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Regents
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THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

November 2013

NEW CASES

Allen Licari v Immigration Customs Enforcement, Special Agent Mike Ball, U of M Officer Marjorie Pillsbury, U of M Public Safety Department. U. S. District Court, Eastern District of Michigan, Southern Division. (Judge Gershwin A. Drain) (Filed Served October 4, 2013)

Plaintiff, Allen Licari, claims that his wife voluntarily turned over certain property of his to law enforcement authorities and that this property has not yet been returned to him. Plaintiff asks the Court to order the return of all the property obtained, seized, or controlled by defendants, and seeks attorney's fees and costs.

Tracey McCoy and Larry McCoy v Holly B. McCrum, Progressive Casualty Insurance Company and University of Michigan Health System. Court of Common Pleas of Lucas County, Ohio. (Filed October 10, 2013).

As a result of an alleged car accident, Plaintiff Tracey McCoy claims she received physical therapy treatment from the University of Michigan Health System and the bills she received contained duplicative charges. Plaintiff claims the alleged fraudulent billing violates Ohio Revised Code Section 1345.02 and 1345.03. Plaintiff seeks damages of more than \$25,000, together with punitive damages, treble damages, attorney's fees, interest, and costs.

CASE UPDATES

Joseph Dean Vigil v Regents of the University of Michigan, Edie Goldenberg, Christina Whitman and Anna Kirkland. United States District Court, Eastern District of Michigan. (Judge Patrick J. Duggan) (Served January 3, 2011).

This dispute arises from Plaintiff's dismissal for unsatisfactory academic progress from the doctoral program in the Department of Political Science in the College of Literature, Science and the Arts in fall 2007, after spending sixteen years in the doctoral program. Plaintiff filed his federal lawsuit in November 2010 alleging eleven federal and state causes of action against the Defendants. Defendants filed a Motion to Dismiss arguing that all of the claims, except for the breach of contract claim, were time barred. On July 28, 2011, the District Court granted Defendants' motion and entered a Judgment dismissing with prejudice all of the claims except the breach of contract claim that was dismissed without prejudice. Plaintiff appealed to the Sixth Circuit Court of Appeals. On December 6, 2012, a panel of the Court of Appeals issued an opinion affirming the dismissal of Plaintiff's defamation claim and all "personal injury and civil rights claims that were based on an alleged lack of support while enrolled in the doctoral program" but reversing the ruling regarding the claims related to Plaintiff's dismissal from the program and vacating the dismissal of the breach of contract claim. Accordingly, the case was remanded for a review of Plaintiff's personal injury and civil rights claims as they related to his dismissal from the program in 2007 and Plaintiff's breach of contract claim only. After discovery, Defendants filed a Motion for Summary Judgment. On September 30, 2013, the District Court granted Defendants' Motion for Summary Judgment and issued an Amended Judgment dismissing all of Plaintiff's claims with prejudice. Plaintiff timely filed a Notice of Appeal of right with the Sixth Circuit Court of Appeals on October 28, 2013. On November 1, 2013, Plaintiff filed an appeal to the Sixth Circuit Court of Appeals.

Sheri Barron v University of Michigan and University of Michigan Health System. U.S. District Court, Eastern District of Michigan, Southern Division. (Judge Mark A. Goldsmith) (Served August 10, 2011).

Plaintiff was a Registered Nurse at the University Hospital. She alleges she was harassed and discriminated against based on her age and disability or perceived disability when, after returning from a disability leave of absence of more than seven years, she was told that she should take a refresher course before she could be returned to work as a registered nurse. Plaintiff claims that she applied for approximately 70 Registered Nurse positions within the University following her leave, and that, after taking the training, she was not promoted from the nurse's-aid position. Plaintiff also alleges that she was told she would not be considered for promotion because of her age. Plaintiff claims she has suffered economic and emotional damages. She seeks judgment against the University, damages, costs, and attorney's fees. On March 12, 2013, Defendants filed a motion to dismiss that was denied on May 30, 2013. On June 19, 2013, the Court awarded defendants costs and attorney's fees as a result of a court filing seeking overdue discovery from plaintiff. On August 28, 2013, Plaintiff's attorney's Motion to Withdraw as counsel was granted. Defendant's Second Motion to Dismiss, which was filed on June 26, 2013, has been denied. The Court also imposed additional sanctions upon Plaintiff for her failure to produce overdue discovery.

Verna DeMartin v Regents of the University of Michigan d/b/a University of Michigan Dental School. Michigan Court of Claims (Judge William Collette) (Served November 5, 2012)

Plaintiff claims she was injured on April 20, 2012, when she was struck by an automatic door while leaving the University of Michigan Dental School. Plaintiff alleges that the University was negligent and grossly negligent for having a defective and improperly maintained door. Plaintiff seeks damages in excess of \$25,000, with interest, costs, and attorney's fees. Defendant filed a Motion for Summary Disposition that was denied on October 30, 2013.

Kenneth J. Bogos and Lisa Taylor-Bogos, Husband and Wife, and John J. Bogos, Individually v Clayton J. Spore and The Regents of the University of Michigan, a Non-Profit Corporation, Jointly and Severally. Livingston County Circuit Court (Judge Michael Hatty) (Filed February 21, 2013).

