

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
September 20, 2007

Subject: Litigation

September 2007

I. NEW CASES

1. David Shand v William C. Martin. United States District Court, Eastern District of Michigan. (Judge Julian Abele Cook, Jr.) (Served July 25, 2007).

Plaintiff was a radio host on local station WTKA until he was fired in April 2007. Plaintiff claims that his job was to host and produce a radio show which featured sports talk and that he was encouraged by his management to be humorous, opinionated, provocative and controversial. He alleges that Athletics Director Martin refused to allow the radio station to participate in a golfing event or to carry UM football games unless Plaintiff was fired from the station. Plaintiff's allegations include intentional interference with a business relationship and violations of Plaintiff's First Amendment rights. He seeks damages in excess of \$75,000, costs and attorney's fees.

2. Pino Colone v Patrick Wardell, Hurley Medical Center and University of Michigan. Genesee County Circuit Court. (Judge Richard B. Yuille) (Filed June 14, 2007).

Plaintiff was employed by the University as an emergency room physician working at Hurley Hospital in Flint. He claims that he was a Whistleblower when he reported an incident to the State Nurse Licensing Board that he felt was inappropriate patient care. Plaintiff states that, subsequent to that report, he was retaliated against by both Hurley Hospital and the University when he was reassigned to work at another hospital. He seeks damages in excess of \$25,000, costs and attorney's fees.

3. 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.

II. RESOLUTIONS

4. Willie J. Copeland v Board of Regents of the University of Michigan, Robert J. Turner II Corporation, and James Almashy. United States District Court, Eastern District of Michigan. (Judge Robert H. Cleland) (Served June 13, 2006).

Plaintiff claims that the University discriminated against him when we failed to hire him for positions for which he applied. He also claims that he was retaliated against after he filed a charge of discrimination against the University with the U.S. Equal Employment Opportunity Commission. Plaintiff alleges that he is being treated differently because of his race. Mr. Copeland seeks compensatory damages for economic and non-economic injuries, punitive damages in excess of \$300,000, an electrician position at the University, costs, and attorney's fees. Settlement was reached between the parties and the case is dismissed.

5. Heather Weiss v University of Michigan. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed February 9, 2007).

Ms. Weiss claims that she was subjected to sexual harassment and a hostile work environment when she worked at the University Hospital as a custodian. She alleges that she was prohibited from completing her work duties and falsely written up for missing work, which led to her termination. Ms. Weiss claims that the University did not reprimand her supervisor for sexually harassing her and then allowed the plaintiff's union to disregard her grievance. She claims that she has suffered damages, including loss of employment, loss of past, present and future wages, embarrassment, humiliation, and mental anguish. She seeks damages, costs, interest and attorney's fees. Plaintiff agreed to a voluntary dismissal of her case and it has been dismissed with prejudice.

6. Ingham Regional Medical Center v Joseph E. Alverson v M-CARE. 54-B District Court, East Lansing, MI. (Judge Richard D. Ball) (Filed September 13, 2006).

Defendant Alverson's family member was treated at Ingham Regional Medical Center and the Medical Center filed suit against Alverson to collect payment for its services. Alverson claims that he has insurance coverage from M-CARE and that M-CARE has failed to provide coverage for the claim. He filed a third-party complaint against M-CARE, seeking the amount of the claim plus interest for the total amount of \$1691.41. The issue in this case has been resolved and the case is dismissed.

7. Robert Wozniak d/b/a UPS Store v University of Michigan-Michigan Student Union, James Waite, Robert Yecke, Audrey Schwimmer, and John Taylor. Washtenaw County Circuit Court. (Judge Melinda Morris) (Served May 22, 2007).

Plaintiff operated the UPS franchise store in the Michigan Union. His lease was due to expire in April 2007 and he submitted a proposal to extend the lease beyond its expiration date. When he was denied the extension, Plaintiff sold the franchise to a third party. The third party's proposal to lease the premises to operate a UPS franchise store was also denied. Plaintiff claims that the University's refusal to lease the premises to him has caused damages in excess of \$25,000. He seeks

damages, attorney's fees and costs. The University filed a motion for summary disposition, which was granted by the court; the case was dismissed with prejudice on July 18, 2007.

8. Dairyland Insurance Company as Subrogee of Martin Stein v Board of Regents of the University of Michigan. Michigan Court of Claims. (Judge Laura Baird) (Filed February 15, 2007).

Plaintiff paid a bill to the University Hospital on an insurance claim made by a patient at the hospital in 2005. Dairyland claims that the University should have known of the legal services performed by Plaintiff subrogee Stein and of the attorney lien on the proceeds paid to the University. Plaintiff alleges that the University was unjustly enriched by the \$20,000 Dairyland had to pay to Stein and that Plaintiff is entitled to receive all or part of that \$20,000 payment. Settlement was reached between the parties and the case is dismissed.

9. Letitia Minfield, Personal Representative of the Estate of Melvin C. Evans, Sr., Deceased v A.J. Baxter & Company, University of Michigan, et al. Wayne County Circuit Court. (Judge Robert J. Colombo, Jr.) (Served June 13, 2005).

Plaintiff claims that the decedent Melvin C. Evans, Sr. was exposed to toxic levels of environmental pollutants, including asbestos fibers, while in the course of his employment with various contractors and that those contractors were working on projects over which the University of Michigan and Eastern Michigan University had supervision and control. The complaint states that the universities were negligent and that, as a result of that negligence, the decedent suffered harmful exposure to asbestos fibers, resulting ultimately in his death. Mr. Evans' heirs allege deprivation of his aid, comfort, companionship, guidance and support. Plaintiff seeks damages in excess of \$25,000, costs, interest and attorney's fees. Plaintiff voluntarily stipulated to dismiss the University from this lawsuit.

III. CASE UPDATES

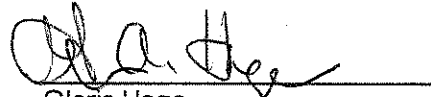
10. JoAnn Hetherington v University of Michigan-Flint. Genesee County Circuit Court. (Judge Joseph J. Farah) (Filed February 9, 2007). Michigan Court of Claims. (Judge Joyce Draganchuk) (Filed April 2, 2007).

Ms. Hetherington claims that, while attending a performance in the Kiva Building auditorium on the Flint campus, she fell and injured herself severely. She alleges that the University has a duty to keep its buildings free from defect and that she was injured because of our failure to do so. She seeks damages, costs, interest and attorney's fees. The University filed a motion to dismiss based on jurisdiction, which was granted. Plaintiff re-filed her claims in the Court of Claims.

11. Afzal Hossain, Ph.D. v University of Michigan-Dearborn, Malayappan Shridhar, and Subrata Sengupta. Wayne County Circuit Court. (Judge Warfield Moore) (Served May 23, 2007); Michigan Court of Claims. (Judge Beverley Nettles-Nickerson) (Served July 16, 2007).

Plaintiff was an assistant professor of Electrical and Computer Engineering at the Dearborn campus. He claims that, during his employment at the University, he was discriminated against and denied tenure based upon his religion (Muslim), national origin (Bangladesh), and age. Plaintiff's allegations include violation of the Elliott-Larsen Civil Rights Act, intentional infliction of emotional distress, and hostile work environment. He seeks damages in excess of \$25,000, costs, interest and attorney's fees. Plaintiff has also filed his case in the Michigan Court of Claims.

Respectfully submitted,



Gloria Hage
Interim Vice President and General Counsel

September 2007