

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

April 2006

I. NEW CASES

1. Meseret Chekol Reta v University of Michigan. United States District Court, Eastern District of Michigan. (Judge Denise Page Hood) (Filed March 9, 2006).

Plaintiff, a former assistant professor at the Flint campus, claims to be an individual with a disability who was discriminated against by the University when he was not provided with a research assistant during his first two years at the University. He claims that his visual disability did not allow him to produce sufficient research to meet the University's research standards without the assistance of a research assistant and that the University failed to accommodate his request. Plaintiff's three-year contract was not renewed and plaintiff claims this was a breach of contract. He seeks damages in excess of \$100,000, costs and attorney's fees.

2. Mary C. Lee v University of Michigan-Dearborn and Robert L. Simpson. Michigan Court of Claims. (Judge James R. Giddings) (Filed March 13, 2006).

Plaintiff is a former student at the Dearborn campus who was expelled from campus for violations of the Code of Student Conduct. She claims that the University's hearing board and code appeals council decisions were improper, that the University has breached its contract with her as a student, and that Dr. Simpson's denial to reconvene the code appeals council violated her due process rights. She seeks a review of the University's expulsion decisions, money damages, costs and attorney's fees.

3. Barbara Griewahn v The Regents of the University of Michigan. Michigan Court of Claims. (Judge Paula J.M. Manderfield) (Filed March 1, 2006)

Plaintiff is a former employee of the University. She claims that she was wrongfully denied benefits under the University's long-term disability policy and seeks LTD benefits, attorney fees, costs and interest.

II. RESOLUTIONS

4. Rose Andrews v University of Michigan-Flint. Michigan Court of Claims. (Judge Paula J.M. Manderfield) (Served November 14, 2005).

Plaintiff is a former student at the Flint campus. She claims that the University incorrectly charged her tuition for summer 2001 classes, resulting in her being unable to enroll or receive financial aid until the balance was paid. She claims that the University inappropriately encumbered her fall 2001 financial aid funds to pay that balance, thus converting her personal property (funds) for its own use.

She seeks judgment in the amount of \$4,476.00, as well as interest, costs, attorney's fees and the ability to re-enroll at UM-Flint. The University filed a motion for summary disposition. Plaintiff stipulated to a dismissal of the case with prejudice pursuant to a settlement agreement between the parties, and the matter is concluded

5. Kim Avey v Board of Regents of the University of Michigan. Washtenaw County Circuit Court. (Judge Timothy P. Connors) (Filed December 6, 2004)

Plaintiff was employed as an administrative assistant in the hospital. She claims that she was wrongfully terminated on February 20, 2003 because she suffered from anxiety and depression. She claims that the termination has caused her to suffer extreme depression, lost wages and benefits, loss of career and career opportunity, loss of self-esteem, indignation, humiliation, embarrassment and outrage. She seeks damages in excess of \$25,000 as well as costs and attorney's fees. The University filed a motion for summary disposition, which was granted and the case was dismissed.

6. Syrah Imtiaz v Board of Regents of the University of Michigan. Michigan Court of Claims. (Judge Thomas Brown) (Served May 15, 2002). Washtenaw County Circuit Court. (Judge Timothy Connor).

Plaintiff is a student at the Dental School. She claims she was falsely accused of stealing another student's work and denied her due process rights during the Honor Council hearings. Ms. Imtiaz claims that her education at the Dental School is a Constitutionally-protected property right and that the University has violated such rights. She also alleges discrimination based on her national origin (Pakistan) and defamation. She seeks equitable relief, costs, interest and attorney's fees. Plaintiff filed a motion for a preliminary injunction, asking that the University be ordered to let her continue in school until her case is over. Judge Connor denied that motion and the plaintiff filed an emergency appeal to the Michigan Court of Appeals. The University filed a motion for summary disposition and the judge dismissed almost all of plaintiff's allegations, except for the battery charge. Plaintiff agreed to drop the battery charge in this case; the only action pending is Plaintiff's appeal to the Michigan Court of Appeals. Oral argument was held on May 10, 2005. On March 3, 2006, the Michigan Court of Appeals upheld the trial court's dismissal and the case is concluded.

7. Keith Yohn v Board of Regents of the University of Michigan, William Kotowicz, Robert Feigal, Marilyn Woolfolk, Merle Jaarda and Kenneth Stoffers. Michigan Court of Claims. (Judge Beverley Nettles-Nickerson) (Filed April 1, 2003).

