

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____))
Dawn V. Martin,))
))
v.))
)) Case No. 1:99CV01175
Howard University, *et. al.*))
)) Judge: TFH/AK
_____))

**PLAINTIFF’S MOTION FOR AN EXTENSION OF THE 25 HOUR TIME LIMITATION
TO COMPLETE TRIAL**

Plaintiff’s understanding is that she presently has three hours left to complete her case, without the requested extension. Plaintiff respectfully requests an extension of the 25 hour time limitation, by eight hours, to present her claims of: 1) sexual harassment/hostile work environment; 2) breach of contract; and 3) retaliation (retaliatory non-renewal and premature eviction from her office. Plaintiff also requests an additional five hours for the damages portion of her retaliation and breach of contract claims, assuming that she prevails on the liability issues for these claims.

Granting this motion would increase the total time of both parts of this bifurcated trial by 14 hours, for a total Plaintiff’s trial time of 39 hours. Plaintiff notes, however, that most of Defendant’s case has been presented in Plaintiff’s case in chief, much of it on Plaintiff’s time, due to the practice of allowing witnesses to elaborate on their answers during cross examination. Accordingly, Defendant should not need the entire 25 hours initially allotted to it, particularly since it is Plaintiff, not Defendant, that carries the burden of proof.

MEMORANDUM IN SUPPORT OF MOTION

Plaintiff respectfully requests an additional eight hours of time to complete the trial in the above styled case, allowing a total of 32 hours for her to present her case in chief as well as rebuttal witnesses on the issues of liability for all three claims before this court, and for damages on the sexual harassment claim. Plaintiff asks for an additional 5 hours to present her damages claim on the issues of breach of contract and retaliation, if she prevails on the liability portion of those claims.

I. Amount of Additional Time Requested

Plaintiff anticipates requiring the time allocated below to complete the first phase of this bifurcated trial.

Completion of Case in Chief

Completion of former Dean Bullock’s redirect (in the form of re-cross, due to Dean Bullock’s status as an adverse witness)	2 hours ¹
Testimony by Plaintiff, Dawn Martin	4 hours, including direct and re-direct ²
Testimony by Teresa Guerrant, Esquire	1 1/2 hour, including re-direct ³
Testimony by Miguel Gallardo, Jr.	1 1/2 hour, including re-direct ⁴

Total: 9 hours

Rebuttal Witnesses

Prof. Spencer Boyer	1 hour, including re-direct
Prof. Henry Jones	1 hour, including re-direct
Prof. Sherman Rogers	1 hour, including re-direct

¹ During Plaintiff’s case in chief, Defendant has presented essentially, the “life story” of Alice Gresham-Bullock, even to the details of her childhood in Georgia, as one of 9 children of a farmer, as well as information about her relationship with her children and their special needs. She also testified about her history with Howard University, as college student, law student, professor and Dean, as well as about the activities and changes that Howard Law School underwent during her tenure as Dean. Former Dean Bullock testified for many hours, over several days, interrupted to accommodate another professor’s schedule. This unexpected testimony, during Plaintiff’s case in chief, requires Plaintiff to address the issues raised during this testimony. It is only fair that Plaintiff be permitted to address the issues raised during defense counsel’s examination, which far exceeded the scope of direct.

² Because Howard has introduced evidence of subjective and previously undisclosed accusations regarding character, personality, “collegiality” and “judgment,” it is difficult to predict how much time will be needed on redirect, depending upon the issues raised in cross-examination. If Howard introduces additional evidence of alleged “non-collegiality” or other subjective and vague criteria, additional rebuttal evidence may be necessary.

³ Ms. Guerrant will testify regarding the damages portion of Plaintiff’s trial, with respect to the emotional distress suffered by Plaintiff as a result of the hostile work environment at Howard to which Plaintiff was subjected. She will testify again, in the damages portion of the breach of contract and retaliation portions of the trial.

⁴ Mr. Gallardo will testify regarding the damages portion of Plaintiff’s trial, with respect to the emotional distress suffered by Plaintiff as a result of the hostile work environment at Howard to which Plaintiff was subjected. He will testify again, in the damages portion of the breach of contract and retaliation portions of the trial.

