

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
January 22, 2009

Subject: Litigation

January 2009

NEW CASES

Rose Hall v Board of Regents of the University of Michigan. Michigan Court of Claims. (Judge James Giddings) (Served December 17, 2008).

Plaintiff, a former employee on the Flint Campus, claims that she was denied long term disability benefits to which she was entitled. She seeks the monthly benefits payments as well as attorneys' fees, costs and interest.

Chrisine McCahan v Samuel Kelly Brennan and The Regents of the University of Michigan. Michigan Court of Claims. (Judge Paula J.M. Manderfield) (Served December 18, 2008).

Ms. McCahan claims that a University vehicle driven by a UM student (Brennan) on December 12, 2007 struck her vehicle while making an illegal left turn. She claims the collision caused serious and permanent injuries to her person and that Brennan was negligent in the operation of the vehicle. She seeks judgment against Brennan in excess of \$25,000. She also claims that the University, as the owner of the vehicle, is liable for the injuries she sustained and that the University was negligent in entrusting Brennan to operate its motor vehicle. She also seeks damages, costs, interest and attorneys' fees against the University.

Carlos Prieskorn v University of Michigan Health System, Bernard Hoeyack, Jr., Diane Rembert, Reshunda Triplet and Madia Bryant-Johnson. Washtenaw County Circuit Court. (Judge Archie G. Brown) (Served December 22, 2008).

Plaintiff is a former employee of the Department of Pathology in the Health System. He claims that he complained to his supervisor about safety violations that he alleged were occurring in his department and that, following his complaints, he was harassed and threatened by co-workers Rembert, Triplet and Bryant-Johnson. Plaintiff also alleges that his supervisor Hoeyack terminated his employment in violation of the Michigan Whistleblowers' Protection Act. Plaintiff seeks damages, lost wages, interest, costs and attorney's fees as well as reinstatement to his previous position.

RESOLUTIONS

James Colson v University of Michigan, Kevin Tremper and Ronald Wasserman. Washtenaw County Circuit Court. (Judge Timothy R. Connors) (Filed August 24, 2007). Michigan Court of Claims. (Judge Beverley Nettles Nickerson) (Filed August 23, 2007).

Plaintiff was employed as an Assistant Clinical Professor of Anesthesiology at the University. Dr. Colson claims that he was told about performance issues from time to time but was not given the opportunity review his file. In October 2005, Plaintiff was informed that his contract would not be

renewed after August 31, 2006. Plaintiff's allegations include breach of contract, promissory estoppel, defamation against the named Defendants Tremper and Wasserman and age discrimination. He seeks damages in excess of \$25,000, costs, attorney's fees and reinstatement to his former position. On August 21, 2008, Plaintiff stipulated to dismiss three of his claims against the University: breach of contract, promissory estoppel and discharge in breach of public policy. Defendants' motion for summary disposition was argued before Judge Connors. On December 19, 2008, Judge Connors granted Defendants' motion and dismissed the case in its entirety.

David Powers and Save Our Shoreline, Inc. v University of Michigan. Bay County Circuit Court. (Judge Joseph Sheeran) (Filed January 4, 2008).

This is an action for disclosure of records under the Michigan Freedom of Information Act. Plaintiffs sought the names and addresses of the individuals who were mailed a pamphlet entitled "Along the Shore, A Shoreline Management Guide for Michigan Coastal Landowners" by the Michigan Sea Grant College Program at the University. Plaintiffs were provided with a list of the professional entities and groups that were mailed a copy of the brochure, but the names and addresses of the individuals to whom the brochure was mailed were withheld for privacy reasons. Plaintiffs claim that the University violated the Michigan FOIA and seek the names and addresses that have been withheld, attorney fees, costs, and damages. Plaintiffs filed a motion for summary disposition, requesting disclosure of the requested documents. On November 28, 2008, the judge issued his opinion in the case. The court concluded that the University had provided all responsive documents within the scope of Plaintiff's request for documents "related to the funding" of the pamphlet at issue. It also held that the University properly withheld certain email communications pursuant to the FOIA exemption for preliminary and advisory communications. Finally, the court concluded that the Plaintiff was entitled to receive "a copy of the list of names and addresses" to which the University mailed a copy of the pamphlet. The court ordered to University to disclose this information to the plaintiff and ruled that the plaintiff is entitled to its costs and attorney fees associated with the portion of plaintiff's request for the names and addresses "as required by statute in an amount to be determined."

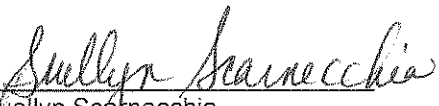
CASE UPDATES

Alissa Zwick v Regents of the University of Michigan, Marilyn Lantz, Wilhelm Piskorowski, Mark Snyder and Fred Burgett. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed May 12, 2006). Michigan Court of Claims. (Judge James R. Giddings) (Filed May 12, 2006). U.S. District Court, Eastern District of Michigan. (Judge Marianne Battani).

Plaintiff is a former Dental School student who was dismissed in her third year of studies. She claims that she was targeted by the Dental School administration and the named defendants for reasons unrelated to her academic studies. Her allegations include violations of her free speech, due process, breach of contract, and defamation. She seeks damages in excess of \$25,000, reinstatement as a Dental School student, interest, costs and attorney's fees. The two cases have been removed to federal court and consolidated in front of Judge Battani. The University filed a motion for summary judgment; on April 28, 2008, the court dismissed all of the claims except Plaintiff's due process claims. The case went to trial before a jury in the Federal court. On

December 2, 2008, the jury found for the plaintiff and awarded her \$220,000 in economic damages, \$500,000 in non-economic damages, and \$1 million in punitive damages. Defendants filed a motion for judgment as a matter of law and an alternative motion for a new trial and remittitur. Plaintiff filed a motion for attorneys' fees, costs and interest. All motions will be heard in February.

Respectfully submitted,


Suellen Scarnecchia
Vice President and General Counsel

January 2009