

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

April 2014

NEW CASES

Young Americans for Liberty at The University of Michigan v Mary Sue Coleman et al. United States District Court, Eastern District of Michigan. (Judge Patrick J. Duggan) (Filed December 20, 2013)

Plaintiff alleges denial of equal access to mandatory student fees for student organizations at the University of Michigan. Plaintiff seeks a declaratory judgment that Defendants' denial of student fee funding and student fee funding policies violated Plaintiff's rights under the First and Fourteenth Amendments. Plaintiff also seeks compensatory damages, punitive damages, attorney's fees, and costs.

Karen McMahon v Regents of the University of Michigan and Marvin Pettway. United States District Court, Eastern District of Michigan. (Judge Gershwin A. Drain) (Filed March 24, 2014)

Plaintiff is a Horticulturalist for the Grounds Department at the University of Michigan. She alleges the University failed to accommodate her disability in violation of the Americans with Disabilities Act, Michigan's Persons with Disabilities Civil Rights Act, and Section 504 of the Rehabilitation Act. Plaintiff seeks damages, costs, interest, and attorney's fees as well as prospective, equitable, and injunctive relief.

Rasheedah N. Gyan-Apenteng v University of Michigan. United States District Court, Eastern District of Michigan. (Judge Gershwin A. Drain) (Filed March 27, 2014)

Plaintiff was a Research Technician for the University's Translational Pathology Department and claims she was a non-exempt employee. Plaintiff alleges that Defendant failed to pay her at one and one-half times her regular rate of pay for hours worked in excess of forty hours per week. Plaintiff brings a claim under the Fair Labor Standards Act of 1938, and seeks damages, costs, interest, and attorney's fees.

CASE UPDATES

Alix Gould-Werth, Christie Toth and Graduate Employees Organization, AFT Michigan, AFT, AFL-CIO, and Regents of the University of Michigan (Plaintiff in Intervention) v Edward Callaghan in his official capacity as Chairman of the Michigan Employment Relations Commission; Christine Derdarian in her official capacity as a member of the Michigan Employment Relations Commission; and Nino Green in his official capacity as a member of the Michigan Employment Relations Commission. United States District Court, Eastern District of Michigan (Judge Mark Goldsmith) (Filed April 17, 2012 and June 8, 2012 [Intervening Complaint])

Plaintiffs alleged that 2012 Public Act 45 violates the equal protection clause of the U.S. Constitution by excluding a group of individuals (graduate student research assistants) from the right to bargain based on job title alone. They further alleged that the Act violates Article IV, Section 24 of the Michigan Constitution by changing the object and purpose of the bill that eventually became 2012 PA 45.

The University of Michigan filed an Intervening Complaint on June 8, 2012, bringing claims under the equal protection clause of the U.S. Constitution and Article IV, Section 24 of the Michigan Constitution. The Intervening Complaint added a claim under the equal protection clause of the Michigan constitution, and a challenge to the immediate effect of 2012 PA 45 under Article IV, Section 24 of the Michigan Constitution. Intervening Plaintiff University asked the Court to issue a permanent injunction declaring 2012 PA 45 in violation of the U.S. and Michigan Constitutions. On January 28, 2013, the parties stipulated to the dismissal without prejudice of Court IV – Immediate Effect Clause – Michigan Constitution, of the University's Intervening Complaint. On April 10, 2013, Defendant MERC filed a Motion for Summary

Judgment. On April 16, 2013, Plaintiff GEO/AFT, and Intervening Plaintiff University of Michigan, both filed Motions for Summary Judgment. Oral argument was heard on June 27, 2013. On February 5, 2014, the Court issued its opinion, invalidating 2012 PA 45 on the basis that it violated Article IV, Section 24 of the Michigan Constitution. The Court did not reach the equal protection argument. On March 21, 2014, the Attorney General, on behalf of the defendants, filed a notice of appeal in the Sixth Circuit.

Polytorx, LLC a Michigan Limited Liability Company v Antoine Naaman, Sherif El-Tawil, Dong Joo Kim, Ju Young Kim, Ji Yong Kim, and Sambo Construction Machine Co., LTD. Washtenaw County Circuit Court. (Judge Carol Kuhnke) (Filed May 13, 2013)

Plaintiff has been a licensee of University patents since June 26, 2003. Plaintiff claims the defendants, a current and former faculty member, have tortiously interfered with plaintiff's business relationships. Plaintiff alleges that defendants engaged in research and activities using the licensed patent rights that were in conflict with the license and collaborating in misappropriation of confidential information and trade secrets that resulted in a patent application being issued in Korea to Sambo Construction. On July 25, 2013, Defendant's filed a Motion for Summary Disposition that was denied on March 3, 2014.

Lindsay Franson, v The Regents of the University of Michigan and Dr. Eugene Chen. Genesee County Circuit Court. (Judge Judith Fullerton) (Served March 25, 2013)

Plaintiff, a former Research Technologist for the Cardiology department in Internal Medicine, alleges she was terminated after reporting violations of laws and regulations concerning the operation of a lab or research facility and after she participated in an investigation by OSHA or hazmat inspectors. Plaintiff's claims include Whistleblower Protection Act violations and Discrimination in violation of the Elliott Larsen Civil Rights Act. Plaintiff claims she has suffered extreme emotional distress and mental anguish, anxiety and embarrassment, worry, humiliation, insulted honor and mortification, damage to her professional reputation, loss of salary, benefits, and future income. She seeks damages in excess of \$25,000, together with interest, costs, and attorney's fees. On February 28, 2014, Defendants filed a Motion for Partial Summary Disposition of plaintiff's whistleblower claim that was denied on March 24, 2014.

CASE RESOLUTIONS

Regents of the University of Michigan, a Michigan constitutional corporation, Ascenta Therapeutics, Inc., a Delaware corporation, and Debiopharm S.A., a Switzerland Societe Anonyme, v Selleck Chemicals LLC, a Texas limited liability company. United States District Court, Eastern District of Michigan (Judge Patrick Duggan) (Filed December 6, 2013).

The University and its licensee believed that Selleck Chemicals infringed U.S. Patent No. 8,278,293. The University asked the Court to order Defendants from infringing, contributing to the infringement of, and inducing infringement of the patent-in-suit. Plaintiffs further asked that Selleck be directed to compensate Plaintiffs for all damages attributed to Selleck's infringement, including, but not limited to, reasonable royalties and lost profits, and be required to account for all gains, profits, advantages, and unjust enrichment derived from its violation of law. Plaintiffs sought damages, interest, costs, and attorney's fees. On March 6, 2014, this case was voluntarily dismissed by all Plaintiffs.

Respectfully submitted,



Timothy G. Lynch
Vice President & General Counsel