

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

February 2018

NEW CASES

Shannon Hester v Jeremia Walter Brabbs. Washtenaw County Circuit Court (Judge David Swartz)
(Served November 16, 2017)

Plaintiff was a passenger in a vehicle being transported from a medical appointment at the University. Defendant is a University employee who, while operating a university vehicle, allegedly rear-ended the transport vehicle plaintiff was in causing severe injuries. Plaintiff seeks an amount in excess of \$25,000, together with interest, exemplary damages, costs and attorney's fees.

Patrick Baker v Board of Regents of the University of Michigan. Court of Claims (Judge Cynthia Stephens)
(Served December 12, 2017)

Plaintiff brings a breach of contract claim against the University out of an alleged denial of his long-term disability benefits. Plaintiff seeks an amount in excess of \$25,000, an accounting from Defendant as to Plaintiff's rate of LTD benefits, an Order instructing Defendant to file the LTD Plan and all documents constituting Plaintiff's claim file, together with interest, costs and attorney's fees.

CASE UPDATES

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. Defendants filed a claim of appeal as of right on a portion of the matter. On January 25, 2018, the Court of Appeals reversed the trial Court's denial of summary disposition in favor of Defendant Kendrick and Foster with respect to Plaintiff's intentional tort claims.

Detroit Free Press, Inc. v The Regents of the University of Michigan. Court of Claims (Judge Michael J. Talbot) (Filed November 21, 2017)

Plaintiff filed a Complaint claiming the University of Michigan violated the Freedom of Information Act ("FOIA") by denying Plaintiff's FOIA request for the complete compensation package of the University's Chief Investment Officer. The two-count complaint alleges violations of FOIA, the Michigan constitution, and common law. Plaintiff requests the Court order the Regents of the University of Michigan to provide copies of all requested records within the scope of the FOIA request. Plaintiff also seeks damages, costs and attorney's fees. On November 27, 2017, Plaintiff filed a motion for summary disposition. On January 10, 2018, Defendant filed a motion for summary disposition and response to Plaintiff's motion for summary disposition.

Timothy Keeler v Hurley Medical Center, Melany Gavulic, in her official and individual capacity, Scott Bonzheim, in his individual capacity, Franz Jaggi, in his individual capacity, and Michael Roebuck, in his individual capacity. United States District Court, Eastern District of Michigan (Judge Bernard A. Friedman) (Filed April 4, 2016)

Plaintiff, a physician's assistant with Hurley Medical Center, asserts claims pursuant to 42 USC § 1983 against Defendants for alleged violation of his procedural due process rights and First Amendment rights of speech, association, and right to petition the government. Plaintiff claims he has suffered emotional distress, humiliation, mental anguish, and seeks back pay, lost wages, punitive damages, together with costs, interest and attorney's fees. On May 1, 2017, Defendants' filed a motion for summary judgment that was granted. On November 27, 2017, Plaintiff filed a notice of appeal.

T'Neya Jenkins v The Regents of the University of Michigan Health System, Carelynn Flaucher 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. On January 5, 2018, Defendants filed a motion for summary judgment.

Rebecca Foster v The University of Michigan, The Board of Regents of the University of Michigan, and Alison Davis-Blake, in her official capacity as Dean of the Ross School of Business at the University of Michigan. United States District Court, Eastern District of Michigan. (Judge Bernard Friedman) (Filed May 10, 2017)

Plaintiff is a 2014 graduate of the Executive Masters of Business Administration program ("EMBA") at the University of Michigan's Stephen M. Ross School of Business. She filed a one-count complaint claiming a violation of Title IX, alleging that, during her time in the EMBA program, she was stalked and harassed by a fellow EMBA student. Plaintiff claims Defendants failed to provide a prompt and equitable response to Plaintiff's complaints. Plaintiff seeks repayment for all tuition and related expenses; payment of expenses incurred as consequence of the alleged harassment and retaliation; damages for deprivation of equal access to the educational benefits and opportunities provided by Defendants; damages for lost economic opportunity; and damages for past, present, and future emotional pain and suffering, and ongoing and severe mental anguish. Plaintiff also seeks pre- and post-judgment interest, costs, and attorney's fees. On March 17, 2017, Plaintiff filed a motion for pseudonymous status or in the alternative to seal the court file. This motion was denied on May 2, 2017. On May 10, 2017, Plaintiff filed a revised Complaint adding Plaintiff Rebecca Foster's name. On May 24, 2017, Defendant's filed a motion to dismiss that was denied as moot after Plaintiff filed a first amended complaint. On July 11, 2017, Defendant's filed a motion to dismiss Plaintiff's first amended complaint that was denied on November 7, 2017.

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 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 and for sanctions. On September 14, 2016, Plaintiff's counsel filed a response to Defendant's motion 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. On February 17, 2017, Plaintiff filed a notice of appeal that was denied. On January 19, 2018, Plaintiff filed for a Petition for Writ Certiorari to the United States Supreme Court.

