

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
December 15, 2011

Subject: Litigation

December 2011

NEW CASES

In the Matter of the Estate of Ruth Youngblood. San Mateo County (California) Superior Court. (Filed November 14, 2011).

Ruth Youngblood died in July 2011, and a Purported Will of April 13, 2011 has been offered for probate. Ms. Youngblood's niece, Amanda Holmen, has contested the Purported Will on grounds that include undue influence, fraud, mistake and revocation. The University of Michigan and Rutgers University have joined Ms. Holmen in her amended will contest and grounds for objections to the Purported Will. If the Purported Will is not admitted to probate, both universities will receive substantially larger shares of Ms. Youngblood's estate, having a total value of approximately \$1.6 million, under her Last Will and Testament of June 28, 2010.

Brian Daniels v University of Michigan. Washtenaw County Circuit Court. (Judge Archie C. Brown) (Served November 30, 2011).

Plaintiff is employed in the Department of Public Safety. Daniels claims that, following an injury and subsequent surgery, he was assigned to restricted duty for 18 months after which time he was told by his department that, since he could no longer perform his duties as a police officer, he could look for another job or take a pay cut. Plaintiff states that he was reclassified as a parking enforcement officer at a reduction in pay. Plaintiff alleges that female employees were treated differently and seeks damages, lost wages, interest, costs and attorney fees.

RESOLUTIONS

Board of Regents of the University of Michigan v Fidelity National Title Insurance Company. Washtenaw County Circuit Court. (Judge David S. Swartz) (Served December 20, 2010).

The University filed suit against Fidelity National Title Insurance Company ("Fidelity") to retire liens relating to the University Health System's 2008 purchase of property in Brighton, Michigan. Special assessments for road and sewer construction had been levied upon the property prior to closing; the assessments were to have been paid prior to closing under the Purchase Agreement but were not. No exceptions for the unpaid assessments were included in the final Title Policy. Demand has been made upon Fidelity under the title insurance policy but coverage has been denied. Settlement was reached between the parties and the case is dismissed.

Carol A. Richard and Ken Richard v Richard Stephen Cesarz. Washtenaw County Circuit Court. (Judge Donald E. Shelton) (Served February 8, 2011); Carol A. Richard and Ken Richard v University of Michigan. Michigan Court of Claims. (Judge William E. Collette) (Served February 8, 2011).

Plaintiff Carol Richard claims that she was struck by a University vehicle that was being driven by Richard Cesarz (temporary University employee). She claims that she sustained multiple injuries and alleges that Mr. Cesarz was negligent while driving the vehicle. Her complaint alleges that the University, as the owner of the vehicle, is responsible for the actions of Mr. Cesarz. Plaintiff Ken Richard claims lack of consortium. Plaintiffs seek damages in excess of \$25,000. Settlement was reached between the parties and the case is dismissed.

CASE UPDATES

Henrietta Platt v University of Michigan. United States District Court, Eastern District of Michigan. (Judge Avern Cohn) (Served April 6, 2009).

Ms. Platt claims that she was discriminated against and harassed as an employee based on her race and disability. She also alleges that she was retaliated against after she filed a grievance and was discharged. The University filed a motion to dismiss, which was heard by the Magistrate. Several counts of Plaintiff's complaint were dismissed and she was ordered to file an amended complaint on the remaining counts, which she has done. The University filed a motion for summary judgment.

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). AND Linda Martinson v Sarah Soroosh Vandergoot. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed November 9, 2008). AND Linda Martinson v Regents of the University of Michigan, Carol Loveland-Cherry, Judith Lynch-Sauer and Bonnie Hagerty. United States District Court, Eastern District of Michigan. (Judge Paul D. Borman) (Served October 5, 2009).

Plaintiff was enrolled in the School of Nursing second career nursing program. She was dismissed from the program. Afterwards, she claimed that her classmates and a faculty member (the named defendants in the State court actions) 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 state court action included defamation and intentional infliction of emotional distress against each of the defendants. She sought damages in excess of \$25,000 plus costs and interest. By stipulation of the parties, the three state court cases were dismissed without prejudice when Plaintiff filed a fourth lawsuit in the U.S. District Court for the Eastern District of Michigan, naming the Regents as well as administrators at the School of Nursing.

In her federal lawsuit, Plaintiff's allegations include various theories alleging violations of federal and state due process rights. Plaintiff seeks declaratory judgment stating that her expulsion from the School of Nursing is null and void, damages, interest, costs and attorney fees. Defendants filed a motion to dismiss and a motion for summary judgment. The motion to dismiss was argued before Judge Borman on August 31, 2011. Judge Borman issued a written opinion dated September 28, 2011 in which he granted the motion in part and denied the motion in part. Judge Borman dismissed all the claims against the University of Michigan and all claims against the individual defendants except for the federal procedural due process claim against the individual defendants. Defendants' motion for summary judgment is still pending before the court. Plaintiff prematurely filed a notice of appeal to the Sixth Circuit Court of Appeals regarding the partial dismissal of her complaint.

Mary H. Wagner v Board of Regents of the University of Michigan. Genesee County Circuit Court. (Judge Richard B. Yuille) (Filed April 16, 2010).

Plaintiff was an Assistant Professor of Music on the Flint Campus. Professor Wagner claims that her application for tenure was denied based on gender discrimination. She alleges that the members of the Executive Committee of the College of Arts & Sciences as well as Dean D.J. Trela harbored bias against women faculty who exercised their rights to bear children and take Modified Duties Leave. She also claims that similarly situated male tenure track candidates were treated differently. Professor Wagner claims gender discrimination in violation of the Elliott-Larson Civil Rights Act and seeks damages for emotional distress, economic losses, attorney's fees and costs. She also seeks reinstatement and tenure. A Motion for Summary Disposition was filed on behalf of the Defendant and denied by Judge Yuille on July 29, 2011. The University filed an interlocutory appeal of that decision to the Michigan Court of Appeals.

Donald E. Pines v Board of Regents of the University of Michigan. United States District Court, Eastern District of Michigan. (Judge Avern Cohn) (Served March 18, 2011).

Mr. Pines worked as a billing clerk at the University Hospital. He alleges that, after he complained to management that he was being sexually harassed by a co-worker, he was harassed, disciplined, placed on an unpaid medical leave, terminated and denied subsequent positions for which he applied. Plaintiff alleges that his employer perceived that he has a disability in violation of the Americans with Disabilities Act and the Michigan Persons with Disabilities Civil Rights Act. Plaintiff also claims that he was retaliated against because of his complaints of sexual harassment in violation of the Michigan Elliott-Larsen Civil Rights Act. He seeks judgment in excess of \$75,000 plus interest, damages, costs and attorneys' fees. The University filed a motion for summary judgment.

Respectfully submitted,


Suellyn Scarnecchia
Vice President and General Counsel

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