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.

BRIEF IN SUPPORT OF MOTION TO RECONSIDER AND TO ALTER JUDGMENT

Pursuant to Fed. R. Civ. P. 59(e), Plaintiff hereby submits her Motion to Reconsider and to Alter Judgment of the Court's March 18, 2016 Order Granting Defendants' Motion for Summary Judgment. The Court made factual findings that are in significant dispute. It is with all due respect that Plaintiff disagrees with the court.

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.

Please review my attached findings of facts, corrections to Defendants' Proposed Findings of Fact and my corrections to Plaintiff's Brief in Opposition to Summary Judgment in which I have listed numerous and repeated acts of ridicule, public criticism, insults, bribery, intimidation and other forms of retaliation by the defendants Caywood, Throop and Dalecki, UW-Legal Counsel and other adverse employment acts by some of my colleagues (Rice, Solar and Fuller).

In ***Morgan v. SVT, LLC, No. 12-3589*** (7th Cir. Aug. 1, 2013) the Seventh Circuit Court panel clarifies the proper summary judgment analysis in employment discrimination cases. The panel notes that when the Seventh Circuit speaks of a "direct" method of proving discrimination, it does not mean an admission by the defendant or other so-called direct evidence - it means any combination of direct *or circumstantial* evidence tending to make it more probable than not that the adverse decision was motivated by a protected classification.

The court already assumed in the ruling on the MSJ without deciding that Burton engaged in protected activity by assisting the student who complained of harassment.

The court has already agreed that Throop's Letter of Direction and Throop's 6.02 Complaint against Burton were adverse employment actions.

The court was not convinced that a causal link had been demonstrated and that the adverse actions were severe enough at the time of the ruling on the MSJ entered on March 18, 2016. In ***Gowski v. Peake, 11th Cir., No. 09-16371*** (June 4, 2012) the U.S. Circuit Court acknowledges the Thousand Small Cuts rule. Employers generally understand that discrete acts, by themselves, cannot form the basis of a claim of hostile work environment. In Gowski the 11th Circuit analyzed claims based on acts whose very nature involves repeated conduct: intimidation, ridicule or repeated insult following the plaintiffs' protected claims of discrimination. The court finds that such repeated conduct is severe and pervasive enough to alter working conditions and support claims of retaliatory hostile environment.

Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000) gives an analysis of the two part yet symbiotic nature of pretext. **In Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000), the Court explained that proof that a defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination. Id. at 147**. As a result, presenting evidence of pretext by showing that the employer's articulated reason for taking action against the plaintiff is false should get the case to the jury. This is because, "it is permissible for the trier of fact to infer the ultimate fact of discrimination from the falsity of the employer's explanation." Id. "The factfinder's disbelief of the reasons put forward by the defendant (particularly if disbelief is accompanied by a suspicion of mendacity may, together with the elements of the prima facie case, suffice to show intentional discrimination. Thus, rejection of the defendant's proffered reasons will permit the trier of fact to infer the ultimate fact of intentional discrimination."

Just because I did get tenure in 2013 does not mean my superiors didn't severely retaliate against me for protected activities. For three years Caywood, Throop and Dalecki as well as other administrators engaged in a multitude of adverse actions that I truly believe were designed to constructively terminate my employment. I believe the *Rogers v. Equal Employment Opportunity Commission, 454 F.2d 234, 238* (1971) ruling describes quite well that discriminatory actions are more subtle and sophisticated nowadays. "Time was when employment discrimination tended to be viewed as a series of isolated and distinguishable events, manifesting itself, for example, in an employer's practices of hiring, firing, and promoting. But today employment discrimination is a far more complex and pervasive phenomenon, as the nuances and subtleties of discriminatory employment practices are no longer confined to bread and butter issues." The Rogers court went on to state: "As patently discriminatory practices become outlawed, those employers bent on pursuing a general policy declared illegal by Congressional mandate will undoubtedly devise more sophisticated methods to perpetuate discrimination among employees."

Ibid. at 239. To fairly consider this case the court must take into account all actions as a whole in a mosaic that as a whole shows material adverse action.

I understand the Sweeny Court's requirements of an "adverse employment action, **Sweeney v. West, 149 F.3d 550, 556-57 (7th Cir. 1998)**," However, I believe that I can demonstrate that the defendants' adverse employment actions were designed to force me to quit or to suffer a mental or physical break down that would have required me to leave my job for good. A Plaintiff shouldn't have to give in to her employers' constructive termination her efforts to be able to show a Title IX case of retaliation against her employers.

> ***Penn.State Police v. Suders, 542 U.S. 129, 134 (2004)*** **states that show that the alleged discrimination made conditions in the workplace so intolerable that the plaintiff could not reasonably be expected to stay in her job.**

I made a conscious decision to stay and fight back by speaking up, by bringing the violations to the attention of faculty grievance committees and the UW-Platteville administration being fully aware that this would likely be met by more retaliatory action. I ask the court to review my list of adverse employment actions that spans over 3 years. Employers shouldn't be rewarded when an employee doesn't succumb to their campaign against her. My supervisors at UW-Platteville caused me great emotional pain and stress and severe and potential life-threatening health problems. I paid a high price for doing the right thing and continuing on with the belief that justice can win. I assisted a student in a sexual harassment complaint and I did not give in to the retaliation by my chair for doing so. Neither have I given in to the protracted retaliation I suffered under Dalecki. Now that Dalecki has been replaced by a reasonable new chair from outside the university my working relationship has returned to normal but the corrupt element that created my pain and suffering is still in place in high levels of the university system and my physical, mental and financial damages remain.

A. Protected Activities

1. *The District Court already assumed without deciding that Burton engaged in protected activity by assisting the student who complained of harassment.*

2. In the weeks following the students sexual harassment complaint I reported acts of retaliation, that I suffered at the hands of Caywood for not having kept the student complaint "in-house." His gripe was that I reported the incident to anyone besides him. I reported his retaliation to HR Director Jeanne Durr and to Dean Elizabeth Throop in various emails and verbally in a meeting with Jeanne Durr in Nov. 2012 and a meeting with both, Dean Throop and Jeanne Durr, on Jan. 29, 2013.

3. In late March I filed a grievance against Caywood for sexual discrimination and retaliation that was heard on April 12, 2013.

4. In August 2013 I filed a complaint with the WI ERD and simultaneously with the EEOC for sexual discrimination and retaliation.

