

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the
Regents
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Subject: Litigation

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NEW CASES

The World Leadership Program Institute, a District of Columbia not for profit organization v The Board of Regents of The University of Michigan, The Center for Political Studies, The Institute for Social Research, Mark Tessler, Sherman Jackson, Nancy Burns, and David Howell. United States District Court, Eastern District of Michigan (Judge Stephen J. Murphy, III) (Served October 9, 2014)

The World Leadership Program claims damages in excess of \$2,000,000 from the University, ISR, Center for Political Studies, and several named current and former University faculty and staff. Plaintiff alleges that the University, and the other named defendants, wrongfully obtained, handled, and then terminated a grant from the United Arab Emirates that would otherwise have funded its activities. Plaintiff claims breach of contract, misrepresentation, unjust enrichment, fraudulent handling of the money, deprivations under state and federal constitutions of due process, and property and liberty interests. Plaintiff seeks damages, costs, interest, and attorney's fees. Defendants filed a Motion to Dismiss on October 30, 2014.

Gregory Herring v University of Michigan Police Officer Milot Goci, University of Michigan Police Officer Bryant, University of Michigan Police Officer Push, University of Michigan Police Sergeant Conners, in their individual capacities, jointly and severally. United States District Court, Eastern District of Michigan (Judge Patrick J. Duggan) (Filed October 22, 2014)

Plaintiff alleges that on October 22, 2012, defendants used excessive force when they arrested him. He claims that these alleged acts deprived him of rights under the United States Constitution, constituted assault and battery, and created an independent claim for excessive force which caused a fractured patella. Plaintiff claims he suffered great embarrassment, humiliation, distress, and serious debilitating injuries due to defendants' behavior, and seeks exemplary and punitive damages, plus interest, costs, and attorney's fees.

CASE UPDATES

Yvonne Beach, a Protected Person, by and through her duly appointed Guardian, Brad Beach, and Andersen Beach, a minor, by his Next Friend, Brad Beach v Board of Regents of the University of Michigan. Michigan Court of Claims (Judge Clinton Canady III) (Served November, 9, 2012); AND Yvonne Beach, a Protected Person, by and through her duly appointed Guardian, Brad Beach, and Andersen Beach, a minor and his Next Friend Brad Beach v Jade Sanders and Richard Secosky. Washtenaw County Circuit Court (Judge Donald Shelton) (Filed October 31, 2012); AND Richard Secosky v Board of Regents of the University of Michigan. Michigan Court of Claims (Judge Clinton Canady III) (Filed March 22, 2013); AND Richard C. Secosky v Jade Alexis Sanders. Washtenaw County Circuit Court (Judge Donald Shelton) (Filed March 26, 2013).

Plaintiff, Yvonne Beach, alleges she was a passenger on a motorcycle when a collision occurred between the motorcycle and a University-owned vehicle operated by a University student intern. Plaintiff claims the vehicle was negligently operated and that she sustained serious impairment of a bodily function and permanent or serious disfigurement as a result of the collision. As a result, Plaintiff claims she will incur economic losses in excess of three years. Plaintiff, Andersen Beach, a minor, claims loss of services by his mother, Yvonne Beach. Plaintiffs seek damages, with interest, costs, and attorney's fees. The motorcycle driver, Richard Secosky, filed companion cases against the University in the Michigan Court of Claims, and against Jade Alexis Sanders in Washtenaw County Circuit Court. An order was issued on April 3, 2013 by the Court of Claims transferring the case against the University to Washtenaw County Circuit Court, and joining it with the pending cases involving the same accident. In Secosky v Sanders,

on May 22, 2013, Defendant Sanders' motion for summary disposition, based on governmental immunity, was denied. On May 29, 2013, an appeal as of right was filed. In *Beach v. Sanders and Secosky*, on May 22, 2013, Sanders' motion for summary disposition, based on governmental immunity, was denied. An appeal as of right was filed by Sanders on June 5, 2013. In *Secosky v. Regents*, on June 5, 2013, Judge Shelton denied the Regents' motion for summary disposition. The Motion was based upon a claim of defects in the required Notice to the University of the claim. In summary, of the four related cases coming out of the motorcycle/UM van accident, three are on appeal after Judge Shelton denied dispositive motions. On August 14, 2013, Judge Shelton granted Defendant's Motion for Summary Disposition of Andersen Beach's claim. In *Beach v Sanders and Secosky v Sanders*, the Court of Appeals ruled that driving the van was not within the course of duties, upheld the trial court's denial of summary disposition, and remanded the case for further proceedings. In *Secosky v Regents*, the Court of Appeals ruled that the statutorily required Notice filed by Secosky was defective; it reversed the trial court's denial of summary disposition.

Senta Reyes v University of Michigan, Dr. Merle Jarda, Dr. Patricia Bauer, and Dr. Marilyn Woolfolk. Washtenaw County Circuit Court. (Judge Archie C. Brown) (Filed January 25, 2012); AND **Senta Reyes v University of Michigan, Dr. Merle Jaarda, Dr. Patricia Bauer and Dr. Marilyn Woolfolk.** Michigan Court of Claims. (Judge Paula J.M. Manderfield) (Filed March 26, 2012).

