Dispute.

Dr. Gibson, who challenged the lawfulness of Dalecki's appointment repeatedly and openly disagreed with Dean Throop got the most votes, a total of 4, which according to the Appeal's committee in March 2014 made him the elected chair of the CJ department.

Gibson was never officially reprimanded, like Burton, for the student complaint nor were the members of the CJ department informed of his actions against student in Oct. 10, 2012.

369. Dr. Gibson received the most votes, with only three votes. Dr. Gibson was not tenured. (Throop Decl., ¶ 25.)

Dispute.

Dr. Burton remembers differently and that Gibson got four votes. Nonetheless, the appeal's committee for Gibson in March 2014 stated that he was the elected chair of the CJ department.

After the voting, Throop delivered a letter to the department explaining that Dr. Gibson was not eligible to be chair because he was untenured. She did not cite his inappropriate actions against the student in Oct. 2012, conducting human subject experiments without proper DRB approval, or his sexual innuendos in his lectures. Throop failed to follow policy by calling for another election; instead she reaffirmed the appointment of Dalecki as interim chair.

Because another election was not called Burton was not given opportunity to run for chair thereby damaging her future earning potential.

LA&E Constitution, Article VI, Section 4
Faculty Bylaws, Part III, Article I

370. On August 29, 2014, Throop attended a CJ department meeting. (Throop Decl., ¶ 27.)

No dispute.

371. During that meeting, Throop remarked to the department members present that she had received requests to postpone the search for a permanent chair because the department also had three faculty searches and an academic staff search to conduct. (Throop Decl., ¶ 27.)

Dispute.

Throop repeatedly makes vague references. First she states that students reported that I canceled class, later it was faculty, then in her deposition it was academic staff member Deb Rice. Therefore Burton strongly objects to such vague statements as “facts.” The only ones who wanted to postpone the election were Throop and Dalecki, not the department members. Throop did not name the individuals from whom she claims to have received requests to postpone the search.

372. Throop asked those present whether they would prefer that the search for a permanent chair be postponed and provided a secret ballot. (Throop Decl., ¶ 27.)

Dispute

Throop’s presence was seen by Burton and others as an attempt to suppress discussion. Everyone knew what she wanted, postponing the election, especially after she made the statement listed in 371. Arguing against that would have been likely interpreted as “insubordination.” Burton wasn’t comfortable speaking her mind. There was no reason for Throop to attend the meeting other than trying to influence the department members. Some department members met afterwards behind closed office doors and commented negatively on Throop’s visit.

373. Ultimately, the department chose to proceed with searching for a permanent chair. (Throop Decl., ¶ 27.)

Dispute.

Object to the word “ultimately.” The department members wanted a search from the very beginning. Throop wasn’t willing to entertain that idea in fall 2013.

374. During that same meeting, the department also discussed whether the chair of the search committee for the permanent chair should be appointed from within CJ or from a different department at UW-Platteville. (Throop Decl., ¶ 28.)

Dispute.

Object to the wording “the department also discussed ...” Discussion was greatly influenced by Throop’s presence and the gag-order that had been placed on Burton. (Dkt. No. 98 Audio Exhibit A10) Burton didn’t feel comfortable about speaking freely with Throop present and instead opted for saying what would appease Throop.

375. Throop offered a secret ballot, but the faculty ultimately agreed to decide the issue on a voice vote and concluded that an outside chair for the search committee was preferable. (Throop Decl., ¶ 28.)

Dispute.

Object to the “faculty ultimately agreed ...” The discussion was heavily influenced by Throop’s presence. Staff members including Ed Ross, who was scheduled to retire a few months later, was very vocal. It wasn’t a faculty decision. Under the circumstances and pressure from Throop, Burton argued for an outside chair of the search as well.

Throop’s offer of a secret ballot was rejected by the department due to their distrust of voting practices. Contrary to this statement, the faculty ultimately conceded that an outside chair for the search committee was their only option to get rid of Dalecki.

376. Dalecki was not present for the August 29, 2014 meeting, other than to introduce Throop. (Throop Decl., ¶ 29.)

Dispute.

Dalecki was not present during the first half of the meeting while voting was discussed. Dalecki came in after about an hour and conducted a department meeting.

377. Burton surreptitiously recorded the August 29, 2014 meeting but did not tell anyone she was recording it. (Throop Decl., ¶ 30; Burton Tr. at 465:25-466:13.)

Dispute.

Object to statement as it is immaterial. Wisconsin permits one party consent recording for situations such as this.

378. During the meeting, the CJ department, including Burton, agreed that a chair of the search for the permanent chair should come from outside the department. (Throop Decl., ¶ 30; Burton Tr. at 469:8-11.)

No dispute.

379. Throop made some changes to the criteria for the CJ Chair job announcement so that the advertisement sounded more professional, and to encourage a wider applicant pool than the original advertisement permitted. (Throop Decl., ¶ 31.)

Dispute.

Contrary to this statement, Throop made some changes to the criteria for the CJ Chair job announcement so that the advertisement would allow Dalecki to apply. She did this without the department's foreknowledge or approval and after the department voted on the job announcement. Throop significantly altered the advertisement so her personal friend and neighbor Dalecki could become the permanent chair of the department. Dalecki has no educational, professional or work background in Criminal Justice or Forensic Investigation. Throop again violated faculty governance. This is a self-serving statement.

The CJ department had purposely and deliberately worded the announcement in such a way to exclude Dalecki from candidacy. (Dkt. No. 98 Audio Exhibit A9)

XXI. Other staff activities

380. Caywood is personally aware that Aric Dutelle had been involved in a number of activities outside the classroom since he had been at UW-Platteville. (Caywood Decl., ¶ 40.)

Dispute.

