

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

May 2021

NEW CASES

John DeMarais and Paul Hutton v The Board of Regents of the University of Michigan and Gretchen Pagac. Washtenaw Circuit Court. (Served February 8, 2021) (Judge Timothy Connors)

Plaintiffs filed a three-count complaint alleging age discrimination, retaliation, and hostile work environment arising out of the termination of their positions. Plaintiffs seek in excess of \$25,000, lost wages, fringe benefits, past and future, together with interest costs, and attorney's fee.

Constance Esposito v The Board of Regents of the University of Michigan. Court of Claims. (Served March 9, 2021) (Judge Cynthia Stephens) and Washtenaw County Circuit Court. (Judge Carol Kuhnke) (Filed January 25, 2021)

Plaintiff, formerly the Assistant Director of Core Operations at Michigan Medicine-Biomedical Research Core Facilities, now has two lawsuits pending concurrently in two different courts alleging age discrimination after her position was eliminated in 2019. Plaintiff seeks front and back pay, exemplary damages, interest costs, and attorney's fees. In the Washtenaw County Circuit Court case, the parties stipulated that all claims for declaratory and/or equitable relief be dismissed without prejudice and to stay proceedings in this case until after Plaintiff's case in the Court of Claims is adjudicated to finality. In the Court of Claims case, Defendant filed a motion for summary disposition on April 16, 2021.

Jewell Ridgeway v University of Michigan, a Michigan state agency. Washtenaw County Circuit Court. (Served March 23, 2021) (Judge Carole Kuhnke)

Plaintiff files a three-count complaint including alleged violations of the Michigan Civil Rights Act, Michigan Persons with Disabilities Civil Rights Act, and Worker's Compensation Retaliation after she was discharged from her position for unexcused absences. Plaintiff seeks in excess of \$25,000, together with interest, costs and attorney's fees.

American Council of Trustees and Alumni v The University of Michigan, a state public body. Court of Claims. (Served January 13, 2021) (Judge Michael Kelly)

Plaintiff filed a one-count complaint alleging violations of the Freedom of Information Act ("FOIA"). Plaintiff asks the Court to order defendant to provide all documents sought in the FOIA request, apply penalties, and award costs and attorney's fees.

Myria Petrou v The University of Michigan, a state public body. Court of Claims. (Served March 19, 25 and 30, 2021) (Judges Michael Kelly, Christopher Murry and Cynthia Stephens)

Plaintiff files three one-count complaints in the Court of Claims alleging violations of the Freedom of Information Act. ("FOIA") Plaintiff seeks all documents sought in the FOIA requests, penalties, and attorney's fees. To date, one of the three complaints have been dismissed.

Jodi Merritt v The Board of Regents of The University of Michigan. Court of Claims. (Filed March 13, 2021) (Judge Christopher Murry)

Plaintiff filed a one-count breach of contract complaint arising out of her allegations that she was denied long-term disability benefits. Plaintiff seeks damages, past due benefits, and reinstatement of her eligibility for ongoing benefits, together with interest, costs, and attorney's fees.

Ying Luo v Yang Zhang and University of Michigan. Washtenaw County Circuit Court. (Filed March 17, 2021)
(Judge Patrick J. Conlin, Jr.)

Plaintiff files a four-count complaint including allegations of sexual assault and negligence. Plaintiff seeks a judgement against all defendants, together with interests, costs, and attorney's fees.

Keiko Oe v University of Michigan, Mahdi Tabra, and James Lawrence. United States District Court, Eastern District of Michigan. (Filed May 6, 2021) (Judge Gershwin A. Drain)

Plaintiff was a Custodian for Environmental Services at Michigan Medicine until her termination for misconduct. Plaintiff claims she was discharged in retaliation for alleging racial discrimination in violation of the Elliot-Larsen Civil Rights Act and in violation of the First Amendment. Plaintiff seeks economic and non-economic damages, exemplary and punitive or special damages, together with interest, costs, and attorney's fee.