Plaintiffs claim that, on October 28, 2011, they were in a motor vehicle stopped for traffic in Livingston County, when Defendant Spore, while allegedly operating a motor vehicle owned by Defendant University, rear-ended Plaintiffs at a high rate of speed. Plaintiffs assert that, as a result of the alleged collision, they sustained serious physical, mental, and emotional injuries. Plaintiffs bring claims for Negligence, Owner's Liability, and Respondeat Superior, and seek an amount in excess of \$25,000, together with costs, interest, and attorney's fees. In April 2013, the parties stipulated to the dismissal of Defendant, Regents of the University of Michigan. On September 10, 2013, Defendant Spore filed a Motion for Summary Disposition that was denied by Judge Hatty on October 17, 2013. Defendant Spore subsequently filed an appeal to the Michigan Court of Appeals on November 1, 2013.

CASE RESOLUTIONS

Catherine Wilkerson v Kevin Warner, Janet Conners, Michael Matthews, Mark West, Dean Lloyd, Dr. Robert Domeier and Huron Valley Ambulance, Inc. U.S. District Court, Eastern District of Michigan. (Judge Lawrence P. Zatkoff) (Filed November 20, 2009).

On November 30, 2006, Plaintiff, along with others, protested an invited speaker at the Michigan League. Plaintiff claimed that, during the protest, she was assaulted, falsely arrested and detained by University of Michigan police officers, and that she was subsequently charged with attempted resisting and obstructing. A jury trial was held and Plaintiff was found not guilty of those charges in December 2007. Plaintiff claimed that she suffered damages including loss of earnings, medical expenses, pain and suffering, and attorney's fees. Her counts included violations of First and Fourth Amendment rights, conspiracy, assault and battery, false imprisonment, and malicious prosecution. She sought damages, attorney's fees, interest, and costs. Plaintiff filed a motion to amend her complaint to add a claim for conspiracy against Defendant Mathews on June 3, 2011. A Motion for Summary Judgment was filed on behalf of Defendants Mathews, West and Conners on June 17, 2011. All motions were briefed and oral argument was requested by the parties. Oral argument was denied and Judge Zatkoff ruled on the motions as briefed on March 29, 2012. Judge Zatkoff granted the defendants' motions for summary judgment and the case was dismissed, with prejudice, in its entirety. Plaintiff filed an appeal to the Sixth Circuit Court of Appeals. On November 1, 2013, the Sixth Circuit Court of Appeals affirmed summary judgment for University Defendants West, Conners and Matthews. This concludes the case against the University of Michigan employees.

Champions Press, L.L.C. v University of Michigan and It's [sic] Athletic Department. Michigan Court of Claims (Judge Laura Baird) (Served November 15, 2012)

Plaintiff claimed it entered into a written agreement with the University in March 2011 contemplating the joint sale and marketing of a new book publication titled "I Wore 21: The Legend of Desmond Howard." Plaintiff asserted the alleged agreement imposed obligations on the University to "sell 12 sponsorship advertising pages for inclusion in the book, or provide a list of 'preferred' contacts for CP to approach." Plaintiff alleged that the University did not meet these obligations, resulting in alleged damages of over \$145,000. In addition, Plaintiff claimed the University breached its obligation to market or sell the book. Plaintiff sought damages, with interest, costs, and attorney's fees. On September 4, 2013, Defendants filed a Motion for Summary Disposition that was denied by Judge Baird. Settlement was reached between the parties. This case is concluded.

Joseph Gant v The University of Michigan Hospital and AFSCME, Local 1583. United States District Court, Eastern District of Michigan. (Judge Sean F. Cox) (Filed December 6, 2012)

Plaintiff was a Custodian for Environmental Services at the University Hospital. He alleged that he was discharged from his position without cause and in retaliation for filing an EEOC charge alleging race discrimination. The complaint also alleged that Plaintiff's Union AFSCME, Local 1583 breached its duty of fair representation in processing Plaintiff's grievance relating to his discharge and discrimination complaint. Plaintiff sought \$2,000,000.00 in damages. Defendant University filed a motion to dismiss that was granted on March 13, 2013. Plaintiff's appeal to the Sixth Circuit Court of Appeals, which was filed on June 4, 2013, has been dismissed.

Michael Dwayne Thomas v University of Michigan, Lynn Noder-Love, Detective Ryan Cavanaugh, Deputy Scott Heddle and Deputy William Coggins. United States District Court, Eastern District of Michigan. (Judge Bernard Friedman) (Filed June 28, 2013)

Plaintiff alleged he was falsely arrested on June 27, 2011 by Defendants Heddle and Coggins and later arraigned on charges of Assault with Intent to do great bodily harm, charges that, he claims, were later

dismissed. His complaint included counts alleging Gross Negligence, Intentional Infliction of Emotional Distress, and Violation of 42 U.S.C.-1983 as to all defendants; False Arrest and False Imprisonment as to defendants Cavanaugh, Heddle and Coggins; Constitutional Deprivation: Individual Law Enforcement Officer as to defendants Cavanaugh, Heddle and Coggins; Constitutional Deprivation: Municipal/Supervisory Liability as to defendant University of Michigan; and Malicious Prosecution as to defendants Cavanaugh and Noder-Love. Plaintiff sought judgment in excess of \$75,000, plus costs, interest and attorney's fees, together with exemplary and/or punitive damages. On June 28, 2013, Plaintiff filed a First Amended Complaint, adding the University of Michigan Health System as a defendant. On August 19, 2013, Defendants filed a Motion to Dismiss that was granted on October 2, 2013. On October 21, 2013 Plaintiff's Motion for Reconsideration was denied.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Timothy G. Lynch", with a long horizontal flourish extending to the right.

Timothy G. Lynch
Vice President & General Counsel

November 2013