

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the
Regents
December 18, 2014

Subject: Litigation

December 2014

NEW CASES

Samantha Sackos, on her own behalf and on behalf of similarly situated persons v National Collegiate Athletic Association (a/k/a the "NCAA"), and NCAA Division I Member Schools. United States District Court, Southern District of Indiana, Indianapolis Division. (Judge William Lawrence) (Filed October 20, 2014)

Plaintiff brings a potential class action on behalf of all Division I student-athletes alleging that student-athletes participating in sports should be considered employees under the meaning of the Fair Labor Standards Act, and paid at least minimum wage for their participation. Plaintiff asks the Court to enter an Order enjoining Defendants from continuing their policies and practices, and seeks unpaid wages, interest, costs, and attorney's fees.

Hussein Berry v Board of Regents of the University of Michigan. Court of Claims. (Judge Deborah Servitto) (Served November 12, 2014)

Plaintiff claims he was unlawfully denied in-state tuition at the University of Michigan-Dearborn. Plaintiff alleges that he brings this action on behalf of himself and all those similarly situated, and alleges violations of equal protection, due process, and the Elliott Larsen Civil Rights Act (race and national origin discrimination). Plaintiff seeks a refund of tuition, statutory damages, actual damages resulting from defendant's alleged unjust enrichment, future in-state tuition pricing, costs, expenses, and attorney's fees. Plaintiff's previous Complaint, filed in the Eastern District of Michigan, was dismissed.

CASE UPDATES

Wei Cao and Li-Hsuan Yang v Board of Regents of the University of Michigan. Genesee County Circuit Court. (Judge Joseph J. Farah) (Served April 2, 2013)

Plaintiff was an Assistant Professor of Education for the University of Michigan-Flint. She claimed she applied for and was denied tenure and promotion because of her national origin. She further alleged the denial of her tenure was in retaliation for her having opposed, through a published article, what she described as "the discriminatory environment" on the Flint campus. Plaintiff claimed she suffered economic loss and sought reinstatement, money damages in excess of \$25,000, plus interest, consequential damages, costs, and attorney's fees. On February 3, 2014, Plaintiff filed an Amended Complaint and an Order was entered allowing the joinder of Li-Hsuan Yang as Co-Plaintiff, without prejudice to Defendant's right to seek severance of the two Plaintiffs for purposes of trial. Settlement was reached between the University and Plaintiff Cao. Defendants filed a partial motion for summary disposition in the Yang case that was denied.

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

Plaintiff is a doctoral candidate at the University of Michigan, College of Engineering. Plaintiff claims that after disclosing his inventions to defendant Daryl Kipke, who served as plaintiff's Faculty Advisor from approximately 2005 to 2011, Defendants used Plaintiff's inventions for their own benefit. His three-count complaint includes counts alleging 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.

David Boyle v. The University of Michigan, a Michigan institution of higher education. Washtenaw County Circuit Court. (Judge Nancy Wheeler) (Filed April 29, 2013)

On October 23, 2012, Plaintiff, a resident of the State of California, made a FOIA request of the University for "the complete report prepared by Latham & Watkins" regarding "former medical resident Stephen Jenson." The University denied Plaintiff's request based on the FOIA exemption that permits a public body to withhold "information on or records subject to the attorney-client privilege." Plaintiff asserts that the documents requested are not exempt under this exemption, and asks the court to issue a writ of mandamus compelling the University to disclose the report, issue a declaratory judgment that the University violated FOIA, and award Plaintiff attorney's fees, and costs. On November 18, 2014, the University filed a Motion for Summary Disposition.

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. On December 4, 2014, the parties stipulated to dismissal of Counts V through VII (computer fraud, intentional infliction of emotional distress, and defamation); all claims for relief against President Schlissel; all claims alleging a violation of the Michigan Constitution; and all constitutional claims arising from Defendant Dorta's search and seizure of non-cryptographic data.

CASE RESOLUTIONS

Rasheedah N. Gyan-Apenteng v University of Michigan. Court of Claims. (Judge Deborah A. Servitto) (Served July 9, 2014)

Plaintiff was a Research Technician for the University's Translational Pathology Department and claimed she was a non-exempt employee. Plaintiff alleged that Defendant failed to pay her at one and one-half times her regular rate of pay for hours worked in excess of forty hours per week. Plaintiff brought claims under the Fair Labor Standards Act of 1938, and the Minimum Wage Law of 1964. She sought damages, costs, interest, and attorney's fees. Plaintiff previously filed a similar Complaint in the Eastern District of Michigan. The parties stipulated to the dismissal of that Complaint, without prejudice, in June 2014 and Plaintiff filed this new Complaint in the Court of Claims. On November 18, 2014, this case was dismissed without prejudice.

Andrew U.D. Straw v American Bar Association Section of Legal Education and Admission to the Bar et al. United States District Court, Northern District of Illinois. (Judge Elaine E. Bucklo) (Filed July 9, 2014)

Plaintiff Andrew Straw has brought suit in the U.S. District Court for the Northern District of Illinois against the University of Michigan Law School, the American Bar Association ("ABA"), and the other 49 law schools considered to be in the top 50 ranked law schools in the country. Plaintiff alleged that the ABA and the law schools have violated the Americans with Disabilities Act ("ADA") by not publicly disclosing on an annual basis statistics related to the number of students and faculty who have disabilities. Plaintiff sought reimbursement for costs and injunctive relief under Title II and Title III of the ADA. On November 11, 2014, all law schools were dismissed from this case, with prejudice.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'T. Lynch', with a long horizontal flourish extending to the right.

Timothy G. Lynch
Vice President & General Counsel

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