CASE UPDATES

Debbie Lynn Pipkins v University of Michigan Hospital. Washtenaw County Circuit Court. (Served September 1, 2020) (Judge Patrick J. Conlin)

Plaintiff was an employee at Michigan Medicine's Patient Relation and Clinical Risk Department and alleges she was forced to retire on the basis of her race and in retaliation for filing a discrimination complaint. Her three-count complaint includes claims for race discrimination, retaliation, and hostile work environment. On November 13, 2020, Defendant filed a motion for summary disposition that was denied on December 17, 2020. On February 8, 2021, Defendant filed a motion for partial summary disposition.

Joshua Wade v University of Michigan. Court of Claims (Judge Cynthia Stephens) (Served June 15, 2015).

Plaintiff, who achieved notoriety for bringing a handgun into a choir concert at an Ann Arbor high school, claimed that his constitutional rights were violated when he applied for and was denied a personal waiver to carry a firearm on campus, despite not working, studying, or living on campus. He asked the Court to declare that Defendant's Ordinance to Regulate Parking and Traffic, and to Regulate the Use and Protection of the Buildings and Property of the Regents of the University of Michigan ("Ordinance"), violates the Michigan, and U.S. Constitutions. Plaintiff further sought that Defendant be enjoined from enforcing the Ordinance. Defendant filed a motion to dismiss that was granted by Judge Stephens. On January 4, 2016, Plaintiff filed an appeal to the Michigan Court of Appeals. On June 6, 2017, the Michigan Court of Appeals affirmed the trial Court's decision granting defendant's motion for summary disposition and dismissing plaintiff's entire complaint. Plaintiff has sought leave to the Supreme Court to appeal the Court of Appeals decision that was granted. On February 8, 2021, Defendant-Appellee filed its brief on appeal.

Dana Telep v Board of Regents of the University of Michigan, Gretchen Pagac, and Jeffrey Wood. Washtenaw County Circuit Court. (Judge Carol Kuhnke) (Served January 4, 2021)

Plaintiff filed a three-count complaint alleging age discrimination in violation of the Elliot-Larsen Civil Rights Act, retaliation, and hostile work environment arising out of the termination of her position. Plaintiff seeks front and back pay, exemplary damages, interests, costs, and attorney's fees. Defendants filed a Notice of Transfer to the Court of Claims as to Plaintiffs demands for declaratory and/or equitable relief, including future wages and benefits, and as to Plaintiffs claims in Count II. The Washtenaw County Circuit Court case is stayed as to Counts I and III.

Elia Companies, LLC, a Michigan limited liability company v Regents of the University of Michigan, a Michigan constitutional corporation. Washtenaw County Circuit Court. (Judge Archie Brown) (Filed August 9, 2018)

Plaintiff owns and operates restaurants, including several coffee shops through various wholly owned subsidiaries and related entities. The parties were in dispute over the termination of a lease for certain premises located in the University of Michigan Union. Plaintiff's six-count complaint includes alleged breach of contract, breach of covenant for quiet possession, use and enjoyment, conversation, unjust enrichment and alleged violations of Michigan's lock-out statute. Plaintiff seeks in excess of \$25,000, interest, costs, and attorney's fees. On June 18, 2019 Defendant filed a motion for summary disposition that was granted with prejudice on August 23, 2019. Plaintiff filed an appeal. On January 21, 2021, the Court of Appeals affirmed dismissal of all claims except the breach of contract claim, which was remanded to the Court of Claims. On April 5, 2021, Defendant filed an application for leave to appeal to the Michigan Supreme Court.

Layla-Fakhr El-Din El-Sawy and Egyptian Pharmaceutical Industry, an Egyptian corporation v Regents of the University of Michigan, a non-profit educational institution of the State of Michigan, and Mark L. Day, United States District Court, Eastern District of Michigan. (Judge Paul Borman) (Served January 11, 2021)

Plaintiff's eight-count complaint includes claims of sex, race, religion and national origin discrimination, among others. Plaintiffs' seek direct, consequential, punitive and/or exemplary damages and declaratory relief, together with interest, costs, and attorney's fees. On February 8, 2021, Defendant University of Michigan was dismissed from the case. On April 1, 2021, Defendant Mark Day filed a motion to dismiss.