5. In April 2014 my attorney filed a XII and IX claim in federal Court on my behalf.

6. In November 2014, I filed a second complaint for continued retaliation with the EEOC.

7. On June 5, 2014 I expressed my desire for an investigation into, what I believed to be corrupt behavior in the FI program. I believed this to be true based on the reports from 2 independent program evaluators and personal knowledge. I also demanded transparency and accountability to our students. All this was articulated in an email with the subject heading "Can't we call a Spade a Spade" (**Whistleblower activity is a protected activity: See *Baiton v. Carnival Cruise Lines, Inc.*, 661 So. 2d 313 and Sections 230.80-85 of the Wisconsin Statutes)**

8. On January 29, 2013 at a meeting with Throop and the HR Director Durr and at the grievance hearing on Dec. 2, 2013 (regarding faculty governance violations) Dean Throop criticized me for not being able to "handle things on a local level." In June 2014 I therefore, attempted to handle things with the Chair by myself and addressed the problems I had with him in an email that I cc'd to my colleagues as talking to him privately hadn't changed anything. I later apologized for my tone but stood by the content of my emails of 6/5/13. The Chancellor's and the LAE Dean's office shoulder the responsibility for the interaction. When I started employment at UWP in Aug. 2009 I soon realized the severe dysfunction of the department. In spring 2010 the LAE Dean Nimmocks-Den Herder ordered mandatory communication training in the Department of Criminal Justice to address the ongoing uncivil behavior of Caywood, Fuller, Dutelle and others. We never received the training and neither Den Herder or Shields followed up with the mandate. The department's dysfunction was the subject of 2 LAE investigations (in 2010 and 2011). The need for communication and civility training was again brought up in the April 2013 grievance committee's findings. As a result of their recommendation Chancellor Shields charged Throop and Den Herder with providing communication training for the department but this training never happened, even after I reminded HR Director Lohmann about the mandate. My prior University of California, Irvine work records were outstanding. My tone and wording in the 6/5/14 is a direct result from having worked in a hostile, dysfunctional work environment for 4 years with no clear direction as to what constitutes proper communication and civil behavior.

9. I informed my colleagues in my second email from 6/5/13 that the UWP administration never conducted the federal mandated Title IX training. I submitted written complaints to HR Director Jeanne Durr on Jan. 29, 2013, to the grievance committee in April 2013 and to HR interim Director John Lohmann at a meeting on 4/28/2014. Sections 230.80-85 of the Wisconsin Statutes (WI Whistleblower Protection Act). states: "A worker […] may

not be retaliated against for disclosing information regarding a violation of any state or federal law, rule or regulation, mismanagement or abuse of authority in state or local government, substantial waste of public funds or a danger to public health or safety. An employee may disclose information to any other person." My emails under the heading "Can't we call a Spade a Spade" were therefore, protected activity according to this WI state act.

10. On August 28, 2014 I filed a grievance against Dr. Michael Dalecki for discrimination and retaliation.

11. On Oct. 2, 2014 I emailed Chancellor Shields a request to investigate the adverse employment actions by Dalecki against me.

B. Adverse employment actions by Caywood, Throop and Dalecki against Burton

1. Caywood retaliated against me for aiding a female student in reporting an alleged sexual harassment incident almost immediately: On Oct. 12, 2012 Caywood didn't reply to my morning greeting. I saw him later in the mailroom where he only gave me a stern look. He didn't talk to me while responding to other department members. **In *Mickey v. Zeidler Tool & Die Co., 516 F.3d 516, 523 (6th Cir. 2008)* the 6th Circuit has held that where an adverse employment action occurs very close in time after an employer learns of a protected activity, such temporal proximity between events is significant enough to constitute evidence of a causal connection for the purposes of satisfying a prima facie case of retaliation.**

2. Gibson's behavior indicated to me that Gibson knew that I aided the student and that he considered me "responsible" for his trouble with the Dean and HR. About a year later Gibson let slip in a conversation that Caywood shared with him that "it was Burton." In the weeks following the student complaint Caywood repeatedly elevated and praised Gibson openly, stating that he was a great addition to the department while at the same time ignoring and denigrating me. Caywood ignored my email about a film crew for Iowa News station that came to visit and filmed my students and me reconstructing a cold case on Oct. 17, 2013. The news crew interviewed me on a child abduction case. Caywood didn't reply to my invitation, stayed away from the event, didn't show any support, and never mentioned it the department or the Dean. The Dean later complained that I should have shared the event with the College of LAE in time. **(*Mickey v. Zeidler Tool & Die Co., 516 F.3d 516, 523 (6th Cir. 2008)* temporal proximity between events is significant enough to constitute evidence of a causal connection for the purposes of satisfying a prima facie case of retaliation)**

3. At the department meeting on Oct. 17, 2013 Caywood chastised and embarrassed me for having reported the student sexual harassment complaint outside of the department. **Mickey v. Zeidler Tool & Die Co., 516 F.3d 516, 523 (6th Cir. 2008): temporal proximity between events is significant enough to constitute evidence of a causal connection for the purposes of satisfying a prima facie case of retaliation)**

4. HR Director Durr told me in November 2012 that I shouldn't worry about Caywood. Dean Throop was also dismissive when I saw her in the hallway around that time. Durr said "Tom is Tom" and that "Caywood would retire in a couple of years anyway." Both Throop and Durr seemed bothered by my repeated requests for help and my reports of Caywood's retaliaton in late November. **According to *Phelan v. County County, Ill*, 463 F.3d 773 the 7thCir. 2006 states that informal complaints can provide an employer with sufficient notice to establish employer liability even if the alerts did not technically comply with company's notification process.**

5. When I reported to Throop that I believed that Caywood discriminated against when he assigned a prestigious committee chair position to a colleague even though he had promised it to me. I complained to Throop about his retaliation in December 2012 and Throop responded that she didn't want to get involved in faculty governance matters and did nothing. **According to *Phelan v. County County, Ill*, 463 F.3d 773 the 7thCir. 2006 states that informal complaints can provide an employer with sufficient notice to establish employer liability even if the alerts did not technically comply with company's notification process.**

6. Caywood responded irate to my request for tenure on Jan. 10, 2013. He later only voted to give me tenure because as he wrote "it wasn't worth the fight." This shows that I had to fight for everything I deserved.

7. January 24, 2013: Caywood didn't respond when I shared with him that my father was dying and that I may have to leave short notice for Germany. Hours later he issued a defamatory and harsh letter cc'd to the Dean in which he declared I didn't have his or the department's support for a cybercrime project that I had been working on for the past 9 months and under his supervision. His defamatory email caused Dean Throop to withdraw her support suddenly as well. Just 1 day prior to reporting the student sexual harassment complaint however, Caywood had indicated his support in an email and just a few days prior he congratulated me on my 2 online websites depicting future online CJ & Cybercrime journals. **In Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000), the Court explained that proof that a defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination. Id. at 147.**

8. On January 24, 2013 Throop had phone communication with Caywood in the morning. She then sent an email to Jessica Erickson, AT&T cc'd to me that was unreasonable and damaging to my efforts to gain support and contradicted a publication by the UW-P and the City of Platteville advertising a future forensic center that would be the leader of cybersecurity research in the Midwest. The article had my name listed with Caywood's.

