

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
January 21, 2010

Subject: Litigation

January 2010

NEW CASES

Catherine Wilkerson v Kevin Warner, Janet Conners, Michael Matthews, Mark West, Dean Lloyd, Dr. Robert Domeier and Huron Valley Ambulance, Inc. U.S. District Court, Eastern District of Michigan. (Judge John Feikens) (Filed November 20, 2009).

On November 30, 2006, Plaintiff, along with others, protested an invited speaker at the Michigan League. Dr. Wilkerson claims that, during the protest, she was assaulted, falsely arrested and detained by University of Michigan police officers, and that she was subsequently charged with attempted resisting and obstructing. A jury trial was held and Plaintiff was found not guilty of those charges in December 2007. Plaintiff claims that she suffered damages including loss of earnings, medical expenses, pain and suffering, and attorney's fees. Her counts include violations of First and Fourth Amendment rights, conspiracy, assault and battery, false imprisonment, and malicious prosecution. She seeks damages, attorney's fees, interest and costs.

Carole Mayer v Regents of the University of Michigan. Michigan Court of Claims. (Judge James Giddings) (Served December 23, 2009).

Plaintiff claims that she attended a concert at Hill Auditorium on February 2, 2008, and that she slipped and fell when exiting the Auditorium. She alleges that she sustained severe injuries and that the University was negligent for failing to keep the walkways clear of snow and ice. She seeks an unnamed amount of damages.

RESOLUTIONS

990 Broadway, LLC v University of Michigan. Washtenaw County Circuit Court. (Judge Donald E. Shelton) (Filed January 26, 2007).

Plaintiff owns a parcel of land in Ann Arbor, commonly known by the same street address, which is bounded by University property on three sides and a public, city sidewalk on the fourth. Plaintiff brought a quiet title action against the University, claiming title to a small parking area to the south and a narrow strip of land to the west of its parcel by adverse possession or, alternatively, prescriptive easement. Cross-motions for summary disposition were filed by both parties and were argued before Judge Shelton on April 8, 2009. The Judge denied plaintiff's motion in its entirety. Judge Shelton granted the University's motion in part and denied it in part. Plaintiff's claims of prescriptive easement and easement by necessity are the two counts that remain unsettled in this case. Settlement was reached between the parties and the case is closed.

John F. and Sharon Fowler v Board of Regents of the University of Michigan. Michigan Court of Claims. (Judge James R. Giddings) (Served April 21, 2009).

Plaintiff John Fowler alleges that he was a patient in the hospital and was injured on January 21, 2006 when he sat upon a toilet seat that broke. He claims that he suffered serious, grievous and permanent injuries throughout his entire body. Plaintiff Sharon Fowler claims loss of consortium. Plaintiffs seek damages in excess of \$25,000, together with interest, court costs and attorney fees. Settlement was reached between the parties and the case is concluded.

Christine 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). McCahan v University of Michigan and Samuel Kelly Brennan. Washtenaw County Circuit Court. (Judge Archie Brown) (Filed February 6, 2009).

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. Plaintiff dismissed the claims against the UM student and refiled them in Washtenaw County Circuit Court. The two cases have been consolidated and will be heard by Judge Brown in Washtenaw County. On April 30, 2009, Judge Brown, sitting as a Court of Claims judge, granted the University's Motion for Summary Disposition on the grounds of failure to provide proper notice in the Court of Claims. On December 18, 2009, the Washtenaw County Circuit Court entered an order dismissing Brennan for the reason that he was not grossly negligent.

Jane Doe v Thomas Higgins, ACSW and University of Michigan Board of Regents. Washtenaw County Circuit Court. (Judge Donald E. Shelton) (Filed October 24, 2007).

Plaintiff claims that her medical provider(s) referred her to the University's Med Rehab Adult Day Treatment Program following a traumatic brain injury and that her assigned interdisciplinary team included Defendant Higgins as the staff social worker. Plaintiff alleges that Higgins sexually abused and exploited her during the course of her treatment with him, which caused her to suffer, among other things, mental and emotional distress, physical pain and suffering, suicidal ideation and loss of earnings and/or earning capacity. Against Defendant Higgins, Plaintiff alleges sexual assault, sexual battery, intentional infliction of emotional distress, fraud and violation of civil rights. Plaintiff also claims that Higgins' sexual harassment created a hostile environment and that the University is liable. Plaintiff seeks damages, costs, interest and attorney's fees. Three additional plaintiffs have joined the case, alleging similar behavior and actions on the part of Higgins and claiming that the University is also liable in their cases. Settlement was reached between the parties and the case is concluded.

