

THE UNIVERSITY OF MICHIGAN  
REGENTS COMMUNICATION  
ITEM FOR INFORMATION

Subject: Litigation

April 2017

NEW CASES

**Mackinac Center for Public Policy v University of Michigan.** Court of Claims. (Judge Stephen L. Borrello)  
(Served March 7, 2017)

Plaintiff filed a one-count complaint claiming the University of Michigan violated the Freedom of Information Act ("FOIA"). Plaintiff seeks penalties and costs.

**Jane Doe v The University of Michigan, The Board of Regents of the University of Michigan, and Alison Davis-Blake, in her official capacity as Dean of the Ross School of Business at the University of Michigan.** United States District Court, Eastern District of Michigan. (Judge Bernard Friedman)  
(Filed March 10, 2017)

Plaintiff is a 2014 graduate of the Executive Masters of Business Administration program ("EMBA") at the University of Michigan's Stephen M. Ross School of Business. She filed a one-count complaint claiming a violation of Title IX, alleging that, during her time in the EMBA program, she was stalked and harassed by a fellow EMBA student. Plaintiff claims Defendants failed to provide a prompt and equitable response to Plaintiff's complaints, resulting in further harassment and embarrassment to Plaintiff. Plaintiff seeks repayment for all tuition and related expenses; payment of expenses incurred as consequence of the alleged harassment and retaliation; damages for deprivation of equal access to the educational benefits and opportunities provided by Defendants; damages for lost economic opportunity; and damages for past, present and future emotional pain and suffering, and ongoing and severe mental anguish. Plaintiff also seeks pre- and post-judgment interest, costs, and attorney's fees

**Karen Bankovich v University of Michigan.** Court of Claims. (Judge Stephen Borrello) (Served March 17, 2017).

Plaintiff, Karen Bankovich, claims the University breached its Long-Term Disability plan ("LTD") by denying her LTD benefits. Plaintiff asks the Court to reverse the University's decision and order Plaintiff be paid LTD benefits according to the terms of the plan. Plaintiff also seeks costs and attorney's fees.

CASE UPDATES

**John Doe v David H. Baum, Susan Pritzel, Tabitha Bentley, E. Royster Harper, and Nadia Bazy.** United States District Court, Eastern District of Michigan. (Judge George Steeh) (Filed September 1, 2016)

Plaintiff is a former student at the University of Michigan. His claims arise out of actions taken against him for Plaintiff's violation of the University's Policy on Sexual Misconduct by Students. Plaintiff's three-count complaint included alleged violations of 42 U.S.C. § 1983 for Due Process and First Amendment Free Speech. Plaintiff sought removal of all references to allegations or investigation, discipline, or sanctions from his file; immediate reinstatement to the University as a student in good standing; and compensatory, exemplary and punitive damages, along with interest, costs, and attorney's fees. Plaintiff filed an Amended Complaint on October 3, 2016, adding Title IX claims and Michigan Elliott-Larson Civil Rights gender discrimination claims. On October 21, 2016, Defendants filed a motion to dismiss that was granted on January 5, 2017. On February 2, 2017, Plaintiff filed a motion to re-open and/or for reconsideration, to amend the complaint, and to vacate order to due process claim based on evidence.

**April Lakey v University of Michigan Hospital.** United States District Court, Eastern District of Michigan  
(Judge Marianne O. Battani) (Served May 29, 2015)

Plaintiff, a Call Center Representative in the Otolaryngology Department, alleges she has been paid less than her Caucasian coworkers and denied a promotion because of her race. Plaintiff claims she has suffered lost wages and benefits and seeks damages, interest, costs, and attorney's fees. On July 26, 2016, Defendant filed a motion for summary judgment. On September 14, 2016, Plaintiff's counsel filed a response to Defendant's motion for summary judgment and motion for sanctions and included a motion to withdraw, stating he attempted to obtain a dismissal of this case based on the deposition testimony but Plaintiff will not agree to the dismissal. The Judge granted Plaintiff's counsel's motion to withdraw. On January 19, 2017, the Court granted Defendant's motion for summary judgment. On February 17, 2017, Plaintiff filed a notice of appeal.

**Kimberly Rodriguez v Board of Regents of the University of Michigan, The University of Michigan, and Cathy Kendrick, individually.** Washtenaw County Circuit Court (Judge Timothy Connors) (Filed September 5, 2014)

Plaintiff was a registered nurse with the University of Michigan Hospital. She alleges she was discharged from her position after she allegedly became aware and reported that another nurse improperly disposed of a controlled drug. Plaintiff's claims include violations of the Michigan Whistleblower's Protection Act and race discrimination. She seeks damages, costs, interest, and attorney's fees. Defendants filed a motion for summary disposition that was denied on January 19, 2017. Defendants filed an application for leave to appeal.

