

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

March 2013

NEW CASES

Kenneth J. Bogos and Lisa Taylor-Bogos, Husband and Wife, and John J. Bogos, Individually v Clayton J. Spore and The Regents of the University of Michigan, a Non-Profit Corporation, Jointly and Severally. Livingston County Circuit Court (Judge Michael Hatty) (Filed February 21, 2013).

Plaintiffs claim that, on October 28, 2011, they were in a motor vehicle stopped for traffic in Livingston County, when Defendant Spore, while allegedly operating a motor vehicle owned by Defendant University, rear-ended Plaintiffs at a high rate of speed. Plaintiffs assert that, as a result of the alleged collision, they sustained serious physical, mental, and emotional injuries. Plaintiffs bring claims for Negligence, Owner's Liability, and Respondeat Superior, and seek an amount in excess of \$25,000, together with costs, interest, and attorney's fees.

CASE UPDATES

Veritas Insurance Corporation and Factory Mutual Insurance Company, as subrogees of the Regents of the University of Michigan, and the Regents of the University of Michigan v Peaker Services Incorporated, St. Paul Protective Insurance Company, and Travelers Property Casualty Company of America. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed March 17, 2011).

On November 2, 2007, during startup testing of a refurbished generator at the Central Power Plant on the Ann Arbor Campus, a newly purchased over-speed regulator failed, causing damage to the generator's turbine. A lawsuit to recover the damages was filed on March 17, 2011, in Washtenaw County Circuit Court for breach of contract and warranties against the vendor that supplied and installed the over-speed regulator. Damages exceeded \$2 million. A final pretrial and settlement conference is scheduled for March 26, 2013. Trial is scheduled to begin April 15, 2013.

Senta Reyes v The University of Michigan, Dr. Merle Jaarda, Dr. Patricia Bauer, and Dr. Marilyn Woolfolk. United States District Court, Eastern District of Michigan. (Judge Nancy G. Edmunds) (Filed December 1, 2011); AND Senta Reyes v University of Michigan, Dr. Merle Jarda, Dr. Patricia Bauer, and Dr. Marilyn Woolfolk. Washtenaw County Circuit Court. (Judge Archie C. Brown) (Filed January 25, 2012); AND Senta Reyes v University of Michigan, Dr. Merle Jaarda, Dr. Patricia Bauer and Dr. Marilyn Woolfolk. Michigan Court of Claims. (Judge Paula J.M. Manderfield) (Filed March 26, 2012).

Plaintiff was a Dental School student who was dismissed for unsatisfactory academic progress while she was attempting to complete the remediation of her second year as a condition of continued enrollment after she had been previously dismissed for unsatisfactory academic progress. Plaintiff alleges deprivation of her rights to free speech, due process, and equal protection under the U.S. and Michigan Constitutions; racial discrimination; promissory estoppel/detrimental reliance; and breach of contract. Plaintiff claims she has suffered economic damages (including future lost wages and earning capacity), embarrassment, humiliation, outrage, anxiety, mental anguish, and mental and emotional distress. She seeks damages in excess of \$75,000, plus costs, interest, and attorney's fees. Plaintiff filed her state court claims in Washtenaw County Circuit Court. Her counts include violation of the Elliott Larsen Civil Rights Act, violations of due process and equal protection under the Michigan Constitution, promissory estoppel, and breach of contract. On January 15, 2013, the parties stipulated to the dismissal of the 42 U.S.C. Section 1981 claim and the race discrimination claim in the federal case. The parties also stipulated to dismiss named defendant Dr. Merle Jaarda. On January 24, 2013, Defendants filed a motion for summary disposition in the federal case; oral argument on the motion is scheduled for May 13, 2013.

Brandon Jackson v Susan Marie Schaeffgen, Regents of the University of Michigan, and Farm Bureau Insurance Company. Oakland County Circuit Court. (Judge Michael Warren) (Served August 10, 2012).

Plaintiff was a passenger in a vehicle that was allegedly struck by a University van driven by University employee Schaeffgen. Plaintiff claims that the vehicle in which he was riding was uninsured and that his claim for payment of no-fault personal protection insurance benefits was denied by Defendant Farm Bureau Insurance Company. Plaintiff alleges that he was injured as a result of Defendant Schaeffgen's negligent operation of the University vehicle and that the University is liable for its employee's negligence. He seeks damages in excess of \$25,000. The court dismissed all claims against the University of Michigan with prejudice. The claims against Defendant Schaeffgen remain pending. On February 19, 2013, Defendant Schaeffgen filed a motion for Summary Disposition that is pending before the court.