Dr. Yohn, a professor in the Dental School, claims that he was deprived of an employment contractual right to assign a grade of "F" to two Dental School students. He alleges that Dean Kotowicz and members of the executive committee of the Dental School gave special treatment to the students, that ultimately a "W" grade was given to the students rather than the "F" assigned by Dr. Yohn and three other colleagues and that the students were given the opportunity to repeat the project. Dr. Yohn claims that the actions taken by the Dean and executive committee were done with malice toward him, with deliberate disregard for his contractual rights. He asks the court to order the University to post the "F" grades for the students, enjoin the defendants from interfering in his employment contractual rights, and damages. Plaintiff had previously filed a

lawsuit on this issue in the federal court system; his complaint (and subsequent appeals) were dismissed. The University filed a motion for summary disposition which was granted by the court and the case was dismissed. Plaintiff filed a motion for reconsideration, which was denied by the court. Plaintiff filed a claim of appeal to the Michigan Court of Appeals. On April 20, 2005, the Court of Appeals affirmed the Court of Claims decision in favor of the University and all named defendants, agreeing with our argument that Plaintiff's claims in the state court are barred by *res judicata* because he should have raised those claims in his earlier federal action. Plaintiff filed an appeal to the Michigan Supreme Court, which was denied on December 1, 2005. Plaintiff filed a motion for reconsideration, which was denied by the Court.

8. Jean Dillon-Barber v Regents of the University of Michigan, Susan Sheppard and Linda Boyle Creps. Washtenaw County Circuit Court. (Judge Melinda Morris) (Served February 11, 2000).

Plaintiff claims that she was discriminated against because of her disability, retaliated against and wrongfully discharged. She previously filed these claims against the University in federal court (Jean Dillon-Barber v Regents of the University of Michigan, Susan Sheppard and Linda Creps. U.S. District Court, Eastern District of Michigan). Ms. Dillon-Barber seeks injunctive relief, reinstatement, damages, attorney's fees, expenses, costs and interest. Judge Morris administratively stayed this case until the Sixth Circuit Court of Appeals issued its opinion on Plaintiff's federal case which had been dismissed by Judge Rosen. The Sixth Circuit Court of Appeals affirmed the trial court's dismissal of the federal case. The University then filed a motion for summary disposition, seeking dismissal of the state court case based on the doctrine of *collateral estoppel*; that motion was denied by Judge Morris. The University filed a claim of appeal to the Michigan Court of Appeals; that Court reversed Judge Morris, stating that summary disposition should have been granted. Plaintiff filed an application for leave to appeal to the Michigan Supreme Court; that application was denied and the case is concluded.

III. CASE UPDATES

9. Marva Jean Hudson v University of Michigan, et al. United States Court of Appeals for the Sixth Circuit. (Received June 27, 2005).

Plaintiff had filed a complaint in the United States District Court, Eastern District of Michigan in December 2004, alleging that the University of Michigan-Flint Campus discriminated against her because of her race when it refused to grant her a Master's Degree in Education. The University was never served and the Court (Judge Avern Cohn), on its own, dismissed the complaint as frivolous. Plaintiff filed a motion for reconsideration, which was also denied. Plaintiff appealed that dismissal to the U.S. Court of Appeals; the Court dismissed the case. Plaintiff has filed an application for extension of time in which to file her appeal to the U.S. Supreme Court.

10. Peter J. Hammer v Board of Regents of the University of Michigan. Michigan Court of Claims. (Judge James R. Giddings) (Served January 6, 2005).

Plaintiff is an Assistant Professor at the Law School. He alleges that he did not receive tenure because of his sexual orientation, claiming that he relied on the University's promises that he would not be discriminated against based upon his sexual orientation. Mr. Hammer seeks judgment in excess of \$25,000. The University filed a motion for summary disposition and a motion to dismiss, both of which were denied by Judge Giddings. The University will file an interlocutory appeal to the Michigan Court of Appeals.

11. Michigan Federation of Teachers & School Related Personnel v University of Michigan. Washtenaw County Circuit Court. (Judge Timothy Connors) (Filed March 19, 2004).

This is an action for disclosure of records under the Michigan Freedom of Information Act. Plaintiff sent a FOIA request to the University seeking the names, addresses, phone numbers and employment information of all University employees. The University provided the information with the exception of those employees who have a "do not publish" request on file. Plaintiff seeks access to those records. The parties filed cross-motions for summary disposition. The University's motion was granted and plaintiff's motion was denied by Judge Connors. The judge ruled that the home phone numbers and addresses of employees who refused to give permission to the University to publish them are private and the University was correct in refusing to disclose them. Plaintiff filed an appeal with the Michigan Court of Appeals. Oral argument is scheduled for April 11, 2006.

Respectfully submitted,



Marvin Krislov
Vice President and General Counsel

April 2006