   Caywood sent the harsh email just hours after learning that my father was terminally ill (he died on Feb. 14, 2013). I was in Caywood's office that morning. He could have talked to me instead of writing a harsh letter that he cc'd to the Dean. He defamed me to the Dean. He chose the action with the most devastating impact on me and the worst timing

for me. There was no rush for the "Letter to Sabina." The UW-Platteville Foundation had already cashed the donation weeks prior. Throop had already corrected the AT&T press release.

9. On January 29, 2013 in an meeting which I audio recorded, Throop told me that I was wrong to approach her with my problems with Caywood. **The *EEOC v. Harris Farms, 2005 WL* indicates that any acts by the investigator that hint of retaliation will also defeat the affirmative defense. These acts might include inter alia statements** like the ones Throop made at the Jan. 29 meeting: *"You're sure, I'm sure you're not the only one, but you have your conflicts with Tom. Um, and, and you've been coming to me to talk about them. And I probably should not have let you do that. I probably should have really been saying 'Let's sit down and get this worked out on the department level, because this is where, this is where you live, this is your place, these are your colleagues, and coming to me doesn't solve the problem.' Cause, I can't interfere. Um, but, but, at, I think the events of the last week just sort of proved that the listening hasn't been effective because nothing is changing. Nothing changes that you want. You still have your difficulties and and you seem to pinpoint Tom as one of the major, you guys just don't get on. You don't get on. But, I can't tell him to do what you say. (Laughter), I wish I could. I wish I could. […]"* **Any hint of retaliation will also raise the question of whether the investigator is truly unbiased**.

   At the same meeting I told Throop and Durr that *"This tears me apart. This is personal. He's going after me. He's trying to destroy me. He's hateful, and I don't even understand why. Ah, you know, I went to him, he didn't want to talk to me. […] Oh my gosh, how different would the situation be? Cause everything was fine and then.. I just so wish. I feel like, what would I say if a student would come to me again? I hope I would do the right thing."* **In *Burlington Northern & Santa Fe Railway v. White,* the Court ruled that a retaliatory "adverse action" need not be related to the employee's terms and conditions of employment. Rather, unlawful retaliation occurs whenever the adverse action or harm would have the effect of discouraging a "reasonable employee" from making a discrimination complaint.**

10. Throop advised Caywood in January 2013 not to respond to my emails. She did the same thing one year later when she told interim chair Dalecki not to talk to me. Throop chastised me at the Dec. 2013 grievance hearing and in her letter of direction for not handling things on a local level yet at the same time she interfered with my ability to converse with my direct supervisors.

11. In email communication with Provost DenHerder Throop gave as explanation for her concerns that I had misrepresented myself as an "expert" in cyber security when she said I was not. I was surprised to read this email communication when I received it as part of the discovery in this case because Throop had never told me that my perceived lack of expertise in cyber security had anything to do with her adverse actions. She blamed me for something not true behind my back and expected me to correct the issue that I knew nothing about. Two ironic things about this are that 1) I am an expert in cyber security

and 2) there is no requirement that a professor be an expert in a field in order to accept a donation to create curriculum in any particular area. In April 2013 Throop introduced me at the LAE faculty series, that was open to the public, as someone who had "expertise" in cybercrime. (Dkt. No. 98 Video Exhibit V1) **In *Reeves*, the Court explained that proof that a defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination. Id. at 147.**

12. When the grievance committee recommended that Dean Throop send an email to AT&T that would repair my damaged reputation Throop refused and falsely stated that the only damage done was due to my misrepresentations but I had not misrepresented anything. I have work and research experience in cyber related matters. **In *Reeves*, the Court explained that proof that a defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination. Id. at 147.**

13. The chancellor is required by policy to issue a decision on the grievance committee's findings within 30 days after the committee issues their findings. 35 days after the issuance of the findings I had not heard from the Chancellor's office so I contacted Den Herder who said she was not aware that there was a deadline. The Chancellor's office had ignored the issue and then began to cover up the matter by remanding it back to the grievance committee, reformatting my grievance into a more palatable set of questions and re-issuing the findings without ever talking to me again about it. They ignored the additional material I provided and blamed me equally with Caywood, a far removed outcome than the first finding and from the actual grievance hearing audio record.

14. Dalecki lied about calling her

15. July 2015: Throop sent out an email to the CJ department and various members of the college of LA&E falsely stating that Caywood had stepped away from being chair, praising his service, and announcing that Dalecki would take over as interim chair on recommendation of Caywood. Caywood kept his chair salary and his 12 months appointment contract. Throop talked to other senior faculty about the new chair appointment but not to me. Gibson was never punished for the sexual harassment incident. **If an employer does not punish the harasser and the retaliating party (who might also be the harasser) it sends a signal to the workforce that retaliation is consistent with employer's policy and that it is not safe to complain about discrimination or harassment. *EEOC v. Harris Farms, 2005 WL 2071741***

16. Throop discounted me as a candidate for interim chair even though I was willing, qualified, and able to step up to the task. In fact, after Dutelle left the department I was the only eligible member in the department to become chair. This action was an open sign of disrespect and disapproval toward me and devalued me in front of colleagues. **In Reeves, the Court explained that proof that a defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination. Id. at 147.**

17. Throop appointed her neighbor and personal friend, Dr. Dalecki from the department of Sociology, who specialized in rural sociology and sustainable energy. Dr. Dalecki applied for a full time faculty position in Criminal Justice in 2011 when I chaired the faculty search & screen committee. His application was rejected by the committee early on as Dalecki didn't meet the minimum requirements even to be a faculty member let alone the chair of the department. In January 2012 Dalecki objected to my promotion to Associate Professor against the recommendation of DRB chair Joe Lomax (Dalecki was asked to be a member of the CJ Department Review Board by his then friend Dr. Caywood). In fall 2012 I asked Joe Lomax and Dr. Caywood to take Dalecki off the CJ DRB because of an apparent grudge against me. Dalecki was predisposed against me. Throop's appointment of Dalecki, which was applauded by the Chancellor, was found to be in violation of faculty governance, LAE Constitution, Bylaws and WI State Law by a faculty grievance committee in Dec. 2013. **Deviation from standard business practices can infuse the decision with the taint of pretext. See *Lattimore v. Polaroid Corp*., 99 F.3d 456, 466-67 (1st Cir.1996).**

18. Throop ordered new interim chair Dalecki to bcc her on all email communication with me from the very beginning. I first learned about the surreptitious action when I saw bcc to Throop showed up in documents the defendants produced in Discovery.