Total: 12 hours.

Subtracting the remaining 3 hours from the expected need for 11 hours, Plaintiff respectfully requests an additional eight hours to complete the first phase of her case, including the liability phase of all three of her claims.

Assuming that Plaintiff prevails in the liability phase of her trial on her breach of contract and retaliation claims, Plaintiff anticipates being able to prove her damages during one additional day of testimony, to be estimated as follows:

Dawn V. Martin	2 hours, including re-direct ⁵
Testimony by Teresa Guerrant, Esquire	1 ½ hours, including re-direct
Testimony by Miguel Gallardo, Jr.	1 1/2 hours, including re-direct

Total: 5 hours

II. Factors to be Considered in Extending Time for Trial

A district court should impose time limits only when necessary, after making an informed analysis based on a review of the parties' proposed witness lists and proffered testimony, as well as their estimates of trial time. The court must ensure that it allocates trial time evenhandedly. *Duquesne Light Co. v. Westinghouse Elec. Corp.*, 66 F.3d 604, 610 (3rd Cir. 1995). An appellate court can order a new trial if a party suffered substantial injustice as a result of the time limit. 163 F.3d 625 (D.C. Cir. 1999).

Courts have disapproved of rigid hour limits on trials. *Flaminio v. Honda Motor Co.*, 733 F.2d 463, 473 (7th Cir.1984); *Monotype Corp. PLC v. International Typeface Corp.* 43 F.3d 443, 450 (7th Cir. 1984). The effect is to engender "an unhealthy preoccupation with the clock." *Flaminio v. Honda Motor Co., Ltd.*, 733 F.2d at 473. While trial courts have discretion to expedite the completion of trials, "they must not adhere so rigidly to time limits as to sacrifice justice in the name of efficiency." *Navellier v. Sletten*, 262 F.3d 923, 941 (9th Cir. 2001), quoting *General Signal Corp. v. MCI Telecom Corp.*, 66 F.3d

⁵ Plaintiff fully anticipates that Howard will attack every possible aspect of Plaintiff's personal life, requiring Plaintiff to rebut Howard's arguments that Plaintiff may have failed to mitigate damages or that the primary source of her emotional distress was not Howard University. It is therefore difficult to assess the time necessary to rebut these unknown arguments.

1500, 1509 (9th Cir. 1995). A district court may fix a period of time for the trial as long as the time limit is flexible enough to accommodate adjustment if it appears during the trial that the court's initial assessment was too restrictive. *Crabtree v. National Steel Corp.*, 261 F.3d 715, *720. The following factors, although not exclusive, are to be considered in evaluating the reasonableness of a Court's time limits: (1) was the time limit established arbitrarily or in consultation with the parties; (2) was the trial time allocated evenhandedly; (3) did the Court allow the party to fill its allotted time with whatever evidence the party deemed appropriate, subject only to the rules of admissibility; and (4) was the time limit applied flexibly; and (5) whether the parties received timely notice of the consequences of failing to meet the time limits.

III. Plaintiff, having the Burden of Proof, Needs More Time to Present her Case than Does Defendant

Since Plaintiff has the burden of proof, it is expected that she would need more time to prove her case than Defendant would need to defend it. *See Franklin*, 163 F.3d at 631 (inferring that the party with the burden of proof may need more time to present evidence). In this case in particular, there were four security officers and a D.C. Metropolitan Police Department detective who played a direct role in addressing the stalking of Plaintiff law professor in her workplace. The Dean and Associate Dean also had direct roles in the handling of the stalking/sexual harassment in her workplace.