Plaintiff was a Dental School student who was dismissed for unsatisfactory academic progress while she was attempting to complete the remediation of her second year as a condition of continued enrollment after she had been previously dismissed for unsatisfactory academic progress. Plaintiff alleges deprivation of her rights to free speech, due process, and equal protection under the U.S. and Michigan Constitutions; racial discrimination, promissory estoppel/detrimental reliance, and breach of contract. Plaintiff claims she has suffered economic damages (including future lost wages and earning capacity), embarrassment, humiliation, outrage, anxiety, mental anguish, and mental and emotional distress. She seeks damages in excess of \$75,000, plus costs, interest, and attorney's fees. Plaintiff filed her state court claims in Washtenaw County Circuit Court. Her counts include violation of the Elliott Larsen Civil Rights Act, violations of due process and equal protection under the Michigan Constitution, promissory estoppel, and breach of contract. On January 15, 2013, the parties stipulated to the dismissal of the 42 U.S.C. Section 1981 claim and the race discrimination claim in the federal case. The parties also stipulated to dismiss named defendant Dr. Merle Jaarda. On January 24, 2013, Defendants filed a motion for summary disposition in the federal case. On April 2, 2013, the parties stipulated to dismiss the University and named defendant, Dr. Marilyn Woolfolk, with prejudice. On July 18, 2013, Judge Edmunds granted Defendant's Motion to Dismiss the last remaining named defendant, Dr. Bauer, which concludes the federal case. On April 7, 2014, Plaintiff filed a First Amended Complaint in the Washtenaw County case, dropping Dr. Merle Jaarda as a named defendant. Plaintiff also dropped the race discrimination claim, and added a gender claim under the Elliott Larsen Civil Rights Act. Defendants filed a motion for summary disposition that was granted on October 2, 2014, with prejudice. On October 16, 2014, Plaintiff filed an appeal to the Michigan Court of Appeals.

Wei Cao and Li-Hsuan Yang v Board of Regents of the University of Michigan. Genesee County Circuit Court. (Judge Joseph J. Farah) (Served April 2, 2013)

Plaintiff was an Assistant Professor of Education for the University of Michigan-Flint. She claims she applied for and was denied tenure and promotion because of her national origin. She further alleges the denial of her tenure was in retaliation for her having opposed, through a published article, what she described as "the discriminatory environment" on the Flint campus. Plaintiff claims she suffered economic loss and seeks reinstatement, money damages in excess of \$25,000, plus interest, consequential damages, costs, and attorney's fees. On February 3, 2014, Plaintiff filed an Amended Complaint and an Order was entered allowing the joinder of Li-Hsuan Yang as Co-Plaintiff, without prejudice to Defendant's right to seek severance of the two Plaintiffs for purposes of trial. Settlement was reached between the University and Plaintiff Cao. Defendants filed a partial motion for summary disposition in the Yang case.

CASE RESOLUTIONS

Joan Scheske v University of Michigan Health System. United States District Court, Eastern District of Michigan. (Judge Nancy Edmunds) (Filed August 5, 2013)

Plaintiff was a market research analyst lead for the Department of Surgery for the University of Michigan Health System. Plaintiff stated she reported to management that there was a discrepancy between her role, title, and compensation, and that this discrepancy was based on her gender. Plaintiff claimed similarly situated male employees, who performed similar functions, were properly titled and compensated at the director level, and she was not. Plaintiff further alleged that her supervisors subjected her to gender-based discriminatory behavior. Her three-count complaint included claims of gender discrimination, retaliation, and violation of the Equal Pay Act. Plaintiff sought back pay, punitive damages, reinstatement or back and front-pay in lieu of reinstatement, interest, costs, and attorney's fees. On April 29, 2014, the parties stipulated to the dismissal of Plaintiff's gender discrimination and Equal Pay Act claims, with prejudice. On August 1, 2014, Defendants filed a Motion for Summary Judgment that was granted on October 6, 2014, with prejudice.

Michigan Nurses Association and University of Michigan Professional Nurse Council v Regents of the University of Michigan. Court of Claims (Judge Pat Donofrio) (Filed September 9, 2014)

Plaintiffs filed a Complaint for Injunctive Relief in Aid of Contractual Arbitration Proceedings seeking to enjoin the University from changing the work assignment of a Certified Registered Nurse Anesthetist pending the outcome of a labor arbitration under the collective bargaining agreement. A temporary restraining order was granted on September 30, 2014, and a show-cause hearing was held on the Preliminary Injunction on October 8, 2014. On October 23, 2014, Judge Donofrio vacated the restraining order, and denied Plaintiff's motion for Preliminary Injunction.

Lynne Crandall v Manageability Incorporated and the University of Michigan Expanded Long Term Disability Plan. Washtenaw County Circuit Court (Judge Carol Kuhnke) (Served September 30, 2013)

Plaintiff was an Instructional Learning Lead in the Instructional Support Services Department at the University. She alleged that she is a person with a disability and is unable to work. Plaintiff alleged that, in accordance with the University's disability insurance policy, she applied for long term disability benefits and was denied those benefits on December 27, 2012, despite the recommendations of her physicians that she stay off work. She sought judgment in excess of \$25,000, plus interest, costs, and attorney's fees. Settlement was reached between the parties. This case is concluded.

Respectfully submitted,



Timothy G. Lynch
Vice President & General Counsel

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