19. In late August 2013, Dalecki ridiculed and denied my polite request that he please add my title to his list of email addressees. Other Ph.D.s in the CJ department had "Dr." before their names but my name did not show my earned title. Dalecki bcc'd Dean Throop on his harsh and lengthy response to me. He could have spent one minute adding "Dr." to my name in his contact page or he could have written a lengthy explanation why he would not do it. He chose to write the lengthy explanation why he would not grant my simple request and bcc'd it to Throop. To bcc the Dean of a college on such a benign personnel matter is not practical or commonly done. **Deviation from standard business practices can infuse the decision with the taint of pretext. See *Lattimore v. Polaroid Corp*., 99 F.3d 456, 466-67 (1st Cir.1996).**

20. In September 2013 Throop stated officially that the CJ department didn't have any qualified and willing CJ faculty members, thereby calling me unqualified for the chair position with no explanation effectively blocking me from the chair position whith its significant pay increase and a stepping stone to higher administrative positions. In the Dec. 2013 grievance hearing Throop explained her reasoning behind disqualifying me for the chair position as my inability to handle my problems on the departmental level. The problems she referred to were my protected complaints of retaliation by my boss. **That statement is Pretext for Discrimination.**

21. In September 2013 Dalecki probed me to learn of my legal intentions in the retaliation matter even though I told him that my attorney advised me against discussing the matter. He agreed that Caywood wronged me but told me to move on. He made me very uncomfortable by bringing up the matter repeatedly. He tried to convince me to drop the matter by bribing me and threatening me.

22. In November 2013 Dalecki attacked me verbally for having complained to the Chancellor and alleging the Dean violated Bylaws, LAE Constitution, and WI state law and asking for an investigation.

23. In December 2013, Dalecki informed me that Throop wanted to give me an equity adjustment and asked Dalecki to request the adjustment for me. In context with the repeated probing about my legal case and trying to make me drop any legal actions I understood the adjustment to be a bribe. I accepted the adjustment because I was largely underpaid. I still have one of the highest pay inequities in the college of LAE. As a tenured Associate Professor employed since 2009, I make just $ 1500.- more than my my male colleague closest in rank, Dr. Patrick Solar, who was hired in 2013. My salary according to the data of the College Compensation Committee 2016 is $ 9938.- below what it should be. Solar received release time, was appointed to the Director of the FI program, and has served on every prestigious committee in the CJ Department while I was excluded from all committees in the CJ department. **See *Davis v. City of Sioux City 115 F.3d 1365, 1369* (8th Cir. 1997). The Davis court chose not to disturb the jury verdict finding that the plaintiff's transfer with a salary increase was nonetheless sufficiently adverse to award sizable damages for retaliation where the new position lacked supervisory status, had fewer opportunities for salary increases and offered little opportunity for advancement.**

24. April 2014 Throop informed me at a hearing that my equity adjustment was approved and would be applied retroactive to August 2013. I was uncomfortable with it because I felt it was used as a bribe to dissuade me from filing a federal lawsuit against Throop. Equity adjustments are usually only given after an applicant requests equity adjustment in their DRB file and supports the request with data. My equity adjustment was done as a disparate treatment. It was timed suspiciously before the date I could file a Title VII and Title IX complaint in federal court. I did not request the equity adjustment but it was given anyway. Normally the adjustments are made only after the employee requests it.

25. In late April Dalecki asked me into his office and told me to close the door. He then yelled at me for having filed a lawsuit naming Throop as a defendant. He yelled "you just got a pay raise!" (referring to the inequity adjustment). I didn't tell anyone at school that my attorney just had filed a Title VII and IX lawsuit. Dalecki must have learned about it from Throop.

26. Dalecki's demeanor toward me changed after that. When I asked for help with the upcoming German Delegation visit Dalecki ordered me a German flag for approx. $ 10.-. He refused to provide any other assistance or support even though the German delegation was invited by International Programs and the Chair of the CJ Department. Dalecki signed the invitation personally. I was at a loss with a task for which I had no experience with or time for. Nobody ever assigned the task to me. At a time when I taught 4 on campus courses, had an additional overload course, advised 2 graduate seminar papers, had 2 undergraduate directed study students, was the advisor for the student association DICT and had approx. 60 undergraduate advisees, I didn't ask for or could even handle

another large task. International Programs relied on me to pass the invitation on to the German police academy and help make arrangements for the visit in my native language German. I was happy to help where I could but didn't expect to become the person in charge of the whole visit by default.

27. In late April 2014 I learned also that Dalecki gave newly hired faculty member Dr. Nemmetz my Restorative Justice project. Dr. Nemmetz was not hired for Restorative Justice. I was the chair of the Search & Screen committee that ran the search for the position for which Dr. Nemmetz had applied and was selected. To lose yet another project was a huge blow to me as RJ became the focus of my work outside of teaching after Caywood had pulled his support for my cyber-crime project in Jan. 2013 following the student sexual harassment complaint. **In *Thompson v. City of Waco Texas*, the Fifth Circuit Court of Appeals held that a city police department's restriction of a detective's responsibilities after his return to work was sufficient to fall within Title VII's definition of "adverse action." The Fifth Circuit's decision expands the definition of an adverse job action to include actions which do not affect an employee's title or compensation.**

28. On June 5, 2014 Dalecki corrected and humiliated me in a department email for my response to a very devastating FI program evaluation that called the "CJ department's flag ship" a "train wreck" and the hastily departure of the two FI faculty members at least partially responsible for the mess. I spoke my mind, vented a bit about the mess the two former members left us with, suggested that the problems might warrant a deeper investigation and then encouraged other members of the department to move forward in the right direction. Dalecki's strong response shocked and provoked me to share with my colleagues some of the adverse treatment I had suffered by him. I later apologized to him for my tone but not for the content of the email as it was the truth.

29. Around that time Dalecki told me that he had once brought a gun to school to protect himself from a crazy female colleague who had filed a grievance against him. He then added I now have a much better shot at the hallway than in Gardner (the building in which his previous office was located). He then grinned at me. This statement made me nervous. I didn't know whether I should feel threatened. From his desk Dalecki could look directly down the hallway to my office. I later asked a former colleague from the sociology department who told me that Dalecki had to be referring to Dr. Susan Morris. She used to work with Dalecki and filed a grievance for sexual harassment against him in 2010 or 2011.

30. During fall 2014 Dalecki held his fingers like a pistol and pointed them at me on at least three different occasions when I walked by his office. He often grimaced at me.

31. My mother was scheduled for surgery on June 5, 2014. The next day she developed internal bleeding that the doctors couldn't control at first. My brother called me with the alarming news. The complications my mother suffered caused damage to her brain. For several days I was afraid that, after losing my father the year prior, I would be losing my

mother next. I immediately informed Dalecki that I couldn't handle the responsibility of the German delegation visit. The visit was scheduled for June 16-26, 2014. I was not contracted to handle the visit during her summer break nor received any form of pay or release time for the visit. The CJ department had at least 4 people on contract during the summer months (including Dalecki, Fuller, Rice).

