

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
May 19, 2006

Subject: Litigation

May 2006

I. NEW CASES

1. Debra Gorney v University of Michigan and Lesli Scott. Washtenaw County Circuit Court. (Hon. Timothy P. Connors) (Filed April 4, 2006).

Plaintiff was employed as a survey specialist at ISR until her termination in October 2004. She claims that she has attention deficit hyperactivity disorder, clinical depression, and a degenerative spinal disease, all of which was disclosed to her supervisors. Gorney alleges that, following those disclosures, her supervisor began to find fault with her performance and put her on a work performance improvement plan. Gorney also alleges that the University failed to accommodate her disability. Plaintiff seeks damages, costs and attorney's fees.

2. Kevin Graves v University of Michigan and Robert Thompson. Washtenaw County Circuit Court. (Hon. David S. Swartz) (Filed April 6, 2006).

Plaintiff claims that, during his employment as a research associate with the University, he was treated differently from his female co-workers, was harassed and retaliated against after he had voiced his concerns about discriminatory treatment. He seeks damages in excess of \$25,000, costs, interest and attorney's fees.

3. McAlpine & Associates v University of Michigan Board of Regents. Oakland County Circuit Court. (Hon. Gene Schnelz) (Filed April 28, 2006).

This is an action for disclosure of records under the Michigan Freedom of Information Act. McAlpine & Associates requested documents pertaining to the construction of the University's Cardiovascular Center. When McAlpine was told that it would cost thousands of dollars to retrieve all of the documents they requested, they filed this lawsuit, claiming that the University is effectively denying the FOIA request. Plaintiff seeks a court order compelling the University to produce the documents, as well as attorneys' fees and costs.

4. Christopher Bell, Karen Brewer and John Doe v Michigamua and Regents of the University of Michigan. Washtenaw County Circuit Court. (Hon. Timothy P. Connors) (Served May 4, 2006).

Plaintiffs are Native Americans and former students and/or employees of the University. They claim that the Michigamua organization and representatives of the University entered into an agreement in 1989 with a former student whereby references and activities based on Native American culture would be eliminated from the Michigamua organization. Plaintiffs allege that Michigamua members continued to engage in prohibited behaviors and that the University failed to monitor Michigamua. Plaintiffs seek certification as a class action, damages, costs and attorneys' fees.

II. RESOLUTIONS

3. Robert Pavlic v University of Michigan and Mariana Kaplan, MD. United States District Court, Eastern District of Michigan. (Judge Victoria A. Roberts) (Filed April 15, 2004).

Plaintiff was a research assistant in the Department of Internal Medicine until his discharge in October 2003. He claims that he reported misappropriation of grand funds and other irregularities by the laboratory director, Dr. Kaplan, and that he was suspended and ultimately discharged by Dr. Kaplan as a result. His allegations include violations of his freedom of speech and of the Whistleblower's Protection Act. He seeks reinstatement, back pay, damages, costs and legal fees. The University filed a motion for summary judgment, which was granted on May 2, 2005. Plaintiff filed an appeal to the Sixth Circuit Court of Appeals; on April 24, 2006 the Court of Appeals affirmed the trial court's dismissal.

4. C. William Kauffman v Regents of the University of Michigan and David Hyland. Washtenaw County Circuit Court. (Judge David Swartz) (Filed October 26, 2000); Michigan Court of Claims (Judge William E. Collette) (Filed November 30, 2000).

Plaintiff is a tenured professor in the Department of Aerospace Engineering at the University. He claims that the chair of the department, David Hyland, appropriated Plaintiff's work on a proposal to create an international aircraft design center without plaintiff's knowledge and without allowing plaintiff to have any involvement in the project. Plaintiff alleges that, because he complained of Hyland's actions to the UM chapter of the American Association of University Professors (AAUP), he has been retaliated against as a whistleblower. He seeks damages, costs, and attorney's fees. The two cases have been consolidated and will be heard before Judge Swartz. The judge granted defendant David Hyland's motion for leave to file a counterclaim against plaintiff. The University filed a motion for partial summary disposition, which was heard on May 14, 2003. The court dismissed Hyland as an individual defendant. Judge Swartz also dismissed the entire Court of Claims complaint and dismissed everything except the Whistleblower claim in the Circuit Court complaint. On October 21, Plaintiff's attorney withdrew and plaintiff had 45 days to retain another attorney. Judge Swartz ruled that, although it appears as though the plaintiff has not retained counsel, the trial will go forward. Plaintiff appealed to the Michigan Court of Appeals, which vacated Judge Swartz' order denying Kauffman's motion for a trial adjournment. Trial was then scheduled for August 23, 2004. Plaintiff voluntarily dismissed his sole remaining claim in the circuit court and appealed Judge Swartz' earlier dismissal of Plaintiff's other claims. On April 26, 2006, the Michigan Court of Appeals upheld the trial court's dismissal.

Respectfully submitted,



Marvin Krislov
Vice President and General Counsel