Ruth Braun v Board of Regents of the University of Michigan. Michigan Court of Claims. (Judge Beverley Nettles-Nickerson) (Served April 28, 2008); Ruth Braun v University of Michigan Board of Regents. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed October 2008).

Ms. Braun was employed by the University as the business manager in the Office of Undergraduate Admissions. She claims that she was terminated from her position because she reported suspected violations of labor practices within the office to University Human Resources. Plaintiff seeks damages, interest, costs and attorney's fees. The University filed a motion to dismiss for lack of subject matter jurisdiction, which was granted by the judge on July 23, 2008. Plaintiff re-filed her case in the Washtenaw County Circuit Court. After the close of discovery, the University filed a motion for summary disposition, which was denied by Judge Morris. Following court-ordered case evaluation, the parties reached settlement and the case is concluded.

Christie L. Sullivan v Regents of the University of Michigan and Frank Rubino. United States District Court, Eastern District of Michigan. (Judge Sean F. Cox) (Filed May 22, 2008). Christie L. Sullivan v Regents of the University of Michigan and William Bess. Michigan Court of Claims. (Judge Joyce Draganchuk) (Filed April 6, 2009).

Plaintiff claims that she was driving her car in Ann Arbor when she was stopped by DPS officer Rubino for having expired license tags. When Officer Rubino subsequently learned that Plaintiff's driver's license was suspended and that there were traffic warrants issued for her arrest, he placed Plaintiff under arrest. Plaintiff claims that Officer Rubino struck her from behind on her neck and head, knocked her to the ground, hit and kicked and fondled her. Plaintiff alleges that her civil rights were violated and that the assault caused extreme pain, humiliation, and fear, among other claims. Plaintiff also claims that Officer Rubino falsely reported that she assaulted him and that those charges were brought against her with malice. She seeks damages in excess of \$75,000. Plaintiff filed a companion case in the Michigan Court of Claims against the University and former DPS Director William Bess. The University filed a motion for summary judgment in the federal court case, which was denied in part by the court; the University filed an appeal to the Sixth Circuit Court of Appeals. Settlement was reached between the parties and the case is dismissed.

CASE UPDATES

Theresa Gratsch v Regents of the University of Michigan. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed October 6, 2008). and Theresa Gratsch v Regents of the University of Michigan. (Judge Timothy Connors) (Filed August 27, 2009).


Plaintiff, a research lab specialist in the Department of Cell and Developmental Biology, filed this lawsuit alleging discrimination on the basis of her gender in violation of the Elliott Larsen Civil Rights Act. Plaintiff claims that the University allegedly denied her assistance seeking patent protection for an invention that she, and others, developed, while at the same time offering assistance seeking patent protection to a male employee who developed the same invention. She seeks damages, costs, interest and attorney's fees. Plaintiff filed a second lawsuit, alleging that the University

retaliated against her for complaining of discrimination in her earlier lawsuit. She claims that the University and her immediate supervisor, Dr. Sue O'Shea, forced Plaintiff to resign under duress, which resignation was not voluntary and constitutes a constructive termination. She seeks damages, costs, interest and attorney's fees. Plaintiff filed a motion to consolidate these two cases; that motion was denied by Judge Morris on December 14, 2009. The two cases will be heard separately (and will appear as two cases in subsequent reports to the Regents).

Alex A. Lemerand v Kevin Sheldon Hartman. Washtenaw County Circuit Court. (Judge Timothy Connors) (Filed May 29, 2009); Alex Lemerand v Regents of the University of Michigan. Michigan Court of Claims. (Judge Rosemarie Aquilina) (Filed June 1, 2009).

Plaintiff claims that on June 19, 2006, he was driving in Ann Arbor when his vehicle was struck from the rear by a University of Michigan vehicle driven by UM employee Kevin Hartman. Mr. Lemerand alleges that Mr. Hartman was negligent by driving at an excessive rate of speed, was unable to stop, and failed to drive with due care and caution, among other violations of the Motor Vehicle Code of the State of Michigan. Plaintiff claims that, as a result of the accident, he has suffered serious and permanent injuries and disfigurements. He seeks damages, costs, attorney's fees and interest. Plaintiff filed a companion case in the Michigan Court of Claims against the University of Michigan, which was consolidated with the Washtenaw County case pending before Judge Connors.

Respectfully submitted,


Suellen Scarnecchia
Vice President and General Counsel

January 2010