

THE UNIVERSITY OF MICHIGAN  
REGENTS COMMUNICATION  
ITEM FOR INFORMATION

Received by the Regents  
February 14, 2008

Subject: Litigation

February 2008

I. NEW CASES

1. David Powers and Save Our Shoreline, Inc. v University of Michigan. Bay County Circuit Court. (Judge Joseph Sheeran) (Filed January 4, 2008).

This is an action for disclosure of records under the Michigan Freedom of Information Act. Plaintiffs sought the names and addresses of the individuals who were mailed a pamphlet entitled "Along the Shore, A Shoreline Management Guide for Michigan Coastal Landowners" by the Michigan Sea Grant College Program at the University. Plaintiffs were provided with a list of the professional entities and groups that were mailed a copy of the brochure, but the names and addresses of the individuals to whom the brochure was mailed were withheld for privacy reasons. Plaintiffs claim that the University violated the Michigan FOIA and seek the names and addresses that have been withheld, attorney fees, costs, and damages.

2. Paul Eilers v University of Michigan. Wayne County Circuit Court. (Judge Cynthia Diane Stephens) (Served January 8, 2008).

Plaintiff was at the Livonia Center for Specialty Care for a kidney dialysis treatment when he slipped and fell at the Center, breaking a hip and suffering other injuries. He claims that the University was negligent and that as a result of that negligence he sustained serious injuries. He seeks damages in excess of \$25,000, interest, costs and attorney fees.

3. Keith Yohn v Coleman, Sullivan, Polverini, Krebsbach, Bernitsas and Snyder. United States District Court, Eastern District of Michigan. (Judge Gerald E. Rosen) (Filed January 2, 2008).

Plaintiff claims that University administrators, including President Coleman, Provost Sullivan, Dean Polverini, and Professors Krebsbach, Bernitsas and Snyder, have infringed on his free speech rights to mass mail email messages to the faculty to speak out. He claims he has also been deprived of his due process rights by refusing to grant him the right to a fair and impartial grievance review board (which was chaired by Professor Bernitsas) to address his grievance. Also, he claims that Dean Polverini filed a false report to the Department of Public Safety in order to embarrass, retaliate and intimidate him. He claims that Department Chair Krebsbach has made false accusations against him. His claims against Clinical Assistant Professor Snyder allege gross negligence to perform teaching duties for personal gain. Dr. Yohn seeks over \$1 million in damages.

## II. RESOLUTIONS

4. Pamela S. Wiitala v University of Michigan. Washtenaw County Circuit Court. (Judge Donald E. Shelton) (Filed April 10, 2003). Michigan Court of Claims (Judge Beverley Nettles-Nickerson)

Plaintiff was employed at the University as a System Project Coordinator in MAIS with a 75% appointment that allowed her to work at home. She alleges that, following an accident that resulted in an injury to her spine, the University altered the terms of her employment and required her to work 100% on-site. Plaintiff claims she was unable to do so and the University terminated her employment, thus violating the Michigan Persons with Disabilities Civil Rights Act. She seeks damages in excess of \$25,000, back pay, fringe benefits, interest, costs and attorney's fees. The University filed a motion for summary disposition which was granted by Judge Shelton. In addition, Judge Shelton granted Plaintiff's motion to file an amended complaint for breach of contract. Plaintiff re-filed her case in the Michigan Court of Claims, alleging breach of the long term disability contract. Settlement was reached between the parties and the case is dismissed.

## III. CASE UPDATES

5. Kathy Halabicky, et al. v University of Michigan. Washtenaw County Circuit Court. (Judge David S. Swartz) (Filed December 7, 2007); Removed to United States District Court, Eastern District of Michigan (January 4, 2008) (Judge David M. Lawson).

This is a complaint filed by female Physicians Assistants and Nurse Practitioners at the University Medical Center. The plaintiffs claim that they are paid less than their male counterparts, even though they perform substantially the same duties. Plaintiffs claim gender discrimination under the Equal Pay Act and Elliott Larsen Civil Rights Act and seek past and future economic damages, past and future non-economic damages, an increase in current compensation, interest, costs and attorney fees. The University removed the case to the federal court.

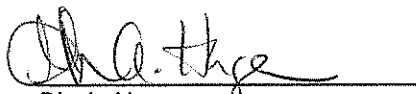
6. Alissa Zwick v Regents of the University of Michigan, Marilyn Lantz, Wilhelm Piskorowski, Mark Snyder and Fred Burgett. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed May 12, 2006). Michigan Court of Claims. (Judge James R. Giddings) (Filed May 12, 2006). U.S. District Court, Eastern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

7. JoAnn Hetherington v University of Michigan-Flint. Genesee County Circuit Court. (Judge Joseph J. Farah) (Filed February 9, 2007). Michigan Court of Claims. (Judge Joyce Draganchuk) (Filed April 2, 2007).

Ms. Hetherington claims that, while attending a performance in the Kiva Building auditorium on the Flint campus, she fell and injured herself severely. She alleges that the University has a duty to keep its buildings free from defect and that she was injured because of our failure to do so. She seeks damages, costs, interest and attorney's fees. The University filed a motion to dismiss based on jurisdiction, which was granted. Plaintiff re-filed her claims in the Court of Claims. The University filed a motion for summary disposition, which was heard on January 30, 2008. Judge Draganchuk denied the motion.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "G. Hage", written over a horizontal line.

Gloria Hage  
Interim Vice President and General Counsel

February 2008