With respect to Plaintiff's breach of contract and retaliation case, there were six direct decision-makers – including former Dean Bullock and five professors who were members of the APT Committee. The five Committee members, Profs. Leggett, Taslitz, Nolan, Smith and LaRue, were charged with making the decisions regarding the three allotted tenure-track positions during the 1998-1999 academic year. Although Profs. Nolan, LaRue and Tazlitz did testify that notes were taken during these meetings, and the Director of Faculty Services testified that she typed such notes, Howard has never produced any notes or any other record of the Committee's deliberations; consequently, the only way to determine the true deliberations of the APT Committee members is to elicit the testimony of all five members – particularly, as MJ Facciola pointed out in his October 20, 2003 Report and Recommendation, some of

the APT Committee members, particularly Profs. Leggett and Taslitz contradicted each other with respect to issues regarding Plaintiff's scholarship. In addition, four of the five Committee members – all except Taslitz, contradict Taslitz' claim that some of Plaintiff's colleagues viewed her as non-collegial. The Director of Faculty Services, Mrs. Bruner, testified because she had direct knowledge material to Plaintiff's sexual harassment claim and damages, as well as information related to the delay in the typing of the article being sent out for publication, which is a material issue in this case.

Again, particularly since Howard has changed its defenses many times over the past eight years and has provided inconsistent answers to the question of why Plaintiff was not renewed, Plaintiff was forced to engage in the time-consuming process of calling all five Committee members to the stand. In addition, Dean Bullock had the authority to authorize the Committee to fill additional vacant positions and/or to renew Plaintiff's visitorship, but she refused to do so, despite the student need and demand for additional courses and professors, as well as student protests specifically protesting Prof. Martin's non-renewal.

IV. Time Limits were Set Prior to decisions on Motions *in Limine* and Exhibits

Time limits were set in this case before the parties were aware of the Court's decision on motions *in limine*, evidentiary matters, and the fact that professors would be permitted to testify in defense of Howard in the midst of Plaintiff's case in chief. Plaintiff put the Court on notice that more time may be necessary for trial if Howard were permitted to introduce evidence that was irrelevant and prejudicial, forcing Plaintiff to waste time to rebut Howard's arguments. *See Plaintiff's Motion in Limine to Exclude Purported Evidence of "Non-Collegiality" and "Bad Judgment;" Plaintiff's Motion for Reconsideration of Magistrate's January 5, 2006 Order and Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion for Reconsideration of Magistrate's January 5, 2006 Order.* The Court in *Navallier* noted that when time estimates are made prior to a decision on motions for summary judgment, adjustments in time allotments may be appropriate to reflect a decision affecting evidence to be presented. 262 F.3d at 942.

V. Time Limits were Set Anticipating that Adverse Witnesses would “Explain” “Yes” or “No” Answers on Defendant’s Time, but Howard’s Witnesses have “Explained” their Answers on Plaintiff’s Time

Since the former Dean and Associate Dean, as well as the five APT Committee members, were designated as adverse witnesses, Plaintiff anticipated being able to question them quickly, using leading questions for cross-examination. In order to accommodate the schedules of these professors and avoid them returning for Defendant’s defense, Howard has been permitted to present its defense with each witness, asking questions that exceed the scope of “direct” examination. Plaintiff has had to use time with each witness now, in her case in chief, leaving less time to present the case as she had planned and to explain her own case.

For example, during Plaintiff’s case in chief, Defendant has presented essentially, the “life story” of Dean Bullock, including her history with Howard University and the changes that Howard Law School underwent during her tenure as Dean. This unexpected testimony, during Plaintiff’s case in chief, requires Plaintiff to address the issues raised during this testimony.

VI. Howard’s Litigation of Facts Already Admitted are Prolonging Trial

Howard insists upon reviving an argument that it has long admitted was bogus from the beginning. Even as recently as the last day of Court, Thursday, April 13, 2006, Howard put on evidence in a manner to suggest to the jury that Dean Bullock’s November 3, 1997 form letter to Prof. Martin, informing her that her contract was ending in May of 1998, was actually a letter informing her of Howard’s decision to reject her for a renewed position on the faculty. As Plaintiff, this Court, and even Howard has repeatedly stated, this letter was merely a form letter, administered as a matter of routine, pursuant to the University Handbook, informing the professor of when the contract ends and that it is not self-renewing. The Handbook requires the law school to send the letters even before the APT Committee interviews any candidates for the positions at the AALS Conference.