32. Dalecki falsely referred to the German delegation as Burton's guests and created animosity in the CJ department against me by incorrectly stating that I dumped my guests on him. He knew better as he signed the official invitation issued by the university. He knew that I had a 9 month contract not covering any departmental service in June. His response and actions were **adverse employment actions designed to hurt me.**

33. Dalecki falsely told colleagues in the CJ department and HR Director John Lohmann that I left him with a poorly prepared visit of foreign guests after I gave him the itinerary with contact information for the visit, made arrangements for the delegations stay on campus incl. meal plan, and left him with an account with over $ 6000.- for the visit. I did this as a voluntary service to the department. His statement to Lohmann was **defamatory** and caused colleagues to lash out against me and further isolated me in the department. He also told Lohmann that I did too much and got in the way.

34. Dalecki questioned in an email communication with Lohmann that my mother was ill. There was no reason for him to question my mother's condition.

35. Dalecki shared with Throop that I didn't take care of the German delegation. Throop later included this matter in the disciplinary letter of direction. Dalecki complained to Throop. He didn't handle this matter on a "local level." Throop did not remove Dalecki from the chair position for not handling "things on a local level." Throop disqualified me from being chair because she claims I couldn't handle problems on a local level but is supportive of the interim chair bringing departmental issues up to the dean. **Throop practiced disparate treatment. Disparate treatment is pretext for retaliation.**

36. Dalecki called me in the morning on June 17 and told me to stay away from campus and that there wasn't a welcome breakfast for the German Delegation. I later learned that he took the German Delegation out for breakfast using the funds that I donated to the visit. Dalecki excluded me. Dalecki lied to me. **His action must be characterized as mendacious and as such is pretext for retaliation according to *Reeves*.**

37. Dr. Fuller informed me on June 25, 2014 that Dean Throop and Dalecki were discussing my termination for insubordination and that I should crawl back to Dalecki and ask for forgiveness" but I didn't do anything wrong. I was not contractually obligated to take care of the delegation. The Germans were not personally invited by me or in any other way my personal guests. They weren't my colleagues any more than they were Dalecki's or Caywood's colleagues. I never worked with them while being employed in Germany. The delegation were the guests of the university and as such the responsibility of the CJ members who were employed during the summer months. The defendants stated in the

MSJ that the German delegation were my guests. That was a mendacious attempt to hold me responsible for the visit. **This is pretext for retaliation according to *Reeves*.**

38. In July Dalecki didn't reassign me to teaching the Comparative Criminal Justice Systems class which compares policing styles in different cultures. He knew I wanted to teach the course because I asked for it. He knew I was the most qualified to teach the course considering my international experience. He knew that my student evaluations for the course from the prior year were outstanding. Taking the course away from me and assigning it to the most junior staff member who had no international work experience humiliated and provoked me. I didn't lash out but attempted to bring it up to mediators at UW-Platteville and use the grievance procedure to address it. But I was not given fair grievance hearing or fair mediation.

39. Dalecki removed me as mentor of newly hired Dr. Stackman after he had assigned me to mentor her in January Dalecki knew that I was instrumental in having Stackman re-apply to the CJ program in fall 2013. I also was a member of the University Mentoring Advisory Team and highly qualified to be Stackman's mentor. Dalecki assigned himself to mentor Stackman, an unprecedented move in the CJ Department which constituted a conflict of interest. Dalecki stated as reason that it was "in the best interest of the department." I was not told that the removal had anything to do with house sitting until months later when Throop wrote a letter of direction. Throop stated as reason for my removal that I asked that I both "asked" and "demanded" Stackman to housesit and made her uncomfortable. Stackman denied in her deposition that she had a problem with the request or that she felt uncomfortable. Stackman added that it was Dalecki's idea that house sitting was a problem. Throop called Stackman into her office a few days before her deposition and the house sitting issue was a central topic of the conversation. A reasonable jury could conclude that Throop and Dalecki conspired to use this fantastic reason to justify their adverse employment action to make me leave UW-Platteville in retaliation for having filed a federal lawsuit against Throop. **"It is permissible for the trier of fact to infer the ultimate fact of discrimination from the falsity of the employer's explanation." *Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000)*, Id. at 147.** See also: **Deviation from standard business practices can infuse the decision with the taint of pretext. See *Lattimore v. Polaroid Corp.*, 99 F.3d 456, 466-67 (1st Cir.1996). Smith v. Lockheed-Martin Corp., No. 09-15428 (11th Cir. June 30, 2011)**

40. Dalecki assigned a newly hired faculty member to teach the CJ seminar class. This move devaluated me in my department, humiliated and provoked me, yet I showed restraint and attempted to address the issue with mediators at UW-Platteville and use the grievance process to address the adverse action. CJ seminar had always been taught by the most senior faculty members on campus. I was denied fair grievance hearing and denied fair mediation. **Deviation from standard business practices can infuse the decision with the taint of pretext. See *Lattimore v. Polaroid Corp.*, 99 F.3d 456, 466-67 (1st Cir.1996).**

41. The stress and emotional toll got so severe that my doctor admitted me in August to the hospital. I had severe tension headaches, severe stomach pain, and couldn't keep food down, couldn't sleep and was dehydrated. **It is reasonable to infer that the hostile working environment contributed to my severe health deterioration.**

42. Dalecki and Fuller told the newly hired graduate student, Ron Jacobus, in September 2014 that he couldn't work on research with me without giving explanation. This stifled my research project that relied heavily on the assistance of the graduate student. Dalecki assigned Jacobus to assist newly hired Stackman with her undergraduate course preparations. Stackman was Dalecki's mentee and he took a strange interest in Stackman. ***Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000):*** **proof that a defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination. Id. at 147.**

43. October 2014 Dalecki excludes me from the newly formed Departmental Curriculum Committee. I had been instrumental in getting the committee formed. He put 4 probationary faculty and 1 staff member on the committee and excluded me even though regulations states that the minimum, not the maximum of committee members was 5. I requested repeatedly to be on the committee. I would have been the only tenured member of the committee if Dalecki had not refused to allow me to sit on the committee. Dalecki explained to me that it was easier to schedule meetings with only 5 committee members. It is unprecedented in CJ and other departments that a chair would leave something as important as a department's mission statement and curriculum to probationary faculty when a tenured faculty member is available. One of the probationary faculty members, Rex Reed, was terminated the following year. **"It is permissible for the trier of fact to infer the ultimate fact of discrimination from the falsity of the employer's explanation."** ***Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000),*** **Id. at 147.** See also: **Deviation from standard business practices can infuse the decision with the taint of pretext. See *Lattimore v. Polaroid Corp*., 99 F.3d 456, 466-67 (1st Cir.1996).**

44. I had very little contact or communication with Dean Throop after Dalecki took over as chair. In fall 2014 Throop put me on the Search Committee for the next CJ chair and ordered me to recuse myself from any discussions of Dalecki, who applied for the position. Throop asked Zauche, Dalecki's close friend and colleague, from the Sustainable Energy Program of Chemistry to chair the committee. Throop only allowed one more member of the CJ department on the search committee. I didn't know most of the other members of the committee. Throop unilaterally changed the position announcement that the CJ faculty members had written and voted on without their consent. The new wording allowed Dalecki with no educational and work background in Criminal Justice to apply so I protested. Throop removed me from the from the Search & Screen stating that I couldn't be fair toward Dalecki and replaced me with Dr. Fuller, a close associate of Dalecki. **"It is permissible for the trier of fact to infer the ultimate fact of discrimination from the falsity of the employer's explanation."** ***Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000),*** **Id. at 147.** See also:

Deviation from standard business practices can infuse the decision with the taint of pretext. See *Lattimore v. Polaroid Corp*., 99 F.3d 456, 466-67 (1st Cir.1996).

