

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
September 16, 2010

Subject: Litigation

September 2010

NEW CASES

Jeff Hobbs v Shingobee Builders, Clark Construction Company, John E. Green Company, the Odawa Casino Resort, University of Michigan Kellogg Eye Center and Gilbane Building Company. Emmet County Circuit Court. (Served July 6, 2010).

Plaintiff was employed as a carpenter working on a project at the Odawa Casino Resort in Emmet County. He claims that, on July 6, 2007 he was severely injured when he tripped on some debris left on the floor of the project. He alleges that the Casino, the contractor and the subcontractor on that job were negligent. He also claims that he was re-injured on January 12, 2009, while working on the Kellogg Eye Center project when he slipped and fell on an accumulation of ice/snow as he was descending stairs. He alleges that the University and the general contractor Gilbane Building were negligent, causing his accident. Hobbs claims that he has sustained severe, permanent and irreversible injuries to his back and extremities, loss of wages, medical expenses, etc., and seeks damages in excess of \$25,000.

Grand Blanc Cement Products, Inc. v Humane Society of Huron Valley, Regents of the University of Michigan, and Hartford Accident and Indemnity Co. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed August 18, 2010).

Plaintiff was a subcontractor to Phoenix Contractors on a construction project for the Humane Society and claims that the University is a co-owner of the property. Grand Blanc Cement alleges that it has not been paid for the materials it provided to the project. Plaintiff seeks \$74,532.62 plus costs, interest and attorney fees.

Sherman Wilson v University of Michigan. Washtenaw County Circuit Court. (Judge Melinda Morris) (Served July 8, 2010).

Plaintiff alleges that, on April 27, 2007, he sustained injuries from falling down some stairs on University property. He claims that the steps were deteriorated and collapsed, and that he sustained serious and disabling injuries as a result of the fall. Mr. Wilson seeks damages, costs and attorney's fees. The University filed a motion to dismiss the complaint.

RESOLUTIONS

Angela Pantazatos v Regents of the University of Michigan. United States District Court, Eastern District of Michigan. (Filed September 11, 2008); re-filed Washtenaw County Circuit Court (October 28, 2008) (Judge Melinda Morris).

Plaintiff was employed by the University as an architect until her retirement in 2007. She claims in her lawsuit that she was discriminated against because of her age and retaliated against for having previously filed a grievance against her supervisor alleging gender, age and national origin discrimination. Ms. Pantazatos claims that, because of the continuing discrimination, she had no alternative than to submit her request for retirement. Her allegations include violations of the Elliott Larsen Civil Rights Act and she seeks compensation, costs, interest and attorney's fees. Plaintiff dismissed her federal case and re-filed her complaint in state court, claiming discrimination and retaliation. The University filed a motion for summary judgment. The case went to case evaluation and both parties accepted the case evaluation award. The case is concluded.

Alex A. Lemerand v Kevin Sheldon Hartman. Washtenaw County Circuit Court. (Judge Timothy Connors) (Filed May 29, 2009); **Alex Lemerand v Regents of the University of Michigan.** Michigan Court of Claims. (Filed June 1, 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. Plaintiff filed a companion case in the Michigan Court of Claims against the University of Michigan, which was consolidated with the Washtenaw County case pending before Judge Connors. On May 27, 2010, Judge Connors granted the University's motion for summary disposition based upon plaintiff's failure to comply with the notice requirement of the Court of Claims. On August 5, 2010, the judge granted the motion for summary disposition for the individual defendant Kevin Hartman, concluding the case.

State Farm Mutual Automobile Insurance Company Subrogee of Caren E. Gorga v Board of Regents of the University of Michigan. Michigan Court of Claims. (Judge James R. Giddings) (Filed June 21, 2010).