Torin Clay v The University of Michigan. Washtenaw County Circuit Court. (Filed August 24, 2020) (Judge Carol Kuhnke)

Plaintiff's one-count complaint alleges a violation of the Elliott-Larsen Civil Rights Act for race discrimination and seeks compensatory damages, withdrawal and eradication of his suspension, readmission to the University of Michigan, full credit for those academic classes taken and completed while he was suspended from the University of Michigan, interest, costs and attorney's fees. On September 14, 2020, Defendants filed a motion for summary disposition of all claims or alternatively for partial summary disposition of Plaintiff's equitable claims. On November 11, 2020, Defendants' motion for summary disposition was denied and the motion for partial summary disposition was granted because the Court of Claims retains jurisdiction of Plaintiff's equitable claims. On March 9, 2021, Defendant-Appellant filed an appeal. On March 29, 2021, Plaintiff – Appellee filed a motion to dismiss the appeal that was granted on April 22, 2021.

Lana Tyrrell v. University of Michigan, Teri Grieb, Valerie Hill, Melissa Dyson, Jessica Durkin, and Carrie Peterson. Washtenaw County Circuit Court. (Judge Carol Kuhnke) (Filed August 1, 2018)

Plaintiff is a former employee of the University's Unit for Laboratory Animal Medicine ("ULAM") who claims she was terminated due to her alleged disability. Plaintiff's two-count complaint includes claims for violations of the PWDCRA and retaliation. Plaintiff seeks in excess of \$25,000, interest, costs, and attorney's fees. Defendants filed a motion for summary disposition that was denied on May 2, 2019. On May 21, 2019, Defendants filed a claim of appeal. On December 22, 2020, the Court of Appeals affirmed the denial of the University's motion for summary disposition and remanded back to circuit court for further proceedings. On March 10, 2021, Defendants-Appellants filed an Application for Leave to Appeal in the Michigan Supreme Court.

The Mackinac Center for Public Policy, a nonprofit Michigan corporation v The University of Michigan, a state public body. Court of Claims. (Judge Christopher Murray and Elizabeth Gleicher) (Served January 5, 2021 and March 24, 2021)

Plaintiff filed a one-count complaint alleging violations of the Freedom of Information Act ("FOIA"). Plaintiff asks the Court to order defendant to provide all documents sought in the FOIA request, apply penalties, and award costs and attorney's fees. Plaintiff filed a second complaint in the Court of Claims alleging additional FOIA violations.

Paul Hanson v The University of Michigan and The Regents of the University of Michigan. Court of Claims. (Judge Christopher Murray) (Served October 8, 2020)

Plaintiff filed a two-count complaint alleging negligence and gross negligence and premise liability after he slipped and fell in a restroom in the Museum of Natural History. Plaintiff seeks compensation for injuries and damages sustained together with interest, costs, and attorney's fees. On December 21, 2020, Defendants filed a motion for summary disposition.

Mark Franklin Hoeltzel v. Margie Pillsbury, Maureen Burke, Sgt. Connors, Det. Lucas, Tom Cargill, Mark Worosz, Det. Parviz, Officer Chalogianis and Lynetta Smith. United States District Court, Eastern District of Michigan. (Judge David Lawsin) (Filed October 18, 2019)

Plaintiff is currently incarcerated at the Milan Federal Correctional Institution and alleges unreasonable search and seizure in violation of the Fourth Amendment. Plaintiff seeks damages and injunctive and declaratory relief. On July 30, 2020, Defendants Pillsbury, Burke, Martin-Connors, Lucas, Cargill, Worosz and Chalogianis filed a motion for summary judgement that was granted on March 30, 2021. On April 22, 2021, Defendant Lynetta Smith filed a motion for summary judgement.

CASE RESOLUTIONS

No case resolutions to report this month.

Respectfully submitted,



Timothy G. Lynch
Vice President and General Counsel

May 2021