Dean Bullock's Answer to the Complaint, which MJ Facciola ruled could be used against Howard, as its own Answer, since Howard never filed a proper Answer,⁶ specifically admit these facts, in paragraphs 21, 23 and 24, respectively. The purpose of an Answer is to avoid litigating issues that are not disputed; yet Howard continues to litigate issues that it has admitted, in violation of Fed. R. Civ. P. 11. Plaintiff specifically warned that Howard would re-litigate this issue and asked the Court to preclude it from doing so. Plaintiff's March 14, 2006 *Opposition to Defendant's Motion to Conduct Discovery to Determine whether Plaintiff had a Good Faith Basis for her January 17, 2006 Motion for a Trial Continuance, due to Illness*, page 13.

Plaintiff also warned that Howard would allege, at trial, that Plaintiff had not completed her article entitled, "911: How will Police and Fire Departments Meet Public Safety Needs and Comply with the Americans with Disabilities Act?" was not accepted by December 18, 1997, even though all members of the APT Committee admitted, in their depositions, that they knew that Plaintiff's article was accepted by that date. These arguments and suggestions to the jury are additional Rule 11 violations, made in bad faith.

Plaintiff did not anticipate that Howard Security Deputy Chief Armstrong contradict his deposition testimony with respect to the most important fact for which Mr. Armstrong was offered. Armstrong testified, in his deposition, that no bar notice was ever issued for the stalker, Leonard Harrison and that Howard never requested a criminal background check for Harrison. Howard never produced a Bar Notice or a criminal background request during discovery. At trial, Armstrong testified that it *did* issue a Bar Notice for Harrison and that it *did* request a criminal background check. Plaintiff immediately asked her counsel to ask when Howard took these actions and/or to impeach Armstrong with his deposition testimony. Plaintiff suspected that Howard did so recently in order to elicit the desired response from Armstrong and to mislead the jury into believing that it was done during the 1997-1998 academic year, while Plaintiff was still employed at Howard and being stalked by Leonard Harrison. Without addressing this issue, the jury will be misled and Howard may even be able to argue, in its

⁶ Order dated May 30, 2001.

closing, that Howard barred Harrison and requested a background check.

Plaintiff will now have to file a motion to compel updated discovery to require Howard to produce the purported Bar Notice and criminal background request. If these documents do exist, they will be dated and Plaintiff can demonstrate to the jury that they were not in place during the stalking of Plaintiff in her workplace, but were secured for the sole purpose of misleading the jury at trial. Plaintiff's counsel ignored Plaintiff's request.⁷

Plaintiff has attempted to obtain the information from Howard without Court intervention, to no avail. (See **Exhibit A**, e-mail correspondence with opposing counsel.) Plaintiff therefore had to draft and file the accompanying motion to compel updated discovery, in addition to this motion and attempting to assist her new counsel, who just arrived from Alabama, to be prepared to step in and complete the cross-examination of Dean Bullock and conduct the direct examination of Plaintiff and protect her on cross examination, from what will, no doubt, be an attempt at character assassination.

VII. Replacement of Counsel during Trial

Plaintiff does not wish to waive attorney-client privilege or to reveal trial strategy while she is in trial; however, the statements in open court indicating that Plaintiff unreasonably terminated her counsel not only taint her professional and personal reputation, but could be a basis for denying her motion for additional time to complete her case. Plaintiff must therefore address this issue if only superficially and has submitted the declarations of two witnesses to some of her former counsel's conduct as **Exhibits B and C**, respectively.

Plaintiff did not terminate her counsel unreasonably. In fact, on Wednesday, April 12, 2006, Plaintiff's counsel told Plaintiff, in no uncertain terms, in the presence of a witness, that he would not continue on the case. Counsel actually took the box of her records off of his cart and threw them onto the

⁷ During Armstrong's testimony, Plaintiff urged her then counsel to ask the question "when" Howard took these actions and/or to impeach Armstrong with his deposition testimony, but her counsel ignored her. That opportunity missed, Plaintiff then asked her counsel to file a motion to compel updated discovery to require Howard to produce the purported Bar Notice and criminal background request. Again, Plaintiff's request was ignored. See Section VII, below, discussing change of counsel during trial.

table in the witness room so forcefully that it slid across the table in Plaintiff's direction as if he were throwing the box at her. He told Plaintiff, "You do it yourself, Lady! You're still counsel of record!"⁸

