

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
May 14, 2009

Subject: Litigation

May 2009

NEW CASES

John F. and Sharon Fowler v Board of Regents of the University of Michigan. Michigan Court of Claims. (Judge James R. Giddings) (Served April 21, 2009).

Plaintiff John Fowler alleges that he was a patient in the hospital and was injured on January 21, 2006 when he sat upon a toilet seat that broke. He claims that he suffered serious, grievous and permanent injuries throughout his entire body. Plaintiff Sharon Fowler claims loss of consortium. Plaintiffs seek damages in excess of \$25,000, together with interest, court costs and attorney fees.

Tammy Strachan v University of Michigan. United States District Court, Eastern District of Michigan. (Judge David M. Lawson) (Filed April 24, 2009).

Plaintiff was employed by the University as a phlebotomist until her discharge on February 18, 2008. She claims that she was discharged in violation of the Family Medical Leave Act when she was terminated shortly after her return from FMLA leave. She also claims that the University discriminated against her in violation of the Americans with Disabilities Act. She seeks damages, lost wages and benefits, costs, interest and attorney fees, as well as reinstatement to her former position.

Henrietta Platt v University of Michigan. United States District Court, Eastern District of Michigan. (Judge Avern Cohn) (Served April 6, 2009).

Ms. Platt claims that she was discriminated against and harassed as an employee based on her race and disability. She also alleges that she was retaliated against after she filed a grievance and was discharged.

Zoreh Panahi-King v University of Michigan. Washtenaw County Circuit Court. (Judge Archie C. Brown) (Filed March 3, 2009).

Plaintiff claims that she was terminated from her employment at the University because of her ethnicity/national origin and in retaliation for having complained of discrimination, in violation of the Elliott Larsen Civil Rights Act. She seeks judgment in excess of \$25,000, interest, costs and fees.

RESOLUTIONS

James Colson v University of Michigan, Kevin Tremper and Ronald Wasserman. Washtenaw County Circuit Court. (Judge Timothy R. Connors) (Filed August 24, 2007). Michigan Court of Claims. (Judge Beverley Nettles Nickerson) (Filed August 23, 2007).

Plaintiff was employed as an Assistant Clinical Professor of Anesthesiology at the University. Dr. Colson claims that he was told about performance issues from time to time but was not given the opportunity to review his file. In October 2005, Plaintiff was informed that his contract would not be renewed after August 31, 2006. Plaintiff's allegations include breach of contract, promissory estoppel, defamation against the named Defendants Tremper and Wasserman and age discrimination. He seeks damages in excess of \$25,000, costs, attorney's fees and reinstatement to his former position. On August 21, 2008, Plaintiff stipulated to dismiss three of his claims against the University: breach of contract, promissory estoppel and discharge in breach of public policy. Defendants' motion for summary disposition was argued before Judge Connors. On December 19, 2008, Judge Connors granted Defendants' motion and dismissed the case in its entirety. Plaintiff has appealed the decision and the defendants filed a motion for costs. Settlement was reached between the parties. Subsequently, plaintiff withdrew his appeal and the University defendants withdrew the motion for costs. This case is concluded.

CASE UPDATES

990 Broadway, LLC v University of Michigan. Washtenaw County Circuit Court. (Judge Donald E. Shelton) (Filed January 26, 2007).

Plaintiff owns a parcel of land in Ann Arbor, commonly known by the same street address, which is bounded by University property on three sides and a public, city sidewalk on the fourth. Plaintiff brought a quiet title action against the University, claiming title to a small parking area to the south and a narrow strip of land to the west of its parcel by adverse possession or, alternatively, prescriptive easement. Cross-motions for summary disposition were filed by both parties and were argued before Judge Shelton on April 8, 2009. The Judge denied plaintiff's motion in its entirety. Judge Shelton granted the University's motion in part and denied it in part. Plaintiff's claims of prescriptive easement and easement by necessity are the two counts that remain unsettled in this case.

Paul Eilers v University of Michigan. Michigan Court of Claims. (Judge Joyce A. Draganchuk) (Filed May 23, 2008).

Plaintiff alleges that, while seeking medical treatment at the Livonia Center for Specialty Care, he slipped and fell on some liquid on the floor, causing a broken hip and other serious injuries. Plaintiff

claims that the University was negligent and seeks damages, interest, court costs and attorney fees. On March 18, 2009, Judge Draganchuk ruled that plaintiff failed to file a proper, timely notice as required by statute and the case was dismissed. Plaintiff filed a claim of appeal to the Michigan Court of Appeals.


Christine McCahan v Samuel Kelly Brennan and The Regents of the University of Michigan. Michigan Court of Claims. (Judge Paula J.M. Manderfield) (Served December 18, 2008). McCahan v University of Michigan and Samuel Kelly Brennan. Washtenaw County Circuit Court. (Judge Archie Brown) (Filed February 6, 2009).

Ms. McCahan claims that a University vehicle driven by a UM student (Brennan) on December 12, 2007 struck her vehicle while making an illegal left turn. She claims the collision caused serious and permanent injuries to her person and that Brennan was negligent in the operation of the vehicle. She seeks judgment against Brennan in excess of \$25,000. She also claims that the University, as the owner of the vehicle, is liable for the injuries she sustained and that the University was negligent in entrusting Brennan to operate its motor vehicle. She also seeks damages, costs, interest and attorneys' fees against the University. Plaintiff dismissed the claims against the UM student and refiled them in Washtenaw County Circuit Court. The two cases have been consolidated and will be heard by Judge Brown in Washtenaw County. On April 30, 2009, Judge Brown, sitting as a Court of Claims judge, granted the University's Motion for Summary Disposition on the grounds of failure to provide proper notice in the Court of Claims. The Washtenaw County Circuit Court case that was filed against the student Brennan is still pending.

Christie L. Sullivan v Regents of the University of Michigan and Frank Rubino. United States District Court, Eastern District of Michigan. (Judge Sean F. Cox) (Filed May 22, 2008). Christie L. Sullivan v Regents of the University of Michigan and William Bess. Michigan Court of Claims. (Judge Joyce Draganchuk) (Filed April 6, 2009).

Plaintiff claims that she was driving her car in Ann Arbor when she was stopped by DPS officer Rubino for having expired license tags. When Officer Rubino subsequently learned that Plaintiff's driver's license was suspended and that there were traffic warrants issued for her arrest, he placed Plaintiff under arrest. Plaintiff claims that Officer Rubino struck her from behind on her neck and head, knocked her to the ground, hit and kicked and fondled her. Plaintiff alleges that her civil rights were violated and that the assault caused extreme pain, humiliation, and fear, among other claims. Plaintiff also claims that Officer Rubino falsely reported that she assaulted him and that those charges were brought against her with malice. She seeks damages in excess of \$75,000. Plaintiff filed a companion case in the Michigan Court of Claims against the University and former DPS Director William Bess.

Respectfully submitted,


Suellyn Scarnecchia
Vice President and General Counsel