

THE UNIVERSITY OF MICHIGAN  
REGENTS COMMUNICATION  
ITEM FOR INFORMATION

Subject: Litigation

February 2017

NEW CASES

T'Neya Jenkins v The Regents of the University of Michigan Health System, Careylynn Flaugher in her official capacity, Jennifer Stalmack in her official capacity, Sue Kofflin in her official capacity, Linda Gobeski in her official capacity, jointly and severally. United States District Court, Eastern District of Michigan. (Judge Bernard Freedman) (Served December 14, 2016)

Plaintiff is a Patient Services Assistant in the Women's Birth Center and claims that, after winning a grievance reversing her discharge, she was subjected to retaliatory conduct, including heightened supervision, improper performance evaluations, and denial of transfer requests. Plaintiff claims she has suffered emotional distress and has incurred and will continue to incur medical expenses for treatment. She further claims loss of earnings, benefits and job opportunities. Plaintiff seeks compensatory damages, lost wages and benefits, punitive damages, interest, costs, and attorney's fees.

Professor Scott Kurashige, Ph.D., and Professor Emily Lawsin, M.A. v University of Michigan, a Michigan corporation. Washtenaw County Circuit Court (Judge Timothy Connors) (Filed January 10, 2017)

Plaintiff Scott Kurashige, formerly a professor in the Departments of American Culture and History in the College of Literature, Science and the Arts, and Plaintiff Emily Lawsin, a Lecturer IV in the Departments of Women's Studies and American Culture in the College of Literature, Sciences and the Arts, allege race discrimination, gender discrimination, marital status discrimination, race hostile work environment and retaliation, and disability-based discriminatory hostile treatment and retaliation. Plaintiff Lawsin, who is currently on leave from her Lecturer IV position, seeks reinstatement to her position as a Lecturer IV, to teach in Winter 2017, without a "remediation plan." Plaintiff Kurashige seeks reinstatement to a tenured full professor position from which he claims he was constructively discharged and reinstatement to the position of Director of the Asian/Pacific Islander American Studies Program. Both Plaintiffs further seek economic and non-economic damages, permanent injunctive relief under the Elliott-Larsen Civil Rights Act and a consent judgment with a timeline for meeting metrics and other necessary actions to come into compliance with ELCRA.

CASE UPDATES

Megan Bayagich v Board of Regents of the University of Michigan. Court of Claims (Judge Mark Boonstra) (Filed May 4, 2015) AND Megan Bayagich v. Alyssa McCullough. Washtenaw County Circuit Court (Judge Timothy Connors) (Filed May 1, 2015)

Plaintiff, a University of Michigan student, alleges she sustained serious injuries when she fell from a University of Michigan bus. Plaintiff alleges she was ejected through a rear door when it opened without notice while the vehicle was in motion. Plaintiff claims Defendants failed to engage safety devices, and that the bus was overcrowded. The driver of the bus has also been sued on gross negligence grounds. Defendant Board of Regents filed a motion for summary disposition that was granted on June 22, 2015. Plaintiff filed a motion for reconsideration that was denied on July 14, 2015. In Bayagich v McCullough, Plaintiff has filed two amended complaints adding as defendants Gillig LLC, the bus manufacturer, and Vapor Bus International, the rear door equipment supplier. Defendant filed a motion for summary disposition that was denied. Trial is scheduled for April 3, 2017.

Elizabeth Evans v University of Michigan Hospital. United States District Court, Eastern District of Michigan (Judge Gershwin A. Drain) (Served April 5, 2016)

Plaintiff was an Instrument Processor I for the University's Operating Rooms department. She alleges that she was injured at work after she slipped and fell over a linen bag. Plaintiff claims that, after her treating physician took her off work due to her alleged injury, the University terminated her from her position. Plaintiff alleges various claims of race, age, gender, and disability discrimination. Plaintiff seeks an amount in excess of \$25,000, together with interest, costs, and attorney's fees, as well as injunctive relief. On January 5, 2017, Defendant's filed a motion for summary judgment. On January 13, 2017, Plaintiff's attorney filed a motion to withdraw as counsel.

Kimberly Rodriguez v Board of Regents of the University of Michigan, The University of Michigan, and Cathy Kendrick, individually. Washtenaw County Circuit Court (Judge Timothy Connors) (Filed September 5, 2014)

Plaintiff was a registered nurse with the University of Michigan Hospital. She alleges she was discharged from her position after she allegedly became aware and reported that another nurse improperly disposed of a controlled drug. Plaintiff's claims include violations of the Michigan Whistleblower's Protection Act and race discrimination. She seeks damages, costs, interest, and attorney's fees. Defendants filed a motion for summary disposition that was denied on January 19, 2017.