45. Notes of the interim HR Director revealed during Discovery that Throop called Burton "labile" at a meeting with HR, the provost and Dalecki. This is a defamatory and mendacious statement designed to undermine my reputation. A couple of months later a CJ staff member told others that I had a mental disease. Dalecki or Throop never reprimanded Rice for her statements even though they had told the HR director they would. **Mendacious statements show pretext according to Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000).**

46. Dalecki excluded me from 3 faculty searches and 1 academic staff search in violation of Departmental Policy and Bylaws even though I was a senior faculty member and asked to be on the search. **Deviation from standard business practices can infuse the decision with the taint of pretext. See Lattimore v. Polaroid Corp., 99 F.3d 456, 466-67 (1st Cir.1996).**

47. At a social department outing at a local pizza restaurant a staff member stated in front of others including a student that I had a mental disease, that I wouldn't be around much longer, and that I dumped the German delegation on Dalecki because I didn't like East Germans. These were highly defamatory statements and especially problematic because they were made in front of a student. Dalecki and the Provost were present at the outing. Neither one stopped the defamation. This event shows the hostile work environment I was exposed to. **Mendacious statements show pretext according to Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000).** ***Penn.State Police v. Suders, 542 U.S. 129, 134 (2004)*** **The alleged discrimination made conditions in the workplace so intolerable that the plaintiff could not reasonably be expected to stay in her job.**

48. At the same pizza outing also attended by Provost Den Herder, Den Herder told Dalecki not to worry about me. She said in front of others including the same student that Sabina is alone on a sinking ship. **Mendacious statements show pretext according to Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000).** ***Penn.State Police v. Suders, 542 U.S. 129, 134 (2004)*** **The alleged discrimination made conditions in the workplace so intolerable that the plaintiff could not reasonably be expected to stay in her job.**

49. The graduate student told me about the defamation and I asked HR Director Lohmann to investigate the matter. Lohmann assured me that he would keep the student's name confidential and said that if he had to talk to the student Student Affairs would be present.

50. After talking to the staff member in question, Lohmann confirmed to me that the staff member Rice said among other things that I was mentally ill. He told me that Rice refused to apologize to me. Lohmann talked to Throop and Dalecki about the incident and was under the impression that they would reprimand Rice. Rice was never

reprimanded. **Throop and Dalecki's failure to address the defamation must be characterized as mendacious and as such is pretext for retaliation according to Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000).**

51. Shortly after that Dalecki ordered the graduate student Jacobus into his office and threatened him and warned him not to talk to me. Dalecki only assumed it was that student who told me and he never asked the student if it was him. Dalecki severely chastised and threatened a graduate student. He told the student to apologize to Rice for having violated confidentiality. The student recorded the meeting. **Mendacious statements show pretext according to Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000),. *Penn.State Police v. Suders, 542 U.S. 129, 134 (2004)* The alleged discrimination made conditions in the workplace so intolerable that the plaintiff could not reasonably be expected to stay in her job.**

52. The graduate student later in May or June 2015 lost his position despite sufficient funds for the position. The student was later told that Throop said he was no longer welcome on campus. I believed the action to be an attack on me and an attempt to keep me isolated in the CJ department. I believe that Jacobus lost his job because I filed a charge with the EEOC and a lawsuit in this court and because he communicated to me a crime he had witnessed. **In *THOMPSON v. NORTH AMERICAN STAINLESS, LP, (2011) No. 09-291* the United States Supreme Court recognized third-party retaliation.**

53. In November 2014 Throop sent me a Letter of Direction that contained false allegations. Throop reprimanded me for having asked for a grievance against Dalecki after the university canceled the mediation between Dalecki and me. I believed that Dalecki retaliated against me for having filed the lawsuit against Throop. One of the mediators, Assistant Chancellor DeCoste, told me that I could file a grievance against Dalecki if mediation failed. The mediation failed because the mediators failed to give me opportunity to tell my side of the story. Throop also reprimanded me for emailing the Chancellor and asking him for an investigation into my complaint against Dalecki when my grievance against Dalecki was delayed for over a month. The Chancellor never investigated and I was never given the requested grievance hearing.

In *Kouvchinov v. Parametric Tech. Corp., 537 F.3d 62, 68* (1st Cir. 2008) the court acknowledged the possibility of showing pretext through an employer's failure to adhere to a documented policy and practice of hearing an employee's side of the story.

54. Throop reprimanded me for having asked if a colleague and friend might be available for house-sitting. Throop also reprimanded me because she *believed* I incited students without providing any evidence. I never incited any students against anyone at the university. I withdrew my grievance request against Dalecki when there was no longer remedy available to me and after the grievance was delayed for 6 weeks with no valid reason.

55. Throop reprimanded me in her letter of direction for an email I sent to the Chancellor asking for an investigation into what I believed to be retaliation by Dr. Dalecki and instructed me to stop emailing the Chancellor. When I asked her about the email she flatly denied that she had included the email to the Chancellor in her letter of direction. But she did include the email in her letter of direction. **Mendacious statements show pretext according to Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000),. *Penn.State Police v. Suders, 542 U.S. 129, 134 (2004)* states that show that the alleged discrimination made conditions in the workplace so intolerable that the plaintiff could not reasonably be expected to stay in her job.**

56. I believed Throop's accusations in the Letter of Direction to be false and in retaliation of a protected activity, or multiple protected activities. I have evidence to prove her accusations as false but I was never given a chance to present my side of the story.

In *Kouvchinov v. Parametric Tech. Corp., 537 F.3d 62, 68* (1st Cir. 2008) the court acknowledged the possibility of showing pretext through an employer's failure to adhere to a documented policy and practice of hearing an employee's side of the story.

