

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
June 18, 2009

Subject: Litigation

June 2009

NEW CASES

Alex A. Lemerand v Kevin Sheldon Hartman. Washtenaw County Circuit Court. (Judge Timothy Connors) (Filed May 29, 2009).

Plaintiff claims that on June 19, 2006, he was driving in Ann Arbor when his vehicle was struck from the rear by a University of Michigan vehicle driven by UM employee Kevin Hartman. Mr. Lemerand alleges that Mr. Hartman was negligent by driving at an excessive rate of speed, was unable to stop, and failed to drive with due care and caution, among other violations of the Motor Vehicle Code of the State of Michigan. Plaintiff claims that, as a result of the accident, he has suffered serious and permanent injuries and disfigurements. He seeks damages, costs, attorney's fees and interest.

RESOLUTIONS

Lora Kalkman v Augustine Agho and University of Michigan. Genesee County Circuit Court. (Judge Richard B. Yuille) (Filed March 24, 2008).

Plaintiff was employed at the School of Health Professions and Studies on the Flint Campus. She alleges that she reported violations of rules, regulations and laws and subsequently was harassed, discriminated against and ultimately discharged. Plaintiff claims that she was engaged in protected activities under the Whistleblower Protection Act and that she has suffered damages in excess of \$25,000. She seeks damages, interest, costs and attorney fees. The University filed a motion for summary disposition. Judge Yuille granted the motion in part and dismissed Plaintiff's Whistleblower claims but denied summary disposition on the race and gender claims. Settlement was reached between the parties and the case is concluded.

Mary C. Lee v University of Michigan-Dearborn and Robert L. Simpson. Michigan Court of Claims. (Judge James R. Giddings) (Filed March 13, 2006); removed to United States District Court, Western District of Michigan (Judge Hugh W. Brenneman, Jr.) (April 27, 2006).

Plaintiff is a former student at the Dearborn campus who was expelled from campus for violations of the Code of Student Conduct. She claims that the University's hearing board and code appeals council decisions were improper, that the University has breached its contract with her as a student, and that Dr. Simpson's denial to reconvene the code appeals council violated her due process rights. She seeks a review of the University's expulsion decisions, money damages, costs and

attorney's fees. The case was removed to federal court and the University filed a motion for summary judgment. On September 28, 2007, Judge Brenneman ruled favorably on the University's motion in part, dismissing plaintiff's claims except for the breach of contract claim which was remanded to the Michigan Court of Claims. Plaintiff filed a notice of appeal to the Sixth Circuit Court of Appeals on the dismissal of her constitutional claims and her claim under the Michigan Administrative Procedures Act. On March 7, 2008 Judge Giddings granted the University's motion for summary disposition on plaintiff's breach of contract claim. Plaintiff appealed that decision to the Sixth Circuit Court of Appeals; that court affirmed the trial court's dismissal on August 12, 2008. Plaintiff also appealed Judge Giddings' ruling on her breach of contract claim. On May 12, 2009, the Court of Appeals affirmed the trial court's dismissal.

Mohammed Nawwas and Mysa Nawwas v Steven L. Sinelli. Washtenaw County Circuit Court. (Judge David S. Swartz) (Filed April 2, 2008).

Plaintiff Mohammed Nawwas purchased a piece of equipment from the University's Property Disposition Office. On January 4, 2007, plaintiff claims that an employee of the Property Disposition Office, at the direction of supervisor Steven Sinelli, was operating a hi-lo vehicle in order to load the equipment onto Plaintiff's truck when the equipment fell off the hi-lo vehicle and injured Plaintiff's arm. Plaintiff alleges that Sinelli's conduct was negligent and that, as a result, Plaintiff Mohammed Nawwas was severely injured. Plaintiffs seek damages in excess of \$25,000, as well as attorney's fees, costs and interest. On May 6, 2009, Judge Swartz granted the Defendants' motions for summary disposition, holding that operation of Property Disposition was not a proprietary function and therefore the University had governmental immunity. Judge Swartz also ruled that Defendant Sinelli's actions were not gross negligence.

CASE UPDATES

Keith Yohn v Coleman, Sullivan, Polverini, Krebsbach, Bernitsas and Snyder. United States District Court, Eastern District of Michigan. (Judge Gerald E. Rosen) (Filed January 2, 2008).

Plaintiff claims that University administrators, including President Coleman, Provost Sullivan, Dean Polverini, and Professors Krebsbach, Bernitsas and Snyder, have infringed on his free speech rights to mass mail email messages to the faculty to speak out. He claims he has also been deprived of his due process rights by refusing to grant him the right to a fair and impartial grievance review board (which was chaired by Professor Bernitsas) to address his grievance. Also, he claims that Dean Polverini filed a false report to the Department of Public Safety in order to embarrass, retaliate and intimidate him. He claims that Department Chair Krebsbach has made false accusations against him. His claims against Clinical Assistant Professor Snyder allege gross negligence to perform teaching duties for personal gain. Dr. Yohn seeks over \$1 million in damages. The University filed a motion for summary judgment on behalf of all defendants; that

motion was granted by the court and the case was dismissed in its entirety. Plaintiff filed an appeal to the U.S. Court of Appeals on May 26, 2008.

Respectfully submitted,

A handwritten signature in cursive script, reading "Suelyn Scarnecchia", written over a horizontal line.

Suelyn Scarnecchia
Vice President and General Counsel

June 2009