Object to vagueness. Statement is immaterial. Activities outside the classroom could mean walking your dog, working out, traveling, etc.

381. He worked with agencies of the Federal Government in recovery attempts of human remains of US citizens killed in Africa, and he had been involved in forensic training for government agencies in Central and South America. (Caywood Decl., ¶ 40.)

Dispute.

While Dutelle recovered remains in Africa or conducted training in Central and South America and getting paid to do so, Dutelle was also paid to teach students on campus and face-to-face. Caywood practiced disparate treatment as he didn't allow Burton to work in Germany while being employed as faculty in the CJ department.

382. Dutelle did not receive time off during the regular school year to do these activities. (Caywood Decl., ¶ 40.)

Dispute.

Dutelle received double income. He received full pay for his teaching job while at the same time working in a foreign country.

383. Mr. Dutelle has been successful in obtaining a Wisconsin Department of Justice grant to purchase photographic equipment. (Caywood Decl., ¶ 41.)

Dispute.

Dutelle did not seek approval from department member prior to obtaining the grant. When Burton did the exact same thing and successfully solicited a donation from AT&T, Caywood and Throop harshly reprimanded her for not having "departmental approval." Caywood and Throop practiced disparate treatment. This pretext for retaliation for protected activity.

384. As of 2012, Dutelle had brought \$100,000 in grants to the CJ department. (Caywood Decl., ¶ 41.)

Dispute.

Dutelle did not obtain departmental approval for getting those grants. Department members never learned about those grants beforehand, nor did they ever get to vote on accepting the grants. Burton was reprimanded, embarrassed, and defamed for doing the same thing in January 2013. This is disparate treatment. This is pretext.

385. He, along with John Rink (political science & mock trial supervisor) and Chuck Cornett (chemistry) provided forensic camps for local high school students during the summer. (Caywood Decl., ¶ 41.)

Dispute.

Dutelle listed those camps as community service in his DRB binder and was given outstanding marks for this service. Mr. Dutelle was well paid for the summer camps as were Dr. Rink and Dr. Cornett.

386. *One semester Dutelle taught a class aboard an aircraft carrier. He was not on campus for several weeks at the start of the semester, so Dutelle utilized distance learning software extensively for this class until he returned to campus. (Caywood Decl., ¶ 42.)*

Dispute.

Dutelle was not hired to teach his courses per distance learning. Dutelle's students were enrolled in on-campus, face-to-face courses, not in online courses. Students were upset that Dutelle was gone. Dutelle was paid for two jobs and for being at two places at the same time. Faculty Senate or UW-Platteville have never approved a hybrid course model for on campus classes.

When Burton's doctor asked for online teaching accommodation while Burton was recovering from life-threatening gastric ulcers, Dalecki refused to allow her to teach even one course online. This is disparate treatment. This is pretext.

387. *Most CJ faculty members utilize distance learning software to some extent in their on campus classes. (Caywood Decl., ¶ 42.)*

Dispute.

No CJ faculty or academic staff are permitted to teach any on-campus course as a hybrid course.

388. *Dutelle also lead short term study abroad classes in Honduras for CJ students just like Burton did with her study abroad trip to Germany. (Caywood Decl., ¶ 42.)*

No dispute.

389. *Many faculty, including Mr. Dutelle and Burton, were paid by outside sources for off-campus work. (Caywood Decl., ¶ 43.)*

Dispute.

Dr. Burton never worked at two places at the same time. She never had to declare any outside income above \$800.- on the relevant yearly form.

390. *For example, one faculty member taught online courses for a university out of state. (Caywood Decl., ¶ 43.)*

Dispute.

Dr. Fuller was reprimanded by the UW-P Ethics committee in either 2011 or 2012 for having taught in an out of state online program without properly declaring the income to UW-P.

391. *Another faculty member was a practicing attorney with a private practice. (Caywood Decl., ¶ 43.)*

Dispute.

There is no faculty member in the CJ department who is a practicing attorney. The CJ department has an academic staff member who is an attorney, Steve Elmer.

392. *Caywood is aware that Burton taught online at other institutions. (Caywood Decl., ¶ 43.)*

Dispute.

Dr. Burton was employed by the University of Phoenix. Dr. Burton turned in her resignation to the online school after having been accepted at UW-Platteville. She only finished her course obligation until about mid 2009.

Dr. Burton has also had teaching assignments at UW-Milwaukee. While attending to UW-Milwaukee students, Dr. Burton never had to cancel an on-campus UW-P class or teach her UW-P students through distance learning software in violation of her on-campus teaching contract.

393. *Throop removed a letter of direction she had issued to Dr. Eugene Alcalay from his file as a result of negotiations and because Dr. Alcalay agreed to comply with the directions in the letter. (Throop Decl., ¶ 48.)*

Dispute.

Contrary to this statement, Throop was forced to remove the letter from Dr. Alcalay's letter.

394. *Burton filed her first EEOC charge on August 13, 2013. (Dkt. 1 paragraph 4.)*

No dispute.

395. *Burton's second EEOC charge does not name Michael Dalecki and does not describe the conduct in the Second Amended Complaint. (Bensky Decl., ¶ 5, Ex. HHHH.)*

Dispute. Dr. Burton's second EEOC charge was filed on December 5, 2014 and supplemented on July 21, 2015, identifying conduct by Dr. Dalecki which was alleged in the Second Amended Complaint, and on which, at counsel's request, the EEOC issued a notice of a right to sue. (Burton Decl. ¶¶2, 3, Ex. 2 and 3, Dkt. Nos. 54-2 and 54-3; Hawks Decl. ¶¶11-12, Ex. 51 and 52, Dkt. Nos.53-51 and 53-52)

C. I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 15, 2016

s/Sabina Burton
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