57. I asked for a grievance hearing against Throop to address the letter of direction but my requested hearing was delayed without valid reason for eleven months. Policy says that a grievance is due a hearing within 20 days. **In *Kouvchinov v. Parametric Tech. Corp., 537 F.3d 62, 68* (1st Cir. 2008) the court acknowledged the possibility of showing pretext through an employer's failure to adhere to a documented policy and practice of hearing an employee's side of the story.**

58. The Chancellor pushed for the investigation into Throop's Complaint against me and that complaint was conducted while my grievance request fell on deaf ears. I asked for the grievance over 5 weeks prior to Throop's Complaint against me. When in Nov. 2015 I was finally supposed to get my grievance hearing my former attorney Mr. Hawks advised me to withdraw my request as the issue was in the hands of the court. The investigator for the Chancellor, Barraclough, gave me very little time to prepare and threatened that if I couldn't make any of the dates proposed during my teaching semester they would proceed without my input. **In *Kouvchinov v. Parametric Tech. Corp., 537 F.3d 62, 68* (1st Cir. 2008) the court acknowledged the possibility of showing pretext through an employer's failure to adhere to a documented policy and practice of hearing an employee's side of the story.**

59. Dr. Dalecki told me that the Dean and UW-Legal advised him against talking to me.

60. I couldn't get a hearing, didn't get an investigation by the Chancellor and couldn't talk to my chair. I was isolated in the department. I was removed from departmental duties. I was assigned to lower level courses only. **In EEOC v. Crown Zellerbach Corp., 720 F.2d 1008 (9thCir. 1983), the Court found that a suspension constituted an "adverse employment action" for purposes of a retaliation claim. The Ninth Circuit has held**

that transfers of job duties and undeserved performance ratings constitute adverse employment actions for purposes of plaintiff's retaliation claim.

61. On Dec.16, 2014 Dean Throop falsely accused me of canceling classes on Friday, Dec. 12, 2014 and promised discipline. The email was cc'd to Dalecki.

62. I held two classes that day, had office hours and left campus around 2:30 pm. I had contact with several faculty and staff members including Dalecki. My office is next to Dalecki's and I walked by his open door office several times. He saw me in the hallway when I came back from class.

63. I left for Germany on Friday evening. I wanted to say my good-byes to my uncle. He had stage 4 cancer. He died two months later. I also picked up my mother, who suffers from dementia like condition after her surgery complications in June 2014. I brought her back to Platteville so she could spend Christmas with us. We left Germany on Sunday noon so I would be back on time for work on Monday. I was in great pain and suffered from severe nausea. Nonetheless I was back to school the following Monday. I had not missed a day of work in fall 2014. On Dec. 22, 2014 a medical procedure discovered more deep gastric ulcers despite having been on gastric ulcer medication.

64. Throop's letter accusing me of canceling class and promising discipline caused me great despair. I felt the whole world was out to get me and only my husband believed me. I knew I couldn't go to Throop. I knew I couldn't ask Dalecki to confirm my presence. He was cc'd on Throop's email and didn't inform her of her mistake. I remembered Fuller's words that Throop and Dalecki wanted to terminate my employment. I knew then that Fuller was right. This was a predetermined disciplinary measure. Throop was just looking for a reason t discipline me and she thought she found it in the alleged class cancellation. Even when proven wrong she went ahead with her predetermined discipline.

In *Kouvchinov v. Parametric Tech. Corp., 537 F.3d 62, 68* (1st Cir. 2008) the court acknowledged the possibility of showing pretext through an employer's failure to adhere to a documented policy and practice of hearing an employee's side of the story.

65. In my desperation I asked my students to confirm that I conducted the classes. I was afraid that this request would not be taken seriously by the students, especially since it was finals week and shortly before the holiday break. I felt I needed to share with my students that my job was on the line. My students had to understand the urgency of my request. I felt the students were the only objective and fair people left on campus.

66. Even with the email confirmation Throop was reluctant to admit that she was wrong. I never received an apology for the false accusation.

67. Instead, on January 5, 2015 Dean Throop filed a 6.02 Complaint with the Chancellor that if granted could terminate my employment. The complaint has stressed me greatly. I knew that the university would not give me a fair appeal hearing. Throop stated in her complaint that I involved students in my case against her directive. **(Smith v. Lockheed-Martin Corp., No. 09-15428 (11th Cir. June 30, 2011) addressed predetermined disciplinary measures as pretext**: Throop ordered me not to involve students in her Letter of Direction and then put me in a situation where only students could confirm my presence in class.

68. After another endoscopic surgery in early January my doctor urged me to take a longer leave of absence to allow my ulcers to heal. My doctor told me that my condition could be life-threatening.

69. On January 11, 2015 the CJ Department Review Board held its annual faculty evaluation under DRB chair Fuller. Caywood was a member of the DRB. Dalecki was an ex-officio member of the DRB. The two other members were from outside the CJ department. I was not a member as I was elected by LAE faculty to serve on the College Compensation Committee, the next higher committee. Throop demanded that I recuse myself from discussing Dalecki in the CJ search and screen process because she claimed I was biased against him but she allowed Caywood, who is a defendant in this case, to sit on the department review board that would evaluate my performance. **This is disparate treatment and pretext for discrimination.**

70. The 2015 DRB gave me poorer evaluation than for the previous year. I was marked down for department service, as a result of Dalecki removing and excluding me from almost all departmental assignments despite my expressed and repeated requests to be allowed to serve. **In *EEOC v. Crown Zellerbach Corp., 720 F.2d 1008 (9th***

***Cir. 1983),* the Ninth Circuit has held that transfers of job duties and undeserved performance ratings constitute adverse employment actions for purposes of plaintiff's retaliation claim.**

71. The 2015 DRB marked me down in the "peer evaluation" category even though nobody came to my class to evaluate my teaching performance. **In *EEOC v. Crown Zellerbach Corp., 720 F.2d 1008 (9th Cir. 1983),* the Ninth Circuit has held that transfers of job duties and undeserved performance ratings constitute adverse employment actions for purposes of plaintiff's retaliation claim.**

72. At the beginning of spring semester 2015 I requested reconsideration of the DRB evaluation. Because I was already on FLMA leave for severe health issues I wasn't able to address the DRB directly. I submitted a 2 page appeal objecting to Caywood

evaluating my performance, for having been graded down on department service while being excluded from departmental services, and peer evaluated without basis for evaluation. A few days later the DRB issued their decision: a one sentence confirmation of their original decision without explanation or response to my appeal. **Not providing any basis for their decision is pretext for retaliation. In *Reeves*, the Court explained that proof that a defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination. Id. at 147.**

73. My DRB binder contains conflicting evaluation sheets for the DRB evaluation of 2014 and 2015. The errors, which removed my outstanding evaluation marks for 2014, have never been explained or corrected. **In *Reeves*, the Court explained that proof that a defendant's explanation is unworthy of credence is simply one form of circumstantial evidence that is probative of intentional discrimination. Id. at 147.**

74. My binder was also missing the signature page that normally accompanies the evaluation form. I asked repeatedly about it and emailed Associate Dean Kory Wein asking to locate it but he replied that LAE does not keep any copies. The new CJ department chair Dr. Strobl couldn't locate a copy of the 2014 evaluation forms either. **Deviation from standard business practices can infuse the decision with the taint of pretext. See *Lattimore v. Polaroid Corp*., 99 F.3d 456, 466-67 (1st Cir.1996).**

75. My doctor allowed me to return to work on April 17, 2015. Dalecki and staff member Rice showed great animus towards me when I arrived at the office and were clearly displeased with my presence. Still in recovery from my serious condition (and after a third endoscopic surgery for multiple deep ulcers in March 2015) Dalecki's and Rice's openly hostility affected me mentally and physically.

