

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
December 18, 2008

Subject: Litigation

December 2008

NEW CASES

Linda Martinson v Lee K. Roosevelt, Joanne Motino Bailey, Kathy Dunnuck. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed October 31, 2008). AND Linda Martinson v Jodi Danhof, Sarah Choinard, Erin Flatley and Catherine Scott. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed November 7, 2008).

Plaintiff was enrolled in the School of Nursing. She claims that her classmates (the named defendants) made defamatory statements to third parties regarding Plaintiff, and that School of Nursing administrators relied upon those false statements to support her expulsion from the program. Ms. Martinson's claims include defamation and intentional infliction of emotional distress against each of the defendants. She seeks damages in excess of \$25,000 plus costs and interest.

Michelle Delynn Popovich and Erika D. Popovich v Joseph Merignac, Stacey Merignac, Village of Bellevue, Michigan, and the Board of Regents of the University of Michigan. Eaton County Circuit Court. (Judge Thoms S. Eveland) (Filed November 12, 2008).

Plaintiff Michelle Popovich claims that Bellevue Police Officer Joseph Merignac conducted a traffic stop on a vehicle driven by her without probable cause, detained her, and subsequently arrested her for operating while intoxicated. Plaintiff claims that Joseph Merignac called Stacey Merignac, a University employee, while he had Michelle Popovich in custody, and that Stacey Merignac accessed Plaintiff's medical records improperly and disclosed Plaintiff Erika Popovich's medical information to Officer Merignac. Plaintiff was subsequently convicted of operating under the influence. Ms. Popovich's conviction was later set aside and the charge against her dismissed upon motion of the Eaton County Prosecutor. Plaintiff Erika Popovich's claim against the University includes unauthorized disclosure of her personal information by University employee Stacey Merignac in violation of statutory and common-law rights.

RESOLUTIONS

Carolyn Cook v University of Michigan. Michigan Court of Claims. (Judge James R. Giddings) (Filed September 25, 2007).

Ms. Cook states that she was walking across the University of Michigan Golf Course from the Michigan Stadium after a football game when her hand was struck by a golf cart driven by a Park-Rite employee. Park-Rite is a vendor that parks cars for football patrons and then shuttles them to and from the Stadium in golf carts. Plaintiff claims that the collision caused serious injuries and that

the University is liable for the negligent actions of its agents. Plaintiff seeks damages, costs, interest and attorney's fees. The University filed a motion for summary disposition. Subsequently, Plaintiff voluntarily dismissed the case against the University.

Sandra Jackson v Regents of the University of Michigan. United States District Court, Eastern District of Michigan. (Judge Nancy G. Edmunds) (Filed March 4, 2008).

Plaintiff worked as an administrative assistant in the Emergency Medicine Department and was assigned to work with the ER physicians at Hurley Medical Center in Flint. She claims that, following her return from an FMLA leave of absence, she was wrongfully accused of misconduct and falsification of payroll records and her employment was terminated. Ms. Jackson claims that she was retaliated against for taking the FMLA leave. She seeks damages, costs, interest and attorney's fees. Settlement was reached between the parties and the case is concluded.

Jessica F. Jackson v Board of Regents of the University of Michigan. Michigan Court of Claims. (Judge James R. Giddings) (Filed October 8, 2007); Jessica F. Jackson v Michael Borts. Washtenaw County Circuit Court. (Judge David S. Swartz) (Filed October 11, 2007).

Ms. Jackson claims that a University of Michigan bus, driven by Defendant Michael Borts, rear-ended and struck her car, causing her severe bodily injuries, emotional damage, pain and suffering. She claims that the accident was caused by the bus driver's negligence and that the University failed to keep the vehicle in good working order. She seeks damages in excess of \$25,000 as well as costs, interest and attorney's fees. The University filed a motion for summary disposition in the Court of Claims case, which was granted by the judge. In the Washtenaw County Circuit Court case against Michael Borts individually, Judge Swartz granted our motion for summary disposition for the reason that there was no gross negligence by Mr. Borts. This now disposes of all claims in the case and it is closed.

CASE UPDATES

Linda J. Kleinschmidt v Regents of the University of Michigan and Ronald Williams. Washtenaw County Circuit Court. (Judge David S. Swartz) (Filed January 24, 2007); Michigan Court of Claims (Judge James R. Giddings) (Filed June 10, 2008).

Plaintiff alleges that, while driving in Ann Arbor, a University bus failed to stop and struck her car from the rear. Ms. Kleinschmidt claims that she suffered and continues to suffer severe injuries. Plaintiff claims both the University and bus driver Williams were negligent and seeks damages, costs, attorney's fees and interest. The University was dismissed from the Washtenaw County Circuit Court case; Plaintiff has refiled against the University in the Michigan Court of Claims. The Defendants filed a motion for summary disposition based on failure to provide proper notice as required by statute. On October 15, 2008, Judge Swartz granted the motion; he also dismissed the

driver of the bus who had been sued personally, finding that no reasonable jury could find that the bus driver's action constituted gross negligence and thus the only means of recovery against the driver failed. Kleinschmidt filed a claims of appeal to the Michigan Court of Appeals.

Alissa Zwick v Regents of the University of Michigan, Marilyn Lantz, Wilhelm Piskorowski, Mark Snyder and Fred Burgett. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed May 12, 2006). Michigan Court of Claims. (Judge James R. Giddings) (Filed May 12, 2006). U.S. District Court, Eastern District of Michigan. (Judge Marianne Battani).

Plaintiff is a former Dental School student who was dismissed in her third year of studies. She claims that she was targeted by the Dental School administration and the named defendants for reasons unrelated to her academic studies. Her allegations include violations of her free speech, due process, breach of contract, and defamation. She seeks damages in excess of \$25,000, reinstatement as a Dental School student, interest, costs and attorney's fees. The two cases have been removed to federal court and consolidated in front of Judge Battani. The University filed a motion for summary judgment; on April 28, 2008, the court dismissed all of the claims except Plaintiff's due process claims. The case went to trial before a jury in the Federal court. On December 2, 2008, the jury found for the plaintiff and awarded her \$220,000 in economic damages, \$500,000 in non-economic damages, and \$1 million in punitive damages. The University is considering its post-trial options, including appeal.

Respectfully submitted,



Suellyn Scarnecchia
Vice President and General Counsel

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