

THE UNIVERSITY OF MICHIGAN  
REGENTS COMMUNICATION  
ITEM FOR INFORMATION

Subject: Litigation

February 2012

**NEW CASES**

Trucking Specialists, Inc. v Simone Contracting Corporation, LaBelle Electric Services, University of Michigan, Western Surety Company. Washtenaw County Circuit Court. (Judge Archie C. Brown) (Served January 4, 2012).

This lawsuit arises out of a claim by Plaintiff ("TSI") that it has not been paid by a subcontractor (Simone Contracting) for the trucking services it provided on a University electrical duct project. TSI claims breach of contract against Simone in the amount of \$49,478.14 plus interest, as well as claims against Western Surety Company's payment bond for that amount. Plaintiff claims unjust enrichment against the University of Michigan and LaBelle Electric Services. Plaintiff seeks \$49,478.14 plus damages, interest, costs and attorney's fees.

Matthew McDonald v Brazen and Greer Masonry, Inc., O'Neal Construction Inc., Mastclimbers LLC and the University of Michigan. Washtenaw County Circuit Court. (Judge Melinda Morris) AND Matthew McDonald v University of Michigan. Michigan Court of Claims. (Judge Rosemarie E. Aquilina) (Filed January 9, 2012).

Plaintiff claims that he was working for Koch Masonry Inc. and Mastclimbers LLC, subcontractor on the football indoor practice facility in 2008. O'Neal Construction was the general contractor. Mr. McDonald alleges that, while performing masonry work from an elevated work station on the construction site, he stepped on an unsecured and loosely fitted wooden plank on that scaffold, causing him to fall to the ground. He alleges that guard rails and personal fall protection equipment was unavailable and that, as the owner of the premises, the University is liable for compliance with applicable safety standards. Plaintiff claims that he suffered painful and disabling injuries, which have subjected him to pain and suffering, mental anguish, mental depression and humiliation. As a consequence, he claims that he has suffered loss of wages, permanent impairment of wage-earning capacity, and medical expenses. He seeks damages, interest, costs and attorney's fees. The University was dismissed from the Washtenaw County Circuit Court matter and plaintiff re-filed his case against the University in the Michigan Court of Claims.

**RESOLUTIONS**

Carlos Prieskorn v University of Michigan Health System, Bernard Hoeyack, Jr., Diane Rembert, Reshunda Tripplet and Madia Bryant-Johnson. Washtenaw County Circuit Court. (Judge Archie G. Brown) (Served December 22, 2008).

Plaintiff is a former employee of the Department of Pathology in the Health System. He claims that he complained to his supervisor about safety violations that he alleged were occurring in his department and that, following his complaints, he was harassed and threatened by co-workers

Rembert, Triplet and Bryant-Johnson. Plaintiff also alleges that his supervisor Hoeyack terminated his employment in violation of the Michigan Whistleblowers' Protection Act. Plaintiff seeks damages, lost wages, interest, costs and attorney's fees as well as reinstatement to his previous position. Defendants filed a motion for summary disposition, which was granted by Judge Brown on May 14, 2010 and the case was dismissed. The judge also awarded legal fees and costs to the University. Plaintiff filed an appeal to the Michigan Court of Appeals. On January 25, 2012, the Court of Appeals affirmed the trial court's decision to dismiss the case.

### CASE UPDATES

**Senta Reyes v The University of Michigan, Dr. Merle Jaarda, Dr. Patricia Bauer, and Dr. Marilyn Woolfolk**, United States District Court, Eastern District of Michigan. (Judge Nancy G. Edmunds) (Filed December 1, 2011); AND **Senta Reyes v University of Michigan, Merle Jarde, Patricia Bauer, and Marilyn Woolfolk**. Washtenaw County Circuit Court. (Judge Archie C. Brown) (Filed January 25, 2012).

Plaintiff was a Dental School student who was dismissed during the repetition of her second year of studies. Plaintiff alleges: deprivation of her rights to free speech, due process, and equal protection under the U.S. and Michigan Constitutions; racial discrimination; promissory estoppel/detrimental reliance; and, breach of contract. Plaintiff claims she has suffered economic damages (including future lost wages and earning capacity), embarrassment, humiliation, outrage, anxiety, mental anguish, and mental and emotional distress. She seeks damages in excess of \$75,000, plus costs, interest, and attorney fees. Plaintiff filed her state court claims in Washtenaw County Circuit Court. Her counts include violation of the Elliott Larsen Civil Rights Act, violations of due process and equal protection under the Michigan Constitution, promissory estoppel and breach of contract.

**Kimberlyn Malone v James Chulhyun Cho and University of Michigan**. Washtenaw County Circuit Court. (Judge Timothy Connors) (Served September 30, 2011)

Plaintiff claims that on November 24, 2008, a University-owned vehicle driven by Cho struck Plaintiff's vehicle from behind when Cho failed to stop at a traffic light. Plaintiff claims the collision caused her serious and permanent injuries and that Defendant was negligent in the operation of the vehicle. Plaintiff seeks judgment against Defendant in excess of \$25,000, as well as costs, interest, and attorney fees. The University filed a motion for summary disposition, which was granted by Judge Connors on February 2, 2012. The case will continue against the UM employee, defendant Cho.

Respectfully submitted,



Suellen Searnecchia  
Vice President and General Counsel