

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
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Subject: Litigation

July 2009

NEW CASES

Mary Lee Smith, as Personal Representative for the Estate of David Jeffrey Smith v Regents of the University of Michigan. Michigan Court of Claims. (Judge Joyce Draganchuk) (Served June 9, 2009).

David Jeffrey Smith was employed by Schindler Elevator Corporation as an elevator mechanic on the Ross School of Business construction project when he fell to his death on the project site in August 2008. As the Personal Representative of his estate, Plaintiff claims that the University's negligence caused the accident. Plaintiff is seeking judgment in excess of \$25,000, plus damages, costs, and attorney's fees.

RESOLUTIONS

Michael Wells v Securitas Security Services USA, Inc. and the University of Michigan. United States District Court, Eastern District of Michigan. (Judge Anna Diggs Taylor) (Filed December 28, 2007). Wayne County Circuit Court. (Judge Prentis Edwards) (Filed February 15, 2008).

Plaintiff was employed by Securitas Security Services as a security officer. The University contracts with Securitas to provide security for the University's Power Plant. Mr. Wells states that a University employee had told him that she had been sexually assaulted by another University employee the previous year. Thereafter, Mr. Wells informed DPS and Power Plant officials of the assault. Plaintiff claims that shortly after he reported that assault, he was removed from his position at the Power Plant by Securitas, was reassigned to another facility in Saline, and subsequently terminated. Plaintiff alleges that these actions were violations of the Whistleblowers' Protection Act and in retaliation for reporting a sexual assault. He seeks damages in excess of \$5 million, as well as costs and fees. Plaintiff's state court claims were dismissed from the federal court case and re-filed in Wayne County Circuit Court. On March 27, 2009, Defendants' motion for summary judgment was granted by the Federal Court and that case has been dismissed in its entirety. The case in Wayne County Circuit Court is still pending. Settlement was reached between the parties and the case is concluded.

Linda Charlesworth v University of Michigan and Internet2. Washtenaw County Circuit Court. (Judge David S. Swartz) (Filed April 16, 2008).

Plaintiff was employed by the University of Michigan and assigned to work at Internet2. In January 2006, plaintiff's position at Internet2 was eliminated and she was placed on RIF status; and in June

2007 plaintiff retired from the University. Ms. Charlesworth claims that she was discriminated against because of her age and disability. She seeks damages, interest, costs and attorney's fees. Plaintiff amended her complaint to add an allegation of violating the Family and Medical Leave Act as to Internet2 only. Settlement was reached between the parties and the case is concluded.

Bruce Sepanak, Todd Coles and Timothy Idalski v University of Michigan-Flint and Chalmers Sanders. Genesee County Circuit Court. (Judge Geoffrey L. Neithercut) (Served May 14, 2008).

The three plaintiffs are employed as public safety officers on the Flint Campus. They claim that they have been discriminated against in their employment because of their race (Caucasian). They seek damages in excess of \$100,000, interest, costs and attorney fees. Settlement was reached between the parties and the case is concluded.

Stephen C. Tripodi v University of Michigan-Flint. 68th Judicial District Court. (Filed July 18, 2008). Michigan Court of Claims. (September 8, 2008).

Plaintiff was a student at the Flint Campus. He claims that he was dismissed by the University because of false allegations made by fellow students who claimed that Plaintiff threatened the safety of a University professor. Plaintiff seeks reimbursement of his tuition and fees. The University filed a motion to dismiss this case based on lack of subject matter jurisdiction. Plaintiff subsequently voluntarily dismissed the case and on September 8, 2008, he re-filed in the Michigan Court of Claims. The University filed a motion for summary disposition, asserting that the University was entitled to governmental immunity from Plaintiff's claims. On June 10, 2009 the court heard and granted the University's motion and entered an order dismissing the case. Mr. Tripodi has not appealed the court's decision and this matter is closed.

Kathy Halabicky, et al. v University of Michigan. Washtenaw County Circuit Court. (Judge David S. Swartz) (Filed December 7, 2007); Removed to United States District Court, Eastern District of Michigan (January 4, 2008) (Judge David M. Lawson).

This is a complaint filed by female Physicians Assistants and Nurse Practitioners at the University Medical Center. The plaintiffs claim that they are paid less than their male counterparts, even though they perform substantially the same duties. Plaintiffs claim gender discrimination under the Equal Pay Act and Elliott Larsen Civil Rights Act and seek past and future economic damages, past and future non-economic damages, an increase in current compensation, interest, costs and attorney fees. The University removed the case to the federal court. Plaintiffs' motion for Class Certification was heard before Judge Lawson, who denied the motion on March 31, 2009. The case will now proceed with the 27 named plaintiffs. Settlement was reached between the parties and the case has been dismissed.

Keith Yohn v Board of Regents of the University of Michigan, Peter Polverini, Paul Krebsbach and Mark Snyder. Michigan Court of Claims. (Judge Thomas L. Brown) (Filed October 7, 2008).

Professor Yohn's complaint alleges that Paul Krebsbach, Chair of the Biomedical and Materials Science Department in the School of Dentistry, is keeping a secret file on Dr. Yohn to force Plaintiff out of his tenured University appointment. He also alleges that Defendant Snyder committed misconduct by working on his intramural dental patients during work hours, causing Plaintiff to suffer anger and loss of sleep; Plaintiff complained to Dean Polverini and later filed a grievance of Snyder's misconduct. Dr. Yohn also complained that Dr. Krebsbach embarrassed him in front of his fellow faculty members at a faculty meeting, and that later an officer from DPS was sent to his home to ask him about some alleged threats made by Plaintiff at that meeting. Dr. Yohn seeks an order to expunge all evidence of the DPS incident report noted above, jail time for defendants Polverini and Krebsbach, \$3 million for mental anguish and suffering, and exemplary damages. Trial is scheduled to begin on September 28, 2009. The University's motion for summary disposition was granted by the court on June 24 thereby dismissing all of Plaintiff's claims with prejudice.

CASE UPDATES

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.

Respectfully submitted,


Suellen Scarnecchia
Vice President and General Counsel