Former counsel then instructed Plaintiff to follow him to his office to return to the rest of her file, which she did. Plaintiff did absolutely nothing to provoke this outburst and had even offered to take counsel to dinner to sit down quietly and try to resolve whatever problem was causing the strained circumstances. Counsel said that he was receiving "calls from all over town" advising him to withdraw from the case and claiming that Plaintiff was a difficult client and that her case was not strong. Counsel also complained of the stress and pressure of receiving unfavorable rulings. Plaintiff attempted to address whatever was said, but counsel would not reveal the persons or the content of the conversations. Plaintiff only politely requested to see counsel's witness preparation prior to the witness taking the stand so that she could correct any misunderstandings regarding the facts before they were presented before the jury.

Even prior to counsel's outburst, Plaintiff's counsel ceased to represent Plaintiff's interests, refused to speak to her about her own case, refused to provide her with any information about the questions that he intended to ask them and often even information about who was scheduled to testify the next day, and even the same day. Counsel violated D.C. Code of Professional Conduct § 1.4(a) and (b), *Communications* and § 1.2 *Scope of Representation*.

Plaintiff, who is already addressing stress related health problems as a result of Defendant's conduct, was in constant stress and suspense, with each witness. Finally, counsel told Plaintiff that she would not tell her own story on the stand, that it had already been told through other witnesses, and that it would be told through documents. He demanded that Plaintiff follow his orders not to tell her own story on the witness stand, threatening to ignore her and make her "look bad" in front of the jury if she chose to "rebel" against him by telling the story herself.

⁸ This statement was in apparent response to Plaintiff's request from the Court officer for the headphones to listen to bench conferences, which she could only have as counsel of record, but not as Plaintiff. Plaintiff had not had any headphones for more than the first week of trial and only realized that she could have them because Cynthia Works, Esquire, who assisted counsel for the first week of trial, advised Plaintiff to ask for the headphones. Since Ms. Works was the attorney who asked counsel to take the case, and because Ms. Works was his professor and friend, Plaintiff had no idea that counsel would take offense at her request for headphones.

Plaintiff, an attorney of 25 years, with express expertise in EEO law, and a solo practitioner representing her own clients in this Court,⁹ as well as the U.S. Court of Appeals for the D.C. Circuit, has litigated her case, *pro se*, either as sole counsel, or as lead counsel, for all of the eight years of this litigation. Plaintiff framed all legal arguments, performed nearly all legal research, conducted nearly all discovery,¹⁰ including approximately 20 depositions, and has written each and every substantive motion and opposition to a motion in this hotly contested case, against Howard's attorneys, which consisted of four outside law firms, in addition to its own Office of General Counsel, over the past eight years.¹¹

Plaintiff sought only to participate in her own trial and to assist her counsel, particularly since he was retained on February 20, 2006, slightly more than a month prior to trial, and had the impossible task of being prepared to address evidentiary, factual and legal issues that have arisen over the past eight years. Plaintiff's counsel accepted this case agreeing to work cooperatively with Plaintiff and did so up until trial. Plaintiff wrote and opposed all pre-trial motions, evidentiary matters and exhibit disputes. Plaintiff naturally expected to assist at trial to explain how these arguments, orders and issues fit into the trial. Counsel unknowingly allowed opposing counsel to make misstatements of fact and even unwittingly made some minor misrepresentations of fact and Plaintiff sought only to correct these

⁹ Plaintiff has also practiced in the Federal District Court for the District of Maryland and set precedent in the Fourth Circuit in *Gantt v. Security USA*, 356 F.3d 547 (4th Cir. 547 2002), a workplace violence case. Plaintiff obtained a \$2.25 million verdict for her client, although the corporation went dormant after the verdict and no money has yet been collected.

¹⁰ Previous counsel, Stan Brown, Esquire, drafted Plaintiff's discovery requests in 1999.

