

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MELISSA CHINN,

Plaintiff,

v.

WHIDBEY PUBLIC HOSPITAL
DISTRICT d/b/a WHIDBEY HEALTH
MEDICAL CENTER,

Defendant.

C20-995 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Plaintiff’s motion in limine, docket no. 79, is GRANTED in part, DENIED in part, and DEFERRED in part, as follows:

1. Motion to exclude all evidence or argument that Dr. Chinn and her wife—Morghan Milagrosa—engaged in an “inappropriate” workplace relationship is GRANTED in part and DENIED in part. The motion is GRANTED as to the intimate details of Dr. Chinn and Morghan Milagrosa’s relationship and all evidence or argument that the relationship itself was inappropriate. The motion is otherwise DENIED. The evidence is relevant and probative as to Dr. Chinn’s credibility and/or bias, any evidence of “inappropriate conduct” in the workplace, relating to issues of damages and mitigation and whether Dr. Chinn was treated differently because she is female or Asian. The evidence is more probative than prejudicial and not precluded by Federal Rule of Evidence 403.

- 1 2. Motion to exclude text messages between Dr. Chinn and her romantic
2 partner Morghan Milagrosa that are unrelated to Dr. Chinn's claims,
3 post-employment, or that are solely personal in nature is
4 DEFERRED, and the parties should be prepared to identify any such
5 evidence at the Pretrial Conference.
- 6 3. Motion to exclude references to Dr. Chinn's claims for unemployment
7 benefits through the Employment Security Department is DENIED.
- 8 4. Motion to exclude evidence of alleged misconduct by Morghan
9 Milagrosa and her daughter, including information about Milagrosa's
10 lawsuit is DENIED, except that the Court DEFERS until trial a ruling
11 as to any specific evidence under Rule 403.
- 12 5. Motion to exclude evidence of surreptitious recordings of events at
13 Whidbey Health is DENIED. At the Pretrial Conference, the parties
14 should be prepared to identify any workplace recordings that they
15 intend to offer into evidence at trial.
- 16 6. Motion to exclude Dr. Chinn's own comments about her ethnicity is
17 DENIED.
- 18 7. Motion to exclude testimony and evidence relating to Whidbey
19 Health's employment and treatment of Dr. Meghan McSorley is
20 DENIED.
- 21 8. Motion to exclude character evidence or evidence of prior alleged
22 patient complaints/bad acts is DEFERRED, and the parties should be
23 prepared to identify any such evidence at the Pretrial Conference.

(2) Defendant's motion in limine, docket no. 76, is GRANTED in part,
DENIED in part, and DEFERRED in part, as follows:

1. Motion to exclude deposition designations for available witnesses is
GRANTED. Except for impeachment purposes, no party may offer
deposition testimony of a witness who will testify live at trial;
provided however, the deposition of a party may be used for any
purpose during the trial without prior designation or notice.
2. Motion to exclude any evidence of, argument about, or any reference
to sexual orientation discrimination is DEFERRED to the Pretrial
Conference.

- 1 3. Motion to exclude any evidence of, argument about, or any reference
2 to productivity as it relates to Dr. Chinn’s pay or any other
3 physician’s pay is DENIED.
- 4 4. Motion to exclude Jason Rossiter’s interview notes is DEFERRED
5 to the Pretrial Conference. Whidbey Health is DIRECTED to file a
6 copy of the disputed notes or otherwise identify their location in the
7 record. Any new filing or direction shall be provided to the Court by
8 10:00 a.m. on January 13, 2022.
- 9 5. Motion to exclude any argument about, evidence of, or any reference
10 to: (i) the compensation of any non-comparator; (ii) Dr. James
11 Giem’s compensation; (iii) the compensation of any locum tenens
12 provider who provides medical services at Whidbey Health; (iv) any
13 alleged pay disparity experienced by Dr. Chinn after 2/28/2019; and
14 (v) anything outside the applicable statute of limitations period is
15 GRANTED in part, DENIED in part, and DEFERRED in part.
 - 16 i. The motion is DEFERRED to the Pretrial Conference
17 as to the compensation of any non-comparator.
 - 18 ii. The motion is DENIED as to Dr. James Giem’s
19 compensation.
 - 20 iii. The unopposed motion is GRANTED as to the
21 compensation of any locum tenens provider.
 - 22 iv. The motion is DENIED as to any alleged pay disparity
23 experienced by Dr. Chinn after 2/28/2019.
 - v. The motion is GRANTED as to anything outside the
 applicable statute of limitations period.
6. Motion to exclude any evidence of, argument about, or any reference
 to Morghan Milagrosa’s settlement and discussions relating thereto
 is GRANTED in part; however, the fact that Milagrosa had a claim
 and resolved it through arbitration is admissible as evidence of
 credibility and/or bias.
7. Motion to exclude any evidence of, argument about, or any reference
 to any other discrimination-related complaints or any other legal
 proceedings against Whidbey Health is GRANTED, except as
 related to Morghan Milagrosa.

- 1 8. Motion to exclude reference to Whidbey Health’s size or finances is
2 GRANTED.
- 3 9. Motion to exclude any evidence of, argument about, or any reference
4 to a provider’s willingness to perform abortions and/or the
5 availability of abortions at Whidbey Health is DEFERRED to the
6 Pretrial Conference. The parties should be prepared to address this
7 issue and the application of Rule 403.
- 8 10. Motion to exclude any evidence of, argument about, or any reference
9 to alleged discrimination relating to Drs. Mary Leah Oman,
10 Christina Klemme, Rosa Rangel, and any other unidentified
11 individuals is GRANTED.
- 12 11. Motion to exclude any evidence of, argument about, or any reference
13 to “vaginal torture” of a patient by Dr. Nathan Tillotson is
14 DEFERRED to the Pretrial Conference.
- 15 12. Motion to exclude any evidence of, argument about, or any reference
16 to non-physician testimony relating to the medical decision-making
17 and appropriateness of Dr. Nathan Tillotson’s medical care and
18 treatment of any patient is GRANTED.
- 19 13. The unopposed motion to exclude any arguments and evidence in
20 support of Dr. Chinn’s claim for lost income which were not
21 previously disclosed and produced during discovery is GRANTED.
- 22 14. Motion to exclude any evidence of, argument about, or any reference
23 to the impact of COVID on Dr. Chinn’s income or business is
 DENIED.
15. Motion to exclude testimony of Linda Gipson outside the scope of
 FREs 602 and 701 is DEFERRED to trial.
16. The unopposed motion to exclude any questioning of current or
 former employees of Whidbey Health relating to conversations with
 Whidbey Health’s counsel is GRANTED.
17. Motion to exclude any argument or reference that Dr. Chinn’s text
 messages are presented “without full context” or similar
 representations by Plaintiff’s counsel or witnesses is DEFERRED to
 the Pretrial Conference.

1 (3) The Clerk is directed to send a copy of this Minute Order to all counsel of
record.

2 Dated this 10th day of January, 2022.

3
4 Ravi Subramanian
Clerk

5 s/Gail Glass
6 Deputy Clerk

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23