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Regents
May 21, 2015

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

May 2015

NEW CASES

Jing Han v. Jared Shomo, Washtenaw County Circuit Court (Judge David Swartz) (Filed March 4, 2015)

Plaintiff, Jing Han, filed a one-count complaint against U-M bus driver, Jared Shomo, alleging he suffered injuries when the bus struck him, a pedestrian, causing serious and permanent injuries. Plaintiff's claims include pain and suffering, humiliation and embarrassment, and loss of enjoyment of life. Plaintiff seeks in excess of \$25,000, together with interest, costs, and attorney's fees.

Carmel Coward v. The Board of Regents of the University of Michigan, Court of Claims (Judge Michael J. Talbot) (Filed February 12, 2015)

Plaintiff, an erstwhile Patient Services Assistant for the Emergency Department at the University of Michigan Hospital, alleges that, while she was receiving treatment at a medical facility, her department's Interim Manager terminated her employment because she abandoned her position. Plaintiff's two-count complaint raises FMLA and wrongful termination claims. Plaintiff seeks compensatory damages, liquidated damages, reinstatement, and an injunction prohibiting Defendant from engaging in any further acts of wrongdoing, discrimination, or retaliation with regard to Plaintiff. Plaintiff also seeks interest, costs and attorney's fees.

CASE UPDATES

Detroit Free Press, Inc., a Michigan corporation, and Federated Publications, Inc., a Delaware corporation v The Regents of the University of Michigan, a Michigan corporation. Court of Claims (Judge Carol Kuhnke) (Filed July 8, 2014)

Plaintiffs allege that the University of Michigan violates the Open Meetings Act and the Michigan Constitution. Plaintiffs seek a temporary and permanent injunction restraining Defendants from continuing to do so. Plaintiffs also seek costs and attorney's fees. On May 8, 2015, Defendant filed a motion for summary disposition.

Eugene D. Daneshvar v Daryl R. Kipke, and NeuroNexus Technologies, Inc. Washtenaw County Circuit Court (Judge Archie Brown) (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 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. On January 23, 2015, Defendants filed a motion for partial judgment on the pleadings that was granted and denied in part.

Regents of the University of Michigan v St. Jude Medical, Inc. United States District Court, Eastern District of Michigan (Judge Avern Cohn/Magistrate Judge Laurie J. Michelson) (Filed July 2, 2012)

In 1997, the University licensed to St. Jude Medical, Inc. its rights to patents and other technology related to chemical compositions for treating bio-prosthetic tissues. St. Jude had been paying royalties to the

University for a number of years, but stopped last year, claiming that the University's patents and technology do not cover all the St. Jude products and that therefore the company was entitled to a credit on amounts previously paid. The University filed this lawsuit to recover currently owed royalties, and to protect the University's ability to receive future royalties to which the University is entitled. Defendant St. Jude filed its Answer with the court, including a counterclaim that the University should have to repay all the royalties since 1998. The University replied to Defendant's counterclaim, denying liability because the claim, among other things, is barred by the Michigan Court of Claims Act. On November 9, 2012, St. Jude Medical filed a Petition for Inter Partes Review at the U.S. Patent Office, seeking reexamination of the patentability of the claims in one of the patents licensed to St. Jude. The University filed an amended complaint for procedural reasons. On December 17, 2012, St. Jude Medical filed an Answer adding a count seeking declaratory judgment that the University's patent is invalid. On December 27, 2012, the University moved to dismiss Defendant's counterclaim given Defendant's failure to file notice with the Michigan Court of Claims as required by Michigan law. On December 31, 2012, the University filed a summary judgment motion seeking an affirmative finding of liability on the license agreement. Defendant filed its opposition to the University's motion to dismiss on January 17, 2013, and the University filed a reply on January 31, 2013. On February 25, 2013, the Court denied the University's motion to dismiss. On March 7, 2013, St. Jude notified the University it was terminating the 1997 license agreement as a matter of right, effective in June 2013. On April 5, 2013, the Court ruled the University could amend its Complaint to add a patent infringement count. On May 31, 2013, the Court granted St. Jude's motion to stay the litigation during Patent Office proceedings. On May 1, 2014, the Patent Trial and Appeal Board of the U.S. Patent Office ruled that Defendant demonstrated, by a preponderance of the evidence, that the claims at issue in the IPR are not patentable. On June 27, 2014, the University appealed the Patent Office decision to the Court of Appeals for the Federal Circuit. Oral argument in the Court of Appeals is scheduled for June 4, 2015.

