

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

December 2016

NEW CASES

John Doe v David H. Baum, Susan Pritzel, Tabitha Bentely, E. Royster Harper, and Nadia Bazy. United States District Court, Eastern District of Michigan. (Judge George Steeh) (Filed September 1, 2016)

Plaintiff is a former student at the University of Michigan. His claims arise out of actions taken against him by Defendants for Plaintiff's violation of the University's Policy on Sexual Misconduct by Students. Plaintiff's three-count complaint includes alleged violations of 42 U.S.C. § 1983 for Due Process and First Amendment Free Speech. Plaintiff seeks removal of all references to allegations or investigation, discipline or sanctions from his file, immediate reinstatement to the University as a student in good standing, compensatory, exemplary and punitive damages along with interest, costs, and attorney's fees. Plaintiff filed an Amended Complaint on October 3, 2016, adding Title IX claims and Michigan Elliott-Larson Civil Rights gender discrimination claims against The Board of Regents and other individual Defendants. On October 21, 2016, Defendants filed a motion to dismiss.

Stephen Brian Perkola. The University of Michigan Board of Regents and Anna Grbic, Kevin Williams, Renee Mainor, Reetha Raveendran, Dr. Debra Hutton and Eddie L. Washington, Jr. United States District Court, Eastern District of Michigan. (Judge Sean F. Cox) (Filed September 7, 2016).

Plaintiff, a Police Sergeant at the University of Michigan-Dearborn, claims he was denied a promotion to the new position of Deputy Chief of Police because of his race and age. His claims include alleged violations of Title VII and the Elliott-Larsen Civil Rights Act. Plaintiff seeks in excess of \$75,000, punitive damages as well as interest, costs and attorney's fees.

Tracy Honeycombe v University of Michigan. Washtenaw County Circuit Court. (Judge Carol Kuhnke) (Served September 21, 2016)

Plaintiff was a Phlebotomist with the University of Michigan Health Service. She claims Defendant terminated her from her position because of her disabilities. Plaintiff seeks damages in excess of \$25,000 and compensation for back pay and benefits. Plaintiff also seeks interest and attorney's fees.

Michael Smith v University of Michigan, a public university/corporate body politico. United States District Court, Eastern District of Michigan. (Judge Denise Pagehood) (Filed September 27, 2016)

Plaintiff, who was a Construction Inspector II for the Architecture, Engineering and Construction (AEC) department at the University, claims he was subjected to unlawful discrimination by his supervisors including harassment, increased scrutiny and monitoring and delays regarding implementation of reasonable accommodations and forced retirement for medical reasons. His two-count complaint alleges disability discrimination and disability retaliation. Plaintiff claims he has suffered loss of earnings and earning capacity, fringe benefits, mental anguish, physical and emotional distress, humiliation and embarrassment and loss of professional reputation. Plaintiff seeks lost wages and benefits, past and future, compensatory and exemplary damages, interest, costs, and attorney's fees. Plaintiff further seeks reinstatement. On October 25, 2016, Defendant filed a motion to dismiss.

Cynthia Blaine v Board of Regents of the University of Michigan. Court of Claims. (Judge Cynthia D. Stephens) (Filed October 21, 2016)

Plaintiff brings a breach of contract claim against the University out of an alleged denial of her long term disability benefits. Plaintiff seeks in excess of \$25,000, an accounting as to her rate of long-term disability

benefits under the plan and the maximum period of time those benefits are potentially available, together with interest, costs and attorney's fees.

CASE UPDATES

Sonam Krichbaum v Carrie Phillips, an individual, and University of Michigan, a public university.
Washtenaw County Circuit Court (Judge Timothy Connors) (Served October 5, 2015)

Plaintiff, a nurse, alleges she has suffered retaliation and harassment by a nurse manager. Plaintiff's claims include violations of the Elliott-Larsen Civil Rights Act, Whistleblower Act, and Intentional Infliction of Emotional Distress. Plaintiff seeks exemplary and compensatory damages, including pain and suffering, costs, interest, and attorney's fees. On September 8, 2016, Defendants filed a motion for summary disposition that was granted and denied in part. On October 28, 2016, Defendants-Appellants filed an Emergency Application for Leave to appeal in the Michigan Court of Appeals. Trial is scheduled to begin December 5, 2016.