**The World Leadership Program Institute, a District of Columbia not for profit organization v Mark Tessler, Sherman Jackson, Nancy Burns, and David Howell.** Washtenaw County Circuit Court (Judge David Swartz) (Filed June 30, 2015); **Margaret Cone v Mark Tessler, Sherman Jackson and David Howell.** United States District Court, Eastern District of Michigan (Judge Sean F. Cox) (Filed PRIL 5, 2016)

Plaintiff, The World Leadership Program, filed a claim in state court alleging that defendants wrongfully obtained, handled, and then terminated a grant from the United Arab Emirates that, it contends, would otherwise have funded its activities. Plaintiff claims breach of contract, fraud, unjust enrichment, and promissory estoppel. Plaintiff seeks damages in excess of \$25,000, punitive damages, costs, interest, and attorney's fees. Plaintiff filed a similar complaint in federal court against these same named defendants as well as The Board of Regents of The University of Michigan, The Center for Political Studies, and The Institute for Social Research. Defendants filed four motions for summary disposition that were granted by Judge Swartz. Plaintiff filed a motion for reconsideration that was denied. Plaintiff filed an appeal that was denied. In addition, at our request, the court imposed \$5,000 in sanctions on plaintiffs. Contemporaneously, the founder/executive for World Leadership, Margaret Cone, filed another lawsuit in federal court making essentially the same claims. Motions for summary judgment on behalf of all defendants and demand for sanctions were filed on May 5, 2016 and were denied.

**Professor Scott Kurashige, Ph.D., and Professor Emily Lawsin, M.A. v University of Michigan, a Michigan corporation.** Washtenaw County Circuit Court (Judge Timothy Connors) (Filed January 10, 2017)

Plaintiff Scott Kurashige, formerly a professor in the Departments of American Culture and History in the College of Literature, Science and the Arts, and Plaintiff Emily Lawsin, a Lecturer IV in the Departments of Women's Studies and American Culture in the College of Literature, Sciences and the Arts, allege race discrimination, gender discrimination, marital status discrimination, race hostile work environment and retaliation, and disability-based discriminatory hostile treatment and retaliation. Plaintiff Lawsin, who is currently on leave from her Lecturer IV position, seeks reinstatement to her position as a Lecturer IV, to teach in Winter 2017, without a "remediation plan." Plaintiff Kurashige seeks reinstatement to a tenured full professor position from which he claims he was constructively discharged and reinstatement to the position of Director of the Asian/Pacific Islander American Studies Program. Both Plaintiffs further seek economic and non-economic damages, permanent injunctive relief under the Elliott-Larsen Civil Rights Act and a

consent judgment with a timeline for meeting metrics and other necessary actions to come into compliance with ELCRA. On February 22, 2017, Defendant filed a partial motion to dismiss.

**Eugene D. Daneshvar v Daryl R. Kipke, and NeuroNexus Technologies, Inc.** United States District Court, Eastern District of Michigan (Judge Stephen J. Murphy) (Filed June 6, 2013)

Plaintiff, a doctoral candidate at the University of Michigan, College of Engineering, alleges that, after disclosing his inventions to defendant Daryl Kipke, plaintiff's faculty advisor, Defendants used Plaintiff's inventions for their own benefit. His three-count complaint alleges 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 federal court in 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. On January 23, 2015, Defendants filed a motion for partial judgment on the pleadings that was granted and denied in part. On July 13, 2015, Defendants filed a motion for summary judgment. The parties were not successful in setting the lawsuit through court-ordered mediation and are awaiting a decision on the July 13, 2015 motion for summary judgment filed by the defendants. On March 24, 2017, the Court ruled on several non-dispositive motions, including (a) granting in part defendants' motion to strike plaintiff's declaration made in opposition to the motion for summary judgment; (b) denying plaintiff's motion to compel discovery against the University; (c) granting plaintiff's motion for additional briefing on disputed patent claim terms, potentially relevant to the motion for summary judgment; and (d) granting one firm's motion to withdraw as counsel for plaintiff and denying another firm's motion to withdraw as counsel for plaintiff.

#### CASE RESOLUTIONS

**Paul Britt v Kevin Tang, and Farm Bureau General Insurance Company of Michigan, a Michigan Insurance Corporation, jointly and severally.** Genesee County Circuit Court (Judge Geoffrey Neithercut) (Served January 20, 2016)

Plaintiff's claims arose out of an October 28, 2012, motor-vehicle accident in Flint in which Defendant, Assistant Professor Kevin Tang, is alleged to have been involved. Plaintiff's three-count complaint included negligence, economic/non-economic damages, and uninsured motorist coverage claims. Plaintiff further sought interests, costs, and attorney's fees. Defendant's filed a motion to dismiss that was granted on November 28, 2016.

**Ruth Foti v The Board of Regents of the University of Michigan d/b/a University of Michigan Health System.** Court of Claims (Judge Mark Boonstra) (Served February 17, 2016)

Plaintiff alleged that Defendant failed to properly inspect, repair, and otherwise maintain the automatic door equipment at the Kellogg Eye Center building in a safe manner, causing her to fall to the ground and sustain severe injuries as she was attempting to enter the building. Plaintiff's claims included negligence, premises liability, and nuisance, and she sought an amount in excess of \$25,000, together with costs, interest, and attorney's fees. Defendants filed a motion for partial summary disposition that was granted by Judge Boonstra on March 28, 2016. The Court dismissed all counts except the count relating to an alleged building defect. Settlement was reached between the parties. This case is concluded.

Respectfully submitted,



Timothy G. Lynch  
Vice President & General Counsel

April 2017