Hassan M. Ahmad, Esq. v University of Michigan. Court of Claims. (Judge Stephen Borrello) (Served June 23, 2017)

Plaintiff filed a Complaint claiming the University of Michigan violated the Freedom of Information Act (“FOIA”). Plaintiff asked the Court to find that the entirety of the documents responsive to the FOIA request by Defendant be “public records” and that no exemption exists; to issue an Order compelling complete production of the FOIA response no later than 30 days from the date of the Order; and order payment of all penalties and costs. On August 16, 2017, Defendant filed a motion to dismiss that was granted. On November 20, 2017, Plaintiff filed an appeal.

CASE RESOLUTIONS

Ye Lu v University of Michigan, Board of Regents of the University of Michigan and Ryan Wilcox. United States District Court, Eastern District of Michigan. (Judge Denise Paige Hood) (Filed October 20, 2017)

Plaintiff was a Research Lab Specialist in Internal Medicine at the University and claimed he was terminated from his position because of his race, national origin, and age and further claims he retaliated against for opposing discrimination. Plaintiff sought lost wages and benefits, past and future; reinstatement; compensatory, exemplary, and punitive damages; and costs, interest, and attorney’s fees. Settlement was reached between the parties. This case is concluded.

John Haedrich v Joshua Akers, Laura Wolff-Powers, Charlotte Vorms, City University of New York, and University Paris 8. Wayne County Circuit Court (Judge Cathy M. Garrett) (Filed August 29, 2017)

Plaintiff alleged that Defendant Akers, a professor at the University of Michigan–Dearborn, wrote an article accusing Plaintiff and Sussex Immobilier of operating with malicious intent. Plaintiff’s two-count complaint included counts alleging defamation and libel, among other things. Plaintiff sought in excess of \$25,000, special and general damages, together with interest, costs and attorney’s fees. On January 30, 2018, an Order was entered granting all Defendants’ Motions for Summary Disposition for Qualified Governmental Immunity.

William Crosby v University of Michigan. 15th District Court (Judge Joseph Burke) (Filed September 11, 2017)

Plaintiff filed a Small Claims Affidavit and Claim in the 15th District Court. The University removed the matter to the general civil division. The allegations related to an “as is” vehicle sale that occurred at auction on or about June 7, 2017. Plaintiff demanded a full refund and stated that the “vehicle sold at auction should have been salvaged.” On October 25, 2017, Defendant filed a motion to dismiss that was granted on January 5, 2018.

Arseniy Bakhshersyan v. Regents of the University of Michigan, Erik Wessel, E. Royster Harper, Pamela Heatlie, Daniel Ferency, David Baum, Marita Inglehart, and Arlyn Reed. Court of Claims. (Judge Michael Talbot) (Served May 16, 2017)

Plaintiff, a graduate student in the Masters in Business Administration (“MBA”) program sponsored by the Ross School of Business, alleged violations of the Michigan Constitution after he was found to have stalked his former girlfriend when she ended their relationship. Plaintiff was notified of the allegations and given a full and fair opportunity to make his case. Plaintiff was found to have stalked his former girlfriend. Plaintiff appealed in writing. A former federal judge, who serves as the University’s external appellate reviewer, affirmed the stalking finding in writing. Plaintiff nonetheless alleged he was denied his constitutional rights under the University’s disciplinary process. Plaintiff requested mandatory injunctive and declaratory relief, and sought sanctions, costs, and attorney’s fees. On May 26, 2017, Plaintiff filed a verified motion for order

to show cause and for preliminary injunction that was denied. On June 8, 2017, Defendants filed a motion to dismiss. On July 7, 2017, Plaintiff filed an Amended Complaint adding several UM employees as defendants as well as a Title IX claim. In response, Defendants filed a supplemental brief regarding dismissal of the first amended complaint. On July 17, 2017, Plaintiff filed his first renewed motion for preliminary injunctions that was denied on July 21, 2017. Plaintiff also has pending felony criminal charges based on the same pattern of stalking. On October 9, 2017, Judge Talbot granted Defendants' motion to dismiss. Plaintiff filed an untimely motion for reconsideration that was denied. On November 27, 2017, Plaintiff filed a claim of appeal. Defendants-Appellees filed a motion to dismiss Plaintiff-Appellant's appeal for lack of jurisdiction that was granted by the Court of Appeals on December 11, 2017.

Kimberley Urbaniak v. University of Michigan, and York Risk Services Group, Inc. Livingston County Circuit Court. (Judge Reader) (Served October 27, 2017) AND **Kimberley Urbaniak v University of Michigan.** Court of Claims. (Judge Cynthia Stephens) (Filed November 22, 2017)

Plaintiff claimed she was awarded University's Long-Term Disability plan ("LTD") benefits in 2014 then later denied the continuation of LTD benefits in 2017. Plaintiff requested an Order declaring that Defendants be prohibited from terminating her LTD benefits and declare she is permanently disabled. A voluntary Order of dismissal was filed with the Court dismissing the Livingston County Case. Settlement was reached between the parties. This case is concluded.

Respectfully submitted,



Timothy G. Lynch
Vice President & General Counsel

February 2018