April Lakey v University of Michigan Hospital. United States District Court, Eastern District of Michigan (Judge Marianne O. Battani) (Served May 29, 2015)

Plaintiff, a Call Center Representative in the Otolaryngology Department, alleges she has been paid less than her Caucasian coworkers and denied a promotion because of her race. Plaintiff claims she has suffered lost wages and benefits and seeks damages, with interest, costs and attorney's fees. On July 26, 2016, Defendant filed a motion for summary judgment. On September 14, 2016, Plaintiff's counsel filed a response to Defendant's motion for summary judgement and motion for sanctions and included a motion to withdraw stating he attempted to obtain a dismissal of this case based on the deposition testimony but Plaintiff will not agree to the dismissal. The Judge granted Plaintiff's counsel's motion to withdraw.

Joanne Odom and Reginald Whitlow v University of Michigan and University of Michigan Health System.
Washtenaw County Circuit Court (Judge David S. Swartz) (Served October 26, 2015) AND **Joanne Odom and Reginald Whitlow v University of Michigan, University of Michigan Health System, Russ Laurin and Kathy Jordan-Sedgeman, in their individual and official capacity.** United States District Court, Eastern District of Michigan. (Judge Paul D. Borman) (Filed August 8, 2016)

Plaintiffs, supervisors for the hospital's patient transportation department, allege they were discharged from their respective positions because of their ages. Plaintiffs' claims include embarrassment and humiliation, pain and suffering, and harm to reputation. Plaintiffs seek back pay, front pay and reinstatement, exemplary damages, interest, costs, and attorney's fees. Plaintiffs voluntarily withdrew their lawsuit in Washtenaw County Circuit Court to file a complaint in federal court to add a Section 1983 due process violation claim. A stipulated Order to dismiss without prejudice was entered on July 28, 2016 that included an award of \$475.00 in costs to the Defendant. Plaintiffs filed a similar Complaint in the United States District Court, Eastern District of Michigan, adding a Section 1983 due process violation claim and a Michigan Elliott-Larson Civil Rights age discrimination claim, as well as naming two former University employees as defendants. On October 17, 2016, Defendants filed a motion to dismiss that is currently pending before the Court.

CASE RESOLUTIONS

Michigan Nurses Association and Nadine M. Peterson v Board of Regents of the University of Michigan.
Court of Claims (Judge Cynthia D. Stephens) (Filed May 26, 2016)

The Michigan Nurses Association and Nadine Peterson filed a breach of the Freedom of Information Act (FOIA) claim against the University after their FOIA request to obtain information provided to researchers for a survey on flu vaccinations was denied. Plaintiffs asked the Court to order Defendants to provide the requested public records. Plaintiffs also sought punitive damages, costs, expenses and attorney's fees. Settlement has been reached between the parties. This case is concluded.

Alan Belden Enkerlin v Douglas Lewis. Washtenaw County Circuit Court (Judge Timothy Connors) (Filed December 22, 2015)

Plaintiff alleged that an attorney with the University's Student Legal Services failed to advise him of immigration consequences when he pleaded guilty to misdemeanor charges when he was studying at the University on a student visa. Plaintiff claimed this caused him to spend 22 days in federal custody and led to numerous other losses. Plaintiff's two-count complaint included malpractice and breach of contract claims. Plaintiff sought damages, interest, costs, and attorney's fees. Settlement has been reached between the parties. This case is concluded.

Michael Gonzales v Board of Regents of the University of Michigan. Court of Claims (Judge Mark Boonstra) (Served November 2, 2015)

Plaintiff brought a breach of contract claim against the University out of an alleged denial of his long term disability benefits. Plaintiff sought all past due benefits and reinstatement of his eligibility for ongoing benefits, together with interest, costs and attorney's fees. Both parties filed motions for summary disposition. On November 9, 2016, Defendant's motion for summary disposition was granted, and Plaintiff's motion was denied.

Carmen Green v The Board of Regents of the University of Michigan. Washtenaw County Circuit Court (Judge Timothy Connors) (Served September 22, 2015)

Plaintiff, a University of Michigan physician and medical school professor, filed a three-count Complaint alleging retaliation in violation of the Michigan Elliott Civil Rights Act after her administrative appointment as Associate Vice President and Associate Dean for the Office for Health and Equity Inclusion ("OHEI") was terminated. Plaintiff has retained her position as a tenured medical school faculty member. Plaintiff claimed the termination as an Associate Dean was in retaliation for addressing discrimination in access to healthcare and healthcare facilities, addressing racial disparity in patient outcomes, and addressing alleged discriminatory employment practices. Plaintiff sought in excess of \$25,000, lost wages, fringe benefits, interest, costs, and attorney's fees. Plaintiff also sought injunctive relief. Defendant filed a motion for summary disposition on August 16, 2016 that was denied. The parties stipulated to the dismissal of Counts II and III. Both parties have accepted the case evaluation award.

Respectfully submitted,



Timothy G. Lynch
Vice President & General Counsel

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