Plaintiff claims that the driver of a Bobcat Sweepster, who is a University of Michigan employee, backed the Bobcat into the vehicle owned by Caren Gorga while Ms. Gorga was driving in the University's parking lot on Glacier Way. The alleged damage to Ms. Gorga's vehicle, which was insured by State Farm, totaled \$1675.61. State Farm claims that the University, as the employer of the Bobcat driver, is liable for the driver's negligence. State Farm seeks judgment in the amount of \$1675.61 plus interest, costs, and attorney fees. The University filed a motion to dismiss based

upon no notice as required by the Court of Claims; after review, Plaintiff stipulated to a dismissal with prejudice and the case is concluded.

Stephen Tripodi v Regents of the University of Michigan. Genesee County Circuit Court. (Judge Richard Yuille) (Served September 15, 2009).

Plaintiff claims that the University's Flint Campus denied him access to all of the University's student services, benefits and programs while he was a student in the fall of 2007, based on his gender. He claims that he has suffered depression, humiliation, and loss of reputation. He seeks damages in excess of \$40 million. The University filed a motion for summary disposition, which was granted by the judge.

CASE UPDATES

Peter J. Hammer v Board of Regents of the University of Michigan. Michigan Court of Claims. (Judge James R. Giddings) (Served January 6, 2005).

Plaintiff is a former Assistant Professor at the Law School who was denied tenure in 2002. He alleges that he did not receive tenure because of his sexual orientation, claiming that he relied on the University's promises that he would not be discriminated against based upon his sexual orientation. Mr. Hammer also alleges that he was not given notice of non-reappointment consistent with the Standard Practice Guide and that because he had an academic appointment for a full eight years, he is entitled to *de facto* tenure pursuant to Regents Bylaw 5.09. Mr. Hammer seeks judgment in excess of \$25,000. The University filed a motion for summary disposition and a motion to dismiss, both of which were denied by Judge Giddings. The University filed an interlocutory appeal to the Michigan Court of Appeals. On January 25, 2007, the Court of Appeals vacated the orders of the Court of Claims and ordered Judge Giddings to reconsider the plaintiff's affidavits consistent with the court rules. The University and plaintiff filed motions and cross-motions for summary disposition; at oral argument in March 2008, the Court stated that it was denying the motions filed by both sides as to the claim of *de facto* tenure and took under advisement the University's motion to dismiss the discrimination claim. In December 2008, and again in November 2009, the Court of Claims granted plaintiff's request to reopen discovery for the purpose of taking additional deposition testimony. The Court of Claims heard additional oral argument on December 11, 2009, on the University's request for the dismissal of Hammer's claim of sexual orientation discrimination. On August 27, 2010, Judge Giddings dismissed Plaintiff's sexual orientation discrimination claim; the claim of *de facto* tenure will proceed to trial.

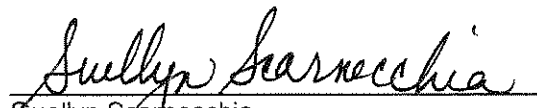
Carlos Prieskorn v University of Michigan Health System, Bernard Hoeyack, Jr., Diane Rembert, Reshunda Tripplet and Madia Bryant-Johnson. Washtenaw County Circuit Court. (Judge Archie G. Brown) (Served December 22, 2008).

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. Plaintiff filed an appeal to the Michigan Court of Appeals.

Nicole R. Scott v Dr. David Lilley and the University of Michigan. Wayne County Circuit Court.
(Judge Robert J. Colombo, Jr.) (Served May 17, 2010).

Plaintiff is a student at UM-Dearborn. She claims that she had filed complaints in the Dean's Office in the College of Arts, Sciences and Letters about a grade she had received on a paper from Professor Lilley. Ms. Scott alleges that, after her complaints were filed, Professor Lilley ran a criminal background check and credit report on her and communicated that personal information via email to other faculty and staff at the University. Plaintiff claims that, as a result, her reputation at UM-Dearborn has been ruined. Her allegations include defamation and intentional infliction of emotional distress; she seeks damages, costs and interest. Plaintiff stipulated to the entry of an order of dismissal of this case in circuit court for lack of jurisdiction. Plaintiff filed a Notice of Intent to re-file her complaint in the Michigan Court of Claims.

Respectfully submitted,


Suellen Scarnecchia
Vice President and General Counsel

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