76. Around that time I checked with Laufenberg, the HR person in charge of absence reports, to make sure that all of my leave of absence reports were complete. She confirmed that I was up to date. Then On June 27, 2015 at 7 pm on Saturday, Jennifer Sloan-Lattis, UW-Legal emailed my former attorney Tim Hawks at 7 pm alleging that I had incorrectly entered my leave of absence reports claiming that I was at work when I while I was on sick leave. Screen-shots of my account that I took on June 29, 2015 indicated that someone was tampering with my account. I forwarded the picture to my former attorney Hawks. Just one year prior a former member of the CJ Department, FI staff member Danelle Beamis complained in an email to former CJ chair Caywood that her Leave of Absence reports had been tampered with as well. She left UW-Platteville just few months after the incident. Jane Laufenberg from the HR Department replied per email the same day 6/29/15 and stated: *"HI Sabina – You are all set. The rest of April is considered your May leave (you're on the 9 month academic payroll calendar). You already did your May leave report. Thanks for checking."* Laufenberg had always handled missing or faulty reports in an email to us, faculty. I never had heard of UW-Legal getting involved in such a trivial matter bypassing the normal procedures of handling leave-of-absence reports. Laufenberg contacts employees when there are mistakes or missing reports. I

never had to make any correction to my leave of absence report in response to Lattis' allegations as there were no problems according to Laufenberg. **I felt harassed** by UW-Counsel Lattis and believe Lattis contacted my former attorney to cause me additional legal fees and stress. **Deviation from standard business practices can infuse the decision with the taint of pretext. See *Lattimore v. Polaroid Corp*., 99 F.3d 456, 466-67 (1st Cir.1996)** and **Reeves v. Sanderson Plumbing Products, Inc., 530 U.S. 133, 147 (2000) states "it is permissible for the trier of fact to infer the ultimate fact of discrimination from the falsity of the employer's explanation." Id. 147**

77. After the "Leave of Absence" incident with Lattis I noticed next that someone changed my job title from Associate Professor to Assistant Professor on my payroll account. I believe this was done to **humiliate me and to provoke a response from me**. I reported the change to my former attorney Hawks.

78. On Aug. 4, 2015 UW-Legal Ms. Lattis contacted my attorney again in reference to a online teaching contract with UW-Milwaukee and wrote "A new issue with Burton. She is asking to do an overload. […] It kind of seems like She is playing us?" Lattis' wording was **unnecessarily accusatory and demeaning.** My doctor allowed me to teach online while recovering from my severe ulcers. I enjoy teaching. Working with students distracts me from the strain of my legal case. Teaching online allows me to rest when needed. I can easily attend to my online course from a hospital bed. I didn't play anyone. The following exchange between Lattis and attorney Hawks caused me **additional legal costs and delayed the signing of my contract** for UW-Milwaukee and I almost missed out teaching for UWM as a result.

79. On April 17, 2015 I submitted the required *Letter to Return* written and signed by my doctor Dr. Bearse to HR Director Lohmann who then passed on the content of the letter to Throop and Dalecki. Dr. Bearse advocated that I would get at least 50% online teaching assignments. Although my contract is for teaching on-campus and online Dalecki and Throop refused to comply with the doctor's requested accommodations. Dalecki and Throop also refused to comply with the request to have a graduate student assistant help with classroom task if the class would run over 52 minutes (the normal class-period). My doctor informed UW-Platteville that teaching face-to-face for longer periods of time would be counter-productive to my recovery or would require the presence of an assistant. The modified work condition was only requested for one semester.

80. Dalecki instead assigned me a 3-hour course night course from 5 pm to 7:52 pm. Courses after normal business hours are unpopular with faculty and academic staff and are normally only assigned with the consent of the instructor. 3-hour night courses are typically reserved for adjuncts. The course length and the time of the day were in clear violation of the doctor's recommendation and constituted an undue burden on me at a time when I was hurting. ***Brown v. City of Tucson, 336 F.3d 1181 (9th Cir. 2003)*** **protects people with a disability against harassment if the harassment is pervasive.**

It took lengthy and multiple communications between my former attorney Hawks and UW-Counsel Lattis to get me a more reasonable schedule.

81. On August 13, 2015 Dean Throop informed me in an email that she cc'd to the PACCE Director Kevin Bernhardt that she named another representative for the PACCE Review Team for LAE. *"This is a team on which you have worked in the past but Kevin indicates you haven't participated much lately."* Throop knew that I was on sick leave for most of spring 2015. Kevin Bernhardt quickly replied and wrote: *"My apology to Sabina, I made that request to Dean Throop sound like something negligent on Sabina's part and that was not the intention. Sabina has been on the Review Team for the last few years and has been a valued member."* Throop can't stop falsely accusing and diminishing me. The dean does not normally get involved in notifications about committee assignment changes. **Deviation from standard business practices can infuse the decision with the taint of pretext. See Lattimore v. Polaroid Corp., 99 F.3d 456, 466-67 (1st Cir.1996).**

82. Even though Barraclough concluded his investigation into Throop's Complaint to the Chancellor and issued his findings to the Chancellor Shields in Nov. 2015, Shields has not yet issued his decision and holds over my head an impending termination based on Throop's false allegations in her UWS 6.01 complaint against me. ***Penn.State Police v. Suders, 542 U.S. 129, 134 (2004)*** **the alleged discrimination made conditions in the workplace so intolerable that the plaintiff could not reasonably be expected to stay in her job.**

83. Since June 2015, the CJ Department has a new permanent chair: Dr. Staci Strobl. I greatly enjoy working under her. Dr. Strobl assigned me to teach seminar and Comparative Criminal Justice Systems. All my courses are now upper level courses. I never asked her for those courses but she gave them to me because I am the right person for the job. Dr. Strobl put me immediately on the FI curriculum committee. She assigned me to mentor a newly hired department member. She observed me teaching and praised me for my teaching. This was the first peer-evaluation I received in 6 years. Strobl treats me like a valued faculty member. She is considerate, fair, and inclusive. Since she took over as chair I have not had any problems with my chair, my colleagues, or anybody else on campus. I didn't email the Dean or the Chancellor's office with any problems. I didn't file any grievances. Yet, the past years have taken a huge toll on me.

I declare under penalty of perjury that the foregoing statements about the events in my case are true and correct.

Executed on April 15, 2016

s/Sabina Burton

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