Joseph Dean Vigil v Regents of the University of Michigan, Edie Goldenberg, Christina Whitman and Anna Kirkland. United States District Court, Eastern District of Michigan (Judge Patrick J. Duggan) (Served January 3, 2011)

This dispute arises from Plaintiff's dismissal for unsatisfactory academic progress from the doctoral program in the Department of Political Science in the College of Literature, Science and the Arts in fall 2007, after spending sixteen years in the doctoral program. Plaintiff filed his federal lawsuit in November 2010 alleging eleven federal and state causes of action against the Defendants. Defendants filed a motion to dismiss arguing that all of the claims, except for the breach of contract claim, were time barred. On July 28, 2011, the District Court granted Defendants' motion and entered a Judgment dismissing with prejudice all of the claims except the breach of contract claim that was dismissed without prejudice. Plaintiff appealed to the Sixth Circuit Court of Appeals. On December 6, 2012, a panel of the Court of Appeals issued an opinion affirming the dismissal of Plaintiff's defamation claim and all "personal injury and civil rights claims that were based on an alleged lack of support while enrolled in the doctoral program" but reversing the ruling regarding the claims related to Plaintiff's dismissal from the program and vacating the dismissal of the breach of contract claim. Accordingly, the case was remanded for a review of Plaintiff's personal injury and civil rights claims as they related to his dismissal from the program in 2007 and Plaintiff's breach of contract claim only. After discovery, Defendants filed a motion for summary judgment. On September 30, 2013, the District Court granted Defendants' motion for summary judgment and issued an amended judgment dismissing all of Plaintiff's claims with prejudice. Plaintiff timely filed a notice of appeal of right with the Sixth Circuit Court of Appeals on October 28, 2013. On November 1, 2013, Plaintiff filed an appeal to the Sixth Circuit Court of Appeals. Oral Argument before the Sixth Circuit Court of Appeals was heard on May 1, 2015.

CASE RESOLUTIONS

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 brought 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 asked the Court to enter an Order enjoining Defendants from continuing their policies and practices, and sought unpaid wages, interest, costs, and attorney's fees. The University of Michigan has been dismissed as a defendant.

The World Leadership Program Institute, a District of Columbia not for profit organization v The Board of Regents of The University of Michigan, The Center for Political Studies, The Institute for Social Research, Mark Tessler, Sherman Jackson, Nancy Burns, and David Howell. United States District Court, Eastern District of Michigan (Judge Stephen J. Murphy, III) (Served October 9, 2014)

The World Leadership Program claimed damages in excess of \$2,000,000 from the University, ISR, Center for Political Studies, and several named current and former University faculty and staff. Plaintiff alleged that the University, and the other named defendants, wrongfully obtained, handled, and then terminated a grant from the United Arab Emirates that would otherwise have funded its activities. Plaintiff claimed breach of contract, misrepresentation, unjust enrichment, fraudulent handling of the money, deprivations under state and federal constitutions of due process, and property and liberty interests. Plaintiff sought damages, costs, interest, and attorney's fees. Defendants filed a motion to dismiss on October 30, 2014. On April 28, 2015, the Court dismissed with prejudice the federal claims and dismissed the state claims without prejudice.

Belinda Anderson v The Regents of the University of Michigan, Ted Makowiec in his official capacity, and Brian Vasher in his official capacity. United States District Court, Eastern District of Michigan (Judge David Lawson) (Filed May 24, 2014).

Plaintiff alleged Defendants engaged in a pattern and practice of unlawful discrimination on the basis of race or national origin by denying her promotions and salary increases, and by subjecting her to arbitrary demotions when she was selected to be transferred to a newly created Shared Services Center. Plaintiff sought compensatory damages, lost wages and benefits, interest, costs, and attorney's fees. On August 14, 2014, Defendants filed a motion for partial summary judgment. On December 30, 2014, the parties stipulated to the dismissal of claims against defendants Vasher and Makowiec with prejudice; therefore, defendants' motion for partial summary judgment was dismissed as moot. On March 20, 2015, Defendant filed a motion for summary disposition. Settlement has been reached between the parties. This case is concluded.

Respectfully submitted,



Timothy G. Lynch
Vice President & General Counsel

May 2015