

**THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION**

Subject: Litigation

February 2006

I. NEW CASES

There are no new cases this month.

II. RESOLUTIONS

Marva Jean Hudson v University of Michigan, et al. United States Court of Appeals for the Sixth Circuit. (Received June 27, 2005).

Plaintiff had filed a complaint in the United States District Court, Eastern District of Michigan in December 2004, alleging that the University of Michigan-Flint Campus discriminated against her because of her race when it refused to grant her a Master's Degree in Education. The University was never served and the Court (Judge Avern Cohn), on its own, dismissed the complaint as frivolous. Plaintiff filed a motion for reconsideration, which was also denied. Plaintiff appealed that dismissal to the U.S. Court of Appeals; the Court dismissed the case.

III. CASE UPDATES

Keith Yohn v Board of Regents of the University of Michigan, William Kotowicz, Robert Feigal, Marilyn Woolfolk, Merle Jaarda and Kenneth Stoffers. Michigan Court of Claims. (Judge Beverley Nettles-Nickerson) (Filed April 1, 2003).

Dr. Yohn, a professor in the Dental School, claims that he was deprived of an employment contractual right to assign a grade of "F" to two Dental School students. He alleges that Dean Kotowicz and members of the executive committee of the Dental School gave special treatment to the students, that ultimately a "W" grade was given to the students rather than the "F" assigned by Dr. Yohn and three other colleagues and that the students were given the opportunity to repeat the project. Dr. Yohn claims that the actions taken by the Dean and executive committee were done with malice toward him, with deliberate disregard for his contractual rights. He asks the court to order the University to post the "F" grades for the students, enjoin the defendants from interfering in his employment contractual rights, and damages. Plaintiff had previously filed a lawsuit on this issue in the federal court system; his complaint (and subsequent appeals) were dismissed. The University filed a motion for summary disposition which was granted by the court and the case was dismissed. Plaintiff filed a motion for reconsideration, which was denied by the court. Plaintiff filed a claim of appeal to the Michigan Court of Appeals. On April 20, 2005, the Court of Appeals affirmed the Court of Claims decision in favor of the University and all named

defendants, agreeing with our argument that Plaintiff's claims in the state court are barred by *res judicata* because he should have raised those claims in his earlier federal action. Plaintiff filed an appeal to the Michigan Supreme Court, which was denied on December 1, 2005. Plaintiff filed a motion for reconsideration.

Owen Kevin McNulty v University of Michigan. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed April 11, 2005).

Plaintiff is employed by UM's Department of Public Safety. He claims that he has been treated unfairly and bypassed for promotion because of his disability. Plaintiff also alleges that his supervisors failed to accommodate his disability and then demoted him in retaliation for questioning the way in which he was being treated. He seeks lost wages, damages, costs, interest and attorney's fees. Plaintiff had previously filed his claims in federal court (*Owen K. McNulty v University of Michigan and William Bess*. United States District Court, Eastern District of Michigan; filed February 24, 2004). He stipulated to a dismissal of his federal claims and re-filed his state claims in state court. The University filed a motion for summary disposition.

Rose Andrews v University of Michigan-Flint. Michigan Court of Claims. (Judge Paula J.M. Manderfield) (Served November 14, 2005).

Plaintiff is a former student at the Flint campus. She claims that the University incorrectly charged her tuition for summer 2001 classes, resulting in her being unable to enroll or receive financial aid until the balance was paid. She claims that the University inappropriately encumbered her fall 2001 financial aid funds to pay that balance, thus converting her personal property (funds) for its own use. She seeks judgment in the amount of \$4,476.00, as well as interest, costs, attorney's fees and the ability to re-enroll at UM-Flint. The University filed a motion for summary disposition.

Respectfully submitted,

Marvin Krislov
Vice President and General Counsel

