

THE UNIVERSITY OF MICHIGAN  
REGENTS COMMUNICATION  
ITEM FOR INFORMATION

Subject: Litigation

October 2010

**NEW CASES**

Charita Miller v Board of Regents of the University of Michigan. Washtenaw County Circuit Court. (Judge David Swartz) (Filed September 7, 2010).

Plaintiff is a former employee of the University. She claims that, after suffering a disabling injury, the University discharged her in violation of the Persons with Disabilities Civil Rights Act. She seeks damages in excess of \$25,000 plus interest, costs and attorney's fees.

Steven Rush v Ryan Cavanaugh and University of Michigan. United States District Court, Eastern District of Michigan. (Judge John Feikens) (Filed August 26, 2010).

Plaintiff claims that he was a passenger in a vehicle that was detained in a routine traffic stop by DPS Officer Cavanaugh. He alleges that Officer Cavanaugh accosted and attacked him, causing him to sustain injuries, pain, shock, humiliation, embarrassment, fright, anxiety, mental anguish and medical expense. Plaintiff's counts include gross negligence and violation of his rights under the Fourth Amendment. He seeks damages in excess of \$75,000 plus costs, interest and attorney fees.

Jill Oviatt v University of Michigan. Washtenaw County Circuit Court. (Judge David Swartz) (Served September 7, 2010).

Ms. Oviatt is a former employee of the University. She claims that she was fired by the University after communicating by mail with a co-worker. Plaintiff seeks damages and return of her written communication.

**RESOLUTIONS**

Jeff Hobbs v Shingobee Builders, Clark Construction Company, John E. Green Company, the Odawa Casino Resort, University of Michigan Kellogg Eye Center and Gilbane Building Company. Emmet County Circuit Court. (Served July 6, 2010).

Plaintiff was employed as a carpenter working on a project at the Odawa Casino Resort in Emmet County. He claims that, on July 6, 2007 he was severely injured when he tripped on some debris left on the floor of the project. He alleges that the Casino, the contractor and the subcontractor on that job were negligent. He also claims that he was re-injured on January 12, 2009, while working on the Kellogg Eye Center project when he slipped and fell on an accumulation of ice/snow as he was descending stairs. He alleges that the University and the general contractor Gilbane Building

were negligent, causing his accident. Hobbs claims that he has sustained severe, permanent and irreversible injuries to his back and extremities, loss of wages, medical expenses, etc., and seeks damages in excess of \$25,000. Plaintiff stipulated to dismiss the complaint, which was filed in the wrong court; plaintiff may re-file his complaint in the Court of Claims.

## CASE UPDATES

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. Plaintiff filed an amended complaint, adding two new defendants: DPS Officers Jose Dorta and Kevin Lucas. He also added one new count: False Arrest against defendants Dorta and Lucas.

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. The University's motion for summary disposition was granted by the court on June 24, 2009, 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. In addition, Plaintiff filed a motion for an immediate preliminary injunction, asking the Court of Appeals to prohibit defendant Snyder from performing certain of his duties. The Court of Appeals denied the motion for immediate preliminary injunction. Plaintiff filed

an Application for Leave to Appeal Prior to Decision by Court of Appeals with the Michigan Supreme Court.

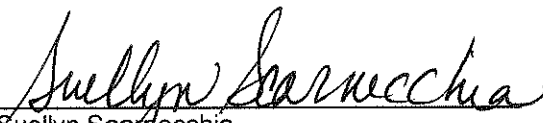
**Nicole R. Scott** v Dr. David Lilley and the University of Michigan. Wayne County Circuit Court. (Judge Robert J. Colombo, Jr.) (Served May 17, 2010); Michigan Court of Claims (Judge Joyce Draganchuk) (Served September 14, 2010).

Plaintiff is a student at UM-Dearborn. She claims that she had filed complaints in the Dean's Office in the College of Arts, Sciences and Letters about a grade she had received on a paper from Professor Lilley. Ms. Scott alleges that, after her complaints were filed, Professor Lilley ran a criminal background check and credit report on her and communicated that personal information via email to other faculty and staff at the University. Plaintiff claims that, as a result, her reputation at UM-Dearborn has been ruined. Her allegations include defamation and intentional infliction of emotional distress; she seeks damages, costs and interest. Plaintiff stipulated to the entry of an order of dismissal of this case in circuit court for lack of jurisdiction. Plaintiff's case in Wayne County Circuit Court was dismissed; Ms. Scott re-filed her complaint in the Michigan Court of Claims.

**Julie Amanda Rowe** v The Michigan Daily, University of Michigan, Gary Graca, Jacob Smilovitz and Courtney Ratkowick. Washtenaw County Circuit Court. (Judge Archie C. Brown) (Served February 26, 2010). **Julie Amanda Rowe** v The Michigan Daily and the University of Michigan. Michigan Court of Claims. (Judge William Collette) (Served February 26, 2010).

Plaintiff was a Daily News Editor at the Michigan Daily during the Winter 2009 term. She claims that she was falsely accused of plagiarism in connection with an article she wrote for the newspaper and that she subsequently resigned her position at the Daily. Plaintiff claims that the individual defendants, student editors of the Michigan Daily, wrongly accused her of plagiarism. Plaintiff also claims that University officials failed to oversee the Daily, thereby endorsing and sanctioning the wrongful treatment of the Plaintiff by the named Defendants. Plaintiff's claims include defamation, intentional infliction of emotional distress and deprivation of her due process rights. She seeks damages in excess of \$25,000, costs and interest. The University filed a motion for summary disposition, which is scheduled to be heard on October 14, 2010.

Respectfully submitted,

  
Suellyn Scarnecchia  
Vice President and General Counsel