Jennifer Dibbern v The University of Michigan, a Domestic Nonprofit Corporation, the Board of Regents of The University of Michigan, a public constitutional body corporate, Mary Sue Coleman, President of The University of Michigan, an individual acting in her official capacity, Rachel S. Goldman, in her individual and official capacity, Tresa Pollock, in her individual and official capacity and Peter Green, in his individual and official capacity. United States District Court, Eastern District of Michigan. (Judge Sean F. Cox) (Filed December 21, 2012)

Plaintiff was a Graduate Student in Materials Science Engineering at the University. She alleges she was dismissed from the Graduate Program in December 2011 after reporting incidents of peer-to-peer sexual and gender-based harassment in the College of Engineering and retaliated against for attempting to remedy a sexually hostile environment. Plaintiff further alleges the University failed to meet its obligations under Title IX by willfully and knowingly allowing a sexually hostile educational environment to continue. Plaintiff's twelve-count complaint includes claims under Title IX, 42 U.S.C. Section 1983 and the Elliot-Larson Civil Rights Act, as well as claims for negligence, breach of fiduciary duty, emotional distress and invasion of privacy. Plaintiff seeks damages, costs, and attorney's fees. On January 25, 2013, Plaintiff filed an Amended Complaint adding Peter Green as a named defendant and dropping the claims for negligence, breach of fiduciary duty, and emotional distress. On March 4, 2013, Defendants filed a Partial Motion to Dismiss Plaintiff's claims for sexual harassment, sex discrimination, retaliation, and Section 1983 claims for equal protection and first amendment. The parties have agreed to dismiss the Equal Protection/Section 1983 and First Amendment/Section 1983 claims as to the University of Michigan and the Board of Regents of the University of Michigan because they are barred by the 11th Amendment. The parties further agreed to dismiss these counts against the individual Defendants in their official capacities except to the extent that prospective, non-monetary relief is granted.

Regents of the University of Michigan v Jennifer Jordan. Washtenaw County Circuit Court. (Judge Donald Shelton) (Filed July 31, 2012); **AND Regents of the University of Michigan v Jennifer Jordan, Hurley Myers, and Alicia Myers.** Washtenaw County Circuit Court. (Judge Donald Shelton) (Filed January 25, 2013)

In 1996 Defendant, a University employee at the time, applied and was approved for Long Term Disability ("LTD") Benefits. Plaintiff signed the LTD reimbursement agreement agreeing to reimburse the University for any Social Security Benefits ("SSB") she received that exceeded the benefit limits of the LTD plan. Plaintiff was granted a retroactive award of SSB but she refused to pay the University the \$109,797.27 she owed in LTD benefits for the period she received double payment from both LTD and SSB. The University filed a Complaint on July 31, 2012, claiming Breach of Contract and Unjust Enrichment and sought a monetary judgment against defendant for \$109,797.27, plus interest, costs, and attorney's fees.

On November 14, 2012, Judge Shelton entered a judgment in favor of the University. Post-judgment discovery revealed transfers of money and property to others that did not appear to have been for fair value. On January 25, 2013, a Complaint was filed against Plaintiff's husband (Hurley Myers) for \$51,800 and her daughter (Alicia Myers) for \$16,500 to recover those transfers.

Yusong Gong v Board of Regents of the University of Michigan, and Martin G. Myers, Jr. Washtenaw County Circuit Court. (Judge Timothy Connors) (Served October 9, 2012); AND Yusong Gong v. Board of Regents of the University of Michigan and Martin G. Myers, Jr. United States District Court, Eastern District of Michigan (Judge Sean Cox) (Filed February 6, 2013)

Plaintiff previously worked in the Department of Internal Medicine in a research laboratory under the direction of Dr. Myers. She claims that she was laid off in Dr. Myers' group in August 2007 and went to work in other departments at the University. Plaintiff alleges that, after she left Dr. Myers' laboratory, Dr. Myers instituted a campaign of harassment, intimidation, and bullying against her, which, she alleges, led to Plaintiff's termination on April 18, 2012. Plaintiff brings claims for national origin discrimination, retaliation, and violations of the Whistleblower's Protection Act. She seeks damages, costs, and attorney's fees. On February 6, 2013, Plaintiff filed a Complaint in Federal Court alleging she is a qualified individual with a disability who was terminated because of the disability. The two-count complaint brings claims under the Discrimination/Rehabilitation Act and Retaliation/Rehabilitation Act. Plaintiff seeks lost wages, damages, costs, interest, and attorney's fees.

CASE RESOLUTIONS

Aiman Farhoud and Souhar Farhoud v Darice Rosario. Washtenaw County Circuit Court. (Judge Timothy P. Connors) (Filed August 1, 2011).

Plaintiff, Aiman Farhoud, is a patient care technician at the University of Michigan Hospital. Defendant, Darice Rosario, is a nurse co-worker. Plaintiff Aiman Farhoud alleged that Defendant made false accusations against him when she told her supervisors that he advised a co-worker, "go do this procedure before I kill somebody." Plaintiff Aiman Farhoud alleged that Rosario's accusations resulted in his being subjected to investigation by UMH security personnel (after which he was cleared of any wrongdoing) as well as suffering embarrassment, humiliation, mortification, depression, sleeplessness, anxiety, missed time from work, damage to his reputation in the workplace and his community, and lost wages and benefits. Plaintiff Souhar Farhoud (Aiman's wife) claimed damage to her reputation in the community, emotional distress, humiliation, mortification, embarrassment, sleeplessness, and anxiety. Plaintiffs sought judgment in excess of \$25,000 plus costs, interest, and attorney's fees. At a December 15, 2011, hearing, Judge Connors granted Defendant's motion to dismiss the case in its entirety and with prejudice. Plaintiff appealed to the Michigan Court of Appeals on February 10, 2012. On February 21, 2013, the Court of Appeals affirmed the trial court's dismissal of Plaintiffs' claims. This case is concluded.

Respectfully submitted,



Timothy G. Lynch
Vice President & General Counsel