

Received by the
Regents
October 16, 2014

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

October 2014

NEW CASES

Gerald Steiner v. Regents of the University of Michigan and Robert Neumann. Washtenaw County Circuit Court (Judge Timothy Connors) (Filed August 21, 2014)

Plaintiff is a police officer for the University of Michigan Police Department. He alleges he was denied a promotion and then subsequently demoted from a Police Sergeant to a Police Officer after he complained of the department's use of outdated and unsafe body armor. Plaintiff seeks economic and noneconomic damages, costs, interest, and attorney's fees.

Kimberly Rodriguez v Board of Regents of the University of Michigan, The University of Michigan, and Cathy Kendrick, individually. Washtenaw County Circuit Court (Judge Timothy Connors) (Filed September 5, 2014)

Plaintiff was a registered nurse with the University of Michigan Hospital. She alleges she was discharged from her position after she allegedly became aware and reported that another nurse improperly disposed of a controlled drug. Plaintiff's claims include violations of the Michigan Whistleblower's Protection Act and race discrimination. She seeks damages, costs, interest, and attorney's fees.

Regents of the University of Michigan v Sabri Dental Enterprises, Inc. an Illinois Corporation. In the 15th District Court, Ann Arbor (Judge Joseph Burke) (Filed September 25, 2014)

Sabri Dental Enterprises entered into a contract with University of Michigan Department of Chemical Engineering to construct a polymer shrinkage testometer (a machine used to test dental products). Defendant failed to build and deliver the product to the University on time; therefore, the University filed suit seeking a refund of the deposit paid (half of the purchase price). The University seeks \$10,250, plus interest, costs, and attorney's fees.

Roberta Proft v The Board of Regents of the University of Michigan. Court of Claims (Judge Deborah Servitto) (Served September 23, 2014)

Plaintiff Roberta Proft brings a breach of contract claim against the University out of an alleged denial of her Long Term Disability benefits. She seeks past due benefits, reinstatement of her eligibility for ongoing benefits, together with interest, costs, and attorney's fees.

Michigan Nurses Association and University of Michigan Professional Nurse Council v Regents of the University of Michigan. Court of Claims (Judge Pat Donofrio) (Filed September 9, 2014)

Plaintiffs filed a Complaint for Injunctive Relief in Aid of Contractual Arbitration Proceedings seeking to enjoin the University from changing the work assignment of a Certified Registered Nurse Anesthetist pending the outcome of a labor arbitration under the collective bargaining agreement. A temporary restraining order was granted on September 30, 2014, and a show-cause hearing will be held on the Preliminary Injunction on October 8, 2014.

Jesse R. Enjaian v University of Michigan President Mark S. Schlissel, Bernard C. Mundt II, Jose A. Dorta, and Renee J.S. Schomp. United States District Court, Eastern District of Michigan (Judge Linda V. Parker) (Filed August 25, 2014)

Plaintiff alleges that pursuant to an unlawful search warrant, the University of Michigan Police Department Officers seized his electronic equipment from his residence in connection with an alleged charge of criminal stalking, and did not return the property for 446 days. Plaintiff further claims that Defendant Schomp made false allegations about him to University officials. Plaintiff's Complaint includes claims of violations of the U.S. Constitution, Michigan Constitution, and defamation. Plaintiff asks the Court to order Defendants Schlissel, Mundt, and Dorta to destroy all copies of evidence seized from their alleged illegal search and seizure of his property. Plaintiff further seeks actual, nominal, and punitive damages, costs, and attorney's fees.

CASE UPDATES

Mark Wawrzaszek et al v Paul Guttman, in his official capacity. United States District Court, Eastern District of Michigan (Judge Julian Abele Cooke) (Filed June 13, 2013)

Plaintiff is a construction services employee at the University and a member of the Skilled Trades Union. Plaintiff alleges that he regularly works more than 40 hours a week because of Defendant's policy mandating that he arrive at his work location at the beginning of his work shift. Plaintiff also alleges he is required to arrive at his work vehicle as much as 15 minutes prior to his 7:00 a.m. start time to arrive on time to his various work locations, causing him to work overtime transporting university vehicles to and from his job assignments. Plaintiff claims he is not paid for this alleged overtime. His one-count complaint alleges violations of the Fair Labor Standards Act. Plaintiff seeks an injunction and also seeks fees and costs. On September 4, 2013, Plaintiff served Defendants with an Amended Complaint adding additional Plaintiffs. Both Plaintiff and Defendant have filed cross-motions for summary judgment.

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. Defendants filed another Partial Motion for Summary Disposition that was denied on September 22, 2014.

Bin Kang, PhD. 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), alleges that the University failed to credit him on various research publications. His four-count complaint includes claims for breach of contract, fraud, misrepresentation, and retaliation. Plaintiff seeks compensatory damages. Defendant filed a Motion for Summary Disposition on July 16, 2013, that was granted by Judge Kuhnke on August 28, 2013. On September 18, 2013, Plaintiff filed an appeal to the Sixth Circuit Court of Appeals that was dismissed for

lack of prosecution. Plaintiff requested his appeal be reinstated. This request was granted on September 8, 2014.

CASE RESOLUTIONS

Dawn Foster v Regents of the University of Michigan and Kristie Beckon. Washtenaw County Circuit Court (Judge David Swartz) (Filed January 31, 2014)

Plaintiff, Dawn Foster, was an Accountant for the University of Michigan's Sponsored Programs, and claims she was terminated from her position because of her age. Plaintiff alleged she had suffered economic damages as well as embarrassment, humiliation, outrage, pain and suffering, and mental and emotional distress. Plaintiff sought a minimum of \$25,000, exemplary damages, costs, interest, and attorney's fees. Settlement was reached between the parties. This case is concluded.

Hussein Berry v Board of Regents of the University of Michigan. United States District Court, Eastern District of Michigan (Judge Arthur J. Tarnow) (Served May 20, 2014)

Plaintiff claimed he was unlawfully denied in-state tuition at the University of Michigan-Dearborn. Plaintiff's Complaint stated that he brought this action on behalf of himself and all those similarly situated, and alleged violations of equal protection, due process, and unjust enrichment. Plaintiff sought a refund of tuition, statutory damages, actual damages resulting from defendant's unjust enrichment, future in-state tuition pricing, costs, expenses, and attorney's fees. Plaintiff also asked the court to direct Defendant to divulge the cases of students who have been reviewed for residency eligibility and denied in-state tuition. On June 10, 2014, Defendants filed a Motion to Dismiss that was granted on September 11, 2014.

Niles Industrial Coatings LLC v The Regents of the University of Michigan. Court of Claims (Judge Amy Roynayne Krause) (Filed May 12, 2014)

Plaintiff, Niles Industrial Coatings LLC, was contracted to paint the bowl of Michigan Football Stadium over the summer of 2013. At the conclusion of the project, Plaintiff claimed additional work elements, and additional payments of over \$1.8M. The four-count complaint included claims for breach of contract, declaratory relief, unjust enrichment, and quantum meruit. Plaintiff sought economic damages, interest, costs, and attorney's fees. Settlement was reached between the parties. This case is concluded.

Respectfully submitted,



Timothy G. Lynch
Vice President & General Counsel

October 2014