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THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

September 2015

NEW CASES

April Opper Davis v Board of Regents of the University of Michigan. Court of Claims (Judge Deborah Servitto) (Served April 22, 2015)

Plaintiff complains that, after she paid a non-refundable deposit in the amount of \$2,000 for a seat in the MBA program at the University's Ross Business School, she was denied a refund when she accepted admission at another institution. Plaintiff seeks compensatory damages in the amount of \$2,000, together with costs, and attorney's fees. On July 23, 2015, Defendant filed a motion for summary disposition.

The World Leadership Program Institute, a District of Columbia not for profit organization v Mark Tessler, Sherman Jackson, Nancy Burns, and David Howell. Washtenaw County Circuit Court (Judge David Swartz) (Filed June 30, 2015)

Plaintiff, The World Leadership Program, has filed a claim in state court alleging that defendants wrongfully obtained, handled, and then terminated a grant from the United Arab Emirates that would otherwise have funded its activities. Plaintiff claims breach of contract, fraud, unjust enrichment, and promissory estoppel. Plaintiff seeks damages in excess of \$25,000, punitive damages, costs, interest, and attorney's fees. Plaintiff filed a similar complaint in federal court against these same named defendants as well as The Board of Regents of The University of Michigan, The Center for Political Studies, and The Institute for Social Research. That case was dismissed by the court in April 2015.

United States of America v. The University of Michigan. United States District Court, Easter District of Michigan (Judge Bernard A. Friedman) (Filed July 22, 2015)

Plaintiff filed a lawsuit against the University to enforce the statutory and regulatory provisions of Title I of the Americans with Disabilities Act (ADA). On June 7, 2010, employee Alissa Weber filed a charge of discrimination with the Equal Employment Opportunity Commission (EEOC) alleging that Defendant discriminated against her in violation of the ADA by denying her a reasonable accommodation. The DOJ and the University settled the matter by entering into a consent decree prior to the filing of this lawsuit. The DOJ filed this lawsuit as a formality so the consent decree could be enforced as a court order. The consent decree was entered on August, 3, 2015, and the case was closed.

In the Matter of Brian J. Nettleman Revocable Trust Agreement, May 28, 2010. Superior Court of California, County of Santa Clara

The University filed a Petition for an Accounting to determine whether there are sufficient Trust assets to pay the \$50,000 specific bequest to the School of Dentistry.

Eve Cadotte v. The University of Michigan-Flint. Genesee County Circuit Court. (Judge Judith Fullerton) (Served August 31, 2015)

Following a collection action for unpaid tuition, a former U-M Flint student has sued the University for damages and injunctive relief in the Circuit Court for Genesee County, claiming that the University's failure to comply with the Michigan Indian Tuition Waiver law to cover her tuition discriminates against her on the basis of race or national origin. Plaintiff's claims include violation of the Michigan Indian Tuition waiver law as well as the Elliot Larsen Civil Rights Act. Plaintiff also seeks costs and attorney's fees.

CASE UPDATES

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, a Horticulturalist for the Grounds Department at the University of Michigan, 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. On July 6, 2015, Defendants filed a motion for summary judgement.

Eugene D. Daneshvar v Daryl R. Kipke, and NeuroNexus Technologies, Inc. Washtenaw County Circuit Court (Judge Archie Brown) (Filed June 6, 2013)

Plaintiff, a doctoral candidate at the University of Michigan, College of Engineering, alleges that, after disclosing his inventions to defendant Daryl Kipke, plaintiff's faculty advisor, Defendants used Plaintiff's inventions for their own benefit. His three-count complaint alleges fraud, breach of fiduciary duty, and unjust enrichment, and seeks exemplary damages, and costs. The lawsuit was filed in Washtenaw Circuit Court, but, on July 18, 2013, defendant NeuroNexus removed it to the Eastern District of Michigan. NeuroNexus filed an answer on July 18, 2013 on behalf of both Defendants, denying all liability and filing counterclaims for (a) a declaration of non-inventorship of Plaintiff, and (b) defamation of defendant Kipke. On November 19, 2014, the Court ordered Plaintiff to show cause why his Complaint should not be dismissed for lack of prosecution. On December 1, 2014, the Court lifted the stay of litigation, and discovery will resume. On January 23, 2015, Defendants filed a motion for partial judgment on the pleadings that was granted and denied in part. On July 13, 2015, Defendants filed a motion for summary judgment.

Joseph Campinha-Bacote d/b/a Transcultural C.A.R.E. Associates v. Regents of the University of Michigan and Jane Does 1-5 in their individual and official capacity. United States District Court, Eastern District of Michigan (Judge Michael R. Barrett) (Filed May 18, 2015)

Plaintiff, a sole proprietorship registered under the laws of Ohio, claims copyright infringement and alleges that Defendants reproduced, copied, and published her model of cultural competency, "Cultural Competency in Health Care Delivery: Have I 'ASKED' Myself the Right Questions?", without permission. Plaintiff requests that Defendants be enjoined from reproducing, administering, using or distributing her copyrighted works. Plaintiff further seeks statutory damages, costs, and attorney's fees. On July, 23, 2015, Defendants filed a motion to dismiss.

