

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
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Subject: Litigation

October 2009

NEW CASES

Andrei Borisov v Mark Russell, Valerie Castle, Margaret Gyetko and Jeffery Frumkin. Washtenaw County Circuit Court. (Judge Donald E. Shelton) (Filed August 30, 2009).

Plaintiff was a non-tenured research faculty member in the Medical School from May 1997 to September 2008. Plaintiff claims that, following a meeting with Dr. Castle regarding his employment with the Department, he was escorted to his office by DPS officers, handcuffed and arrested for trespassing, and transported to a jail cell at the Department of Public Safety. Plaintiff was criminally charged with two counts of attempted resisting or obstructing a police officer and one count of disturbing the peace; he was later acquitted on all charges by a jury. He further claims that he was informed by the University that he was no longer eligible for rehire at the University because of his arrest. His allegations include defamation, interference with a contract, and fraud against defendants Russell and Castle; as well as assault and battery, false imprisonment, and malicious prosecution against defendants Castle, Gyetko and Frumkin.

Stephen Tripodi v Regents of the University of Michigan. Genesee County Circuit Court. (Judge Richard Yuille) (Served September 15, 2009).

Plaintiff claims that the University's Flint Campus denied him access to all of the University's student services, benefits and programs while he was a student in the fall of 2007, based on his gender. He claims that he has suffered depression, humiliation, and loss of reputation. He seeks damages in excess of \$40 million.

Mary Lee v Regents of the University of Michigan and Wayne State University, et al. Wayne County Circuit Court. (Judge Wendy M. Baxter) (Filed September 8, 2008).

Plaintiff is a former student at the Dearborn campus who was expelled from campus for violations of the Code of Student Conduct. She filed a previous lawsuit in 2006 in which she claimed that the University's hearing board and code appeals council decisions were improper, that the University 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. That lawsuit was dismissed and the dismissal was affirmed by both the Sixth Circuit Court of Appeals with regard to her federal claims and the Michigan Court of Appeals with regard to her state law claims. Plaintiff's claims against the University in the current lawsuit filed in Wayne County Circuit Court mirror the complaints made in the prior one. She seeks damages of \$2 million.

RESOLUTIONS

Ralph Jones v University of Michigan Hospital. Washtenaw County Circuit Court. (Judge Timothy P. Connors) (Filed October 14, 2008).

Plaintiff was a Clinical Manager at the Hospital who was terminated in May 2007 for falsification of his pay records. He claims that he had permission from his supervisor to claim extra pay for the work he performed and alleges that the University violated the Michigan Wage and Fringe Benefits Act. Mr. Jones also claims that administrators at the University defamed him when they informed prospective employers that he falsified his pay. He seeks damages, interest, costs and attorney fees. The University filed a motion to dismiss, which the court has taken under advisement. Settlement was reached between the parties and the case is dismissed.

Colin Riesman v Ringleb, University of Kansas, Shaftel, Hazlett, Gerken, Kosirog, Cooper, McKinney, Consortium of Universities for International Studies, University of Michigan, University of Oregon, John Doe Corporations and John Doe Individuals. District Court of Johnson County Kansas. (Served January 2009).

Plaintiff enrolled in a program offered by the Consortium of Universities for International Studies to study in Italy in the spring of 2008. Plaintiff alleges that, while in Italy, he was falsely charged by program administrators with being an alcoholic. He also claims that an employee of the program assaulted him one night when Plaintiff was trying to assist a fellow student who was intoxicated. Plaintiff claims he was disciplined and later expelled from the program without conducting a hearing. Mr. Riesman's claim against the University, as a member of the Consortium, is fraudulent misrepresentation regarding discrimination, stating that the University participated in the discrimination against Plaintiff based on his perceived handicap (alcoholism). Plaintiff seeks judgment in excess of \$75,000. Plaintiff voluntarily dismissed the University of Michigan.

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. Defendants' motions were denied by

the judge; plaintiff's motion for attorneys' fees, costs and interest was granted. The defendants appealed. Resolution was reached and the case is concluded.

CASE UPDATES

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.

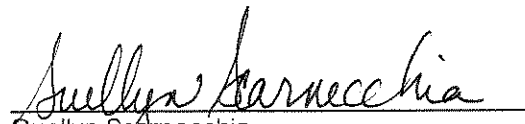
Keith Yohn v Board of Regents of the University of Michigan, Peter Polverini, Paul Krebsbach and Mark Snyder. Michigan Court of Claims. (Judge Thomas L. Brown) (Filed October 7, 2008).

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. Plaintiff contested the proposed order, and a hearing was held on September 2. The judge granted the University's motion to dismiss the entire case, denied Plaintiff's motion opposing the order of dismissal, denied with prejudice Plaintiff's motion to amend his complaint, and awarded the defendants \$36,000 in costs and fees. Plaintiff filed an appeal with the Michigan Court of Appeals.

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 she was retaliated against by the University 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.

Respectfully submitted,



Suellen Scarnecchia
Vice President and General Counsel

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