¹¹ Although references have been made to Plaintiff's "proclivity" to change counsel, Plaintiff notes that, over the seven years of this litigation, Howard's attorneys of record (not including attorneys and paralegals working on the case without notices of appearance) have included: 1) LeRoy Jenkins; 2) Nadine Wilbon; 3) William Robinson, 4) Deborah Lawrence; 5) Phillip Lattimore; 6) Angela Robinson 7) James Schaller; 8) Daniel Prywes; 9) Brian Shwalb; 10) David Geier; and 11) Kishka Kamiri-Ford. Plaintiff has had extremely limited resources and has retained solo practice attorneys who have been willing to assist on a limited basis but could not afford to expend the resources necessary to oppose Howard's vast resources, including: 1) James Morrison; 2) Quin Martin (of counsel to Plaintiff's own law firm); 3) Stan Brown; 4) Karen Khan; 5) Charles Byrd; and 6) Melvin Otey. Plaintiff is currently represented by Coretta Taylor, Esquire. Even when represented by these attorneys, however, Plaintiff performed most of the work herself, up to trial, since she could not afford to pay hourly rates and the attorneys who assisted could not afford to put in the necessary time to respond to the barrage of motions and resistance to discovery posed by Howard. On the other hand, Howard has clearly had its choice of major law firms and any other attorneys available for hire. Indeed, Howard is represented by four attorneys during this trial, all of whom have put on witnesses, while Plaintiff's counsel put on all witnesses himself and expressed being overwhelmed and outnumbered.

misstatements.

Former counsel even told the Court, at one point, that he did not know the answer to a question because he was not in the case at the time the issue arose – however, Plaintiff, who was the sole or lead counsel throughout the entire eight years of litigation was standing right behind him and he would not even turn around to ask her the answer to the question – nor would he allow Plaintiff to approach him with any note for any reason while he was at the podium, threatening to “ignore” her in front of the jury. Meanwhile, Howard’s four attorneys had no qualms about approaching each other at the podium or the bench to assist each other.

As Plaintiff stated in open court, her counsel was working very hard, but he would not have had to work as hard if he communicated with his client. Moreover, Plaintiff repeatedly asked her counsel not to explore certain factual matters that were irrelevant to her claims and to spend the time focusing on the facts that are material to her claims. Her counsel defiantly spent the time on some of these irrelevant issues and expended unnecessary time on certain witnesses at the expense of saving the time for more important issues with other witnesses.

Had counsel complied with D.C. Code of Professional Conduct § 1.2(a) and allowed Plaintiff to participate in the decision regarding the means by which her objectives were accomplished, each witness would have taken less time on the stand, the order of witnesses would have been more logical and this motion would not be necessary at this late stage of this trial.

Although praising Plaintiff’s former counsel for a “good job” in the case, the Court also noted, prior to counsel’s withdrawal, that the case should have been presented much quicker and that the 25 hour limit was enough time to present the case. At the point that counsel withdrew, there were approximately 6 hours left of the 25 allotted. Plaintiff had to sit helplessly while her time was wasted on irrelevant issues and/or examinations that were more open ended and “direct,” allowing witnesses such as Taslitz to ramble, rather than posed as leading questions appropriate for adverse witnesses. Former counsel characterized Plaintiff’s attempt to participate in her own trial by making a “hand-puppet” gesture, saying that it all sounds like “chatter” to him, “just chatter.”

Plaintiff's former counsel, a Howard law school graduate, class of 2000, also noted that he felt conflicted cross-examining his former Dean. It became clear that he was uncomfortable cross-examining some of his former professors, failing to employ effective cross examination.

Former counsel's repeatedly displays of incredulous disrespect for his client culminated in his making representations to the Court, on Wednesday morning, that were not only completely unfounded and irrelevant to his withdrawal, but if true, would violate the attorney-client privilege, pursuant to D.C. Code of Professional Conduct, § 1.6(a)(1) and (2). In any case, it violated the D.C. Code of Professional Conduct, § 1.3(b)(2), because it clearly prejudiced the Court and Plaintiff's case by disparaging Plaintiff's credibility and ethics, particularly with one of the two most important adverse witnesses in the case sitting in the Courtroom, preparing to attach Plaintiff's credibility, in clear violation of D.C. Code of Professional Conduct, § 1.16 (d)(10).