#### CASE RESOLUTIONS

John Doe v David H. Baum, Susan Pritzel, Tabitha Bentley, 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 included alleged violations of 42 U.S.C. § 1983 for Due Process and First Amendment Free Speech. Plaintiff sought 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. Plaintiff's amended complaint was dismissed with prejudice. On October 21, 2016, Defendants filed a motion to dismiss that was granted on January 5, 2017.

Detroit Free Press, Inc., a Michigan corporation, and Federated Publications, Inc., a Delaware corporation v The Regents of the University of Michigan, a Michigan corporation. Court of Claims (Judge Michael J. Talbot) (Filed July 8, 2014)

Plaintiffs alleged that the University of Michigan violated the Open Meetings Act and the Michigan Constitution. Plaintiffs sought a temporary and permanent injunction. Plaintiffs also sought costs and attorney's fees. Both parties filed motions for summary disposition and oppositions thereto. On June 10, 2015, Judge Talbot granted Defendant's motion for summary disposition and denied Plaintiffs' cross motion. On April 26, 2016, the Michigan Court of Appeals, in a unanimous published opinion, agreed that the University of Michigan is fully complying with the Michigan Constitution, rejected Plaintiffs' arguments, and affirmed the trial court's decision in favor of the University. On June 2, 2016, Plaintiffs applied to the Michigan Supreme Court for leave to appeal. On November 30, 2016, the Supreme Court denied plaintiffs' motion. This case is concluded.

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, alleged she has suffered retaliation and harassment by a nurse manager. Plaintiff's claims included violations of the Elliott-Larsen Civil Rights Act, Whistleblower Act, and Intentional Infliction of Emotional Distress. Plaintiff sought 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; that was denied. Settlement was reached between the parties. This case is concluded.

**Karen J. Claiborne v The Regents of the University of Michigan-Dearborn, Janine Janosky in her official capacity, Laura Reynolds in her official capacity, Susan Everett in her official capacity, Becky Dressel-House-Nauss in her official capacity, and Elizabeth Morden in her official capacity, jointly and severally.** United States District Court, Eastern District of Michigan (Judge Mark A. Goldsmith) (Served March 22, 2016).

Plaintiff was an Administrative Specialist in the College of Education, Health and Human Services (CEHHS) at the University of Michigan-Dearborn. Plaintiff alleged she applied for and was denied several promotions within the University and claims this is due to her race. Plaintiff further alleged she was retaliated against for complaining of this alleged discrimination. Plaintiff sought past and future lost wages, compensatory damages, punitive and exemplary damages, interest, costs, and attorney's fees. Settlement was reached between the parties. This case is concluded.

**Tracey Meade v. Board of Regents of the University of Michigan.** Court of Claims (Judge Cynthia Stephens) (Served September 17, 2015)

Plaintiff, Tracey Meade, brought a breach of contract claim against the University out of an alleged denial of her Long Term Disability benefits. Plaintiff sought in excess of \$25,000, an Order instructing the University to file the LTD plan with ManageAbility, interest, costs, and attorney's fees. Settlement was reached between the parties. This case is concluded.

**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, claimed 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 alleged disability discrimination and disability retaliation. Plaintiff claimed 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. On October 25, 2016, Defendant filed a motion to dismiss that was granted on January 17, 2017.

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

Plaintiff brought a breach of contract claim against the University out of an alleged denial of her long term disability benefits. Plaintiff sought 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. Settlement has been reached between the parties. This case is concluded.

**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, 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 judgment 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. On January 19, 2017, the Court granted Defendant's motion for summary judgment.

Roberta Proft v The Board of Regents of the University of Michigan. Court of Claims (Judge Deborah Servitto) (Served September 23, 2014)

Plaintiff brought a breach of contract claim against the University out of an alleged denial of her Long Term Disability benefits. She sought past-due benefits, reinstatement of her eligibility for ongoing benefits, together with interest, costs, and attorney's fees. Defendant filed a motion for summary disposition that was denied on July 12, 2016. Defendant filed a motion for reconsideration that was denied. Settlement has been reached between the parties. This case is concluded.

Respectfully submitted,

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

Timothy G. Lynch  
Vice President & General Counsel

February 2017