Gregory Herring v University of Michigan Police Officer Milot Goci, University of Michigan Police Officer Bryant, University of Michigan Police Officer Push, University of Michigan Police Sergeant Conners, in their individual capacities, jointly and severally. United States District Court, Eastern District of Michigan (Judge Patrick J. Duggan) (Filed October 22, 2014)

Plaintiff alleges that, on October 22, 2012, defendants used excessive force when they arrested him. He claims that these alleged acts deprived him of his rights under the United States Constitution, constituted assault and battery, and created an independent claim for excessive force. Plaintiff claims he suffered embarrassment, humiliation, distress, and debilitating injuries and seeks exemplary and punitive damages, plus interest, costs, and attorney's fees. Two of the named Defendants have been dismissed. Trial is set to begin on September 14, 2015 for the remaining two Defendants.

CASE RESOLUTIONS

ITrainer Gold Limited and the Regents of the University of Michigan v. Swingbyte, Inc. United States District Court for the Northern District of Ohio, Western Division (Judge Jack Zouhary) (Filed May 27, 2014)

Our licensee, iTrainer, filed suit against Swingbyte alleging patent infringement of the patents licensed exclusively from the University. Settlement has been reached between the parties. This case is concluded.

Bin Kang, Ph.D. v. The Regents of the University of Michigan. Washtenaw County Circuit Court (Judge Carol Kuhnke) (Filed May 14, 2013)

Plaintiff, a former postdoctoral fellow at the University's Department of Biology (now known as the Department of Molecular, Cellular and Developmental Biology), alleged that the University failed to credit him on various research publications. His four-count complaint included claims for breach of contract, fraud, misrepresentation, and retaliation. Plaintiff sought compensatory damages. Defendant filed a motion for summary disposition on July 16, 2013, that was granted by Judge Kuhnke on August 28, 2013. On January 22, 2015, the Michigan Court of Appeals affirmed the trial court's ruling granting defendant's motion for summary disposition. On February 9, 2015, Plaintiff filed a motion for reconsideration that was denied. On March 25, 2015, Plaintiff filed an application for leave to the Michigan Supreme Court that was denied on July 28, 2015.

Michael Dwayne Thomas v University of Michigan, Lynn Noder-Love, Detective Ryan Cavanaugh, Deputy Scott Heddle, and Deputy William Coggins. United States District Court, Eastern District of Michigan (Judge Bernard Friedman) (Filed June 28, 2013)

Plaintiff alleged he was falsely arrested on June 27, 2011 by Defendants Heddle and Coggins, and later arraigned on charges of assault with intent to do great bodily harm, charges that, he claims, were later dismissed. His complaint included counts alleging gross negligence, intentional infliction of emotional distress, and violation of 42 U.S.C. 1983 as to all defendants; false arrest and false imprisonment as to defendants Cavanaugh, Heddle and Coggins; constitutional deprivation: individual law enforcement officer as to defendants Cavanaugh, Heddle and Coggins; constitutional deprivation: municipal/supervisory liability as to defendant University of Michigan; and malicious prosecution as to defendants Cavanaugh and Noder-Love. On August 19, 2013, Defendants filed a motion to dismiss that was granted on October 2, 2013. On November 5, 2013, Plaintiff filed a notice of appeal. On July 17, 2015, the Sixth Circuit Court of Appeals affirmed the dismissal of Plaintiff's case.

Megan Bayagich v Board of Regents of the University of Michigan. Court of Claims (Judge Mark Boonstra) (Filed May 4, 2015) AND **Megan Bayagich** v. Alyssa McCullough. Washtenaw County Circuit Court (Judge Timothy Connors) (Filed May 1, 2015)

Plaintiff, a University of Michigan student, alleged she sustained serious injuries when she fell from a University of Michigan bus. Plaintiff alleged she was ejected through a rear door when it opened without notice while the vehicle was in motion. Plaintiff claimed Defendants failed to engage safety devices, and that the bus was overcrowded. The driver of the bus has also been sued, alleging gross negligence. Defendants filed a motion for summary disposition that was granted on June 22, 2015. Plaintiff filed a motion for reconsideration that was denied on July 14, 2015.

Joseph Dean Vigil v Regents of the University of Michigan, Edie Goldenberg, Christina Whitman and Anna Kirkland. United States District Court, Eastern District of Michigan (Judge Patrick J. Duggan) (Served January 3, 2011)

This dispute arises from Plaintiff's dismissal for unsatisfactory academic progress from the doctoral program in the Department of Political Science in the College of Literature, Science and the Arts in fall 2007, after spending sixteen years in the doctoral program. On September 30, 2013, the District Court

granted Defendants' motion for summary judgment, and issued an amended judgment dismissing all of Plaintiff's claims with prejudice. On November 1, 2013, Plaintiff filed an appeal to the Sixth Circuit Court of Appeals. Oral Argument before the Sixth Circuit Court of Appeals was heard on May 1, 2015. On July 7, 2015, the Sixth Circuit Court of Appeals affirmed the district court's granting of Defendants' motion for summary judgment.

Gale Glover v University of Michigan – Flint. United States District Court, Eastern District of Michigan (Judge Marianne O. Battani) (Served February 12, 2015)

Plaintiff is an Administrative Assistant Intermediate in the College of Arts and Sciences at the University of Michigan-Flint. Plaintiff alleged that, when she was a temporary Student Services Assistant for the University of Michigan-Flint Admissions Office, she suffered harassment and race discrimination. Plaintiff's claims included harassment, oppression, and emotional distress. Settlement was reached between the parties. This case is concluded.

Respectfully submitted,



Timothy G. Lynch
Vice President and General Counsel

September 2015