Former counsel's accusations clearly created an immediate and clear conflict of interest, yet, Plaintiff had no choice but to allow him to question the two witnesses present for the day, since the Court announced, in open court, that counsel was doing a "good job" and that Plaintiff was making a "bad decision" by terminating him against the Court's advice, stating that counsel was willing to continue (contrary to his statements the previous evening) and that Plaintiff "insists" upon terminating him. Plaintiff therefore had to entrust her case to someone who had just vengefully defamed her character in the midst of the "fight of her life" in court, to retain her career and livelihood.

Plaintiff's current counsel, Coretta Taylor, bravely arrived in Court on Thursday, on less than a day's notice, to complete the examination of former Dean Newsom, without having the benefit of reading the file or even his deposition, basing the examination on Plaintiff's notes and her own ability to think quickly on her feet. Realizing the difficulty of this task, particularly since Plaintiff had not had time to convert her notes and double check deposition cites, in light of the commotion and efforts to obtain new counsel, Ms. Taylor asked to delay the examination of Prof. LaRue until Monday; however, since Prof.

LaRue was present, the Court proceeded with his testimony.¹² Unfortunately, the examination of Prof. LaRue did proceed slowly and perhaps, painfully, for all concerned, particularly since Prof. LaRue's testimony deviated from his deposition testimony in some respects and Howard's objection to a material point was upheld.

VIII. **Howard is not Prejudiced by the Time Extension**

Howard would not be prejudiced by an extension of time. First, if Plaintiff had requested more time initially, it appears that the Court would have granted it. This case is really three separate cases, or claims, each of which is independently interesting with respect to the facts and/or the law. It is a precedent-setting sexual harassment case with a bizarre fact pattern involving a serial, "international stalker," as Prof. Nolan described him in her testimony. It is also a retaliation case that has to be pieced together through numerous witnesses, including a current candidate for Montgomery County Executive. Finally, it is a breach of contract case that adds to the sparse case law on the statute of frauds in the District of Columbia. Many trials with less witnesses and claims exceed the roughly 40 hours that Plaintiff hereby requests. In fact, when this case was scheduled for trial years ago, both parties estimated that it would be a three to four week trial.

Howard's witnesses have been telling their stories during Plaintiff's case in chief, which is one reason that Plaintiff's hours have been drained. Moreover, it was Howard that cost Plaintiff her original trial date in May of 2001, and Howard that delayed discovery in this case by three years, requiring Plaintiff to file motions to compel discovery and finally, a contempt motion, which was granted. Howard therefore has absolutely no basis or standing for claiming undue prejudice or that the Court has extended unreasonable accommodation to Plaintiff, as it has been lamenting simply because the Court postponed the January 12, 2006 trial when Plaintiff was sick with bronchitis and unable to participate in court – not to mention would have contaminated everyone in the Court.

¹² Three of Plaintiff's witnesses, Dr. Sirleaf, Roland Jefferson, and Sgt. Dowdy, were in Court for three full days awaiting their testimony. Ms. Jefferson flew in from California for the sole purpose of testifying. Both Ms. Jefferson and Dr. Sirleaf forfeited income by losing time at work. Dr. Sirleaf even delayed his travel plans to Liberia, where his aunt, Ellen Johnson Sirleaf, is the recently elected President of the country.

CONCLUSION

For the foregoing reasons, Plaintiff is now left in a position of not being able to tell her own story in her own trial. In addition, the issue of damages cannot be proven without her testimony and the testimony of her corroborating witnesses. Her case will be severely prejudiced if she is not permitted to tell her own story and given the opportunity to prove her damages. Plaintiff respectfully requests that she be granted the additional eight hours sought to complete her case and an additional four hours to complete the second part of this bifurcated trial for damages.

Respectfully submitted,

/s/

Dawn V. Martin, Esquire
Law Offices of Dawn V. Martin
1090 Vermont Avenue, N.W, Suite 800
Washington, D.C. 20005
(202) 408-7040 telephone
(703) 642-0208 *facsimile*
DVMARTINLAW@yahoo.com
www.firms.findlaw.com/dvmartinlaw