

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

June 2011

NEW CASES

Internet Applications and Solutions, Inc. v Regents of the University of Michigan. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed May 16, 2011).

Plaintiff IAS leased space from Michigan Information Technology Center (MITC) at the data center on 1000 Oakbrook in Ann Arbor. After the University purchased the data center assets of MITC, Plaintiff claimed it had a vested, ongoing right to continue use of the computing capacity, alleging it had lease rights. Plaintiff sought to continue the use until December 31, 2011. Settlement was reached between IAS and the University and the case is concluded.

Pamela Myers v University of Michigan. Washtenaw County Circuit Court. (Judge Archie C. Brown) (Served May 25, 2011).

Plaintiff is a former employee of the University. She alleges that long-term disability benefits have been wrongfully denied to her. As a result of this denial, Plaintiff claims that she has sustained loss of past, present and future income. She seeks judgment against the University, plus costs, interest and attorney fees.

RESOLUTIONS

Theresa Gratsch v Regents of the University of Michigan. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed October 6, 2008).

Plaintiff, a research lab specialist in the Department of Cell and Developmental Biology, filed this lawsuit alleging discrimination on the basis of her gender in violation of the Elliott Larsen Civil Rights Act. Plaintiff claims that the University allegedly denied her assistance seeking patent protection for an invention that she, and others, developed, while at the same time offering assistance seeking patent protection to a male employee who developed the same invention. She seeks damages, costs, interest and attorney's fees. The University filed a motion for summary disposition, which was denied by Judge Morris. The University filed an interlocutory appeal to the Michigan Court of Appeals.

AND

Theresa Gratsch v Regents of the University of Michigan. (Judge Timothy Connors) (Filed August 27, 2009).

Plaintiff filed this lawsuit alleging that the University retaliated against her for filing an earlier lawsuit in which she complained of gender discrimination. She claims that the University and her

immediate supervisor, Dr. Sue O'Shea, forced Plaintiff to resign under duress, which resignation was not voluntary and constitutes a constructive termination. She seeks damages, costs, interest and attorney's fees. Plaintiff filed a motion to consolidate the two cases; that motion was denied by Judge Morris on December 14, 2009 and the two cases will be heard separately. The University filed a motion for summary disposition, which was denied by the judge. Settlement was reached between the parties and both of these cases are concluded.

Julie Amanda Rowe v The Michigan Daily, University of Michigan, Gary Graca, Jacob Smilovitz and Courtney Ratkowick. Washtenaw County Circuit Court. (Judge Archie C. Brown) (Served February 26, 2010). **Julie Amanda Rowe v The Michigan Daily and the University of Michigan.** Michigan Court of Claims. (Judge William Collette) (Served February 26, 2010).

Plaintiff was a Daily News Editor at the Michigan Daily during the Winter 2009 term. She claims that she was falsely accused of plagiarism in connection with an article she wrote for the newspaper and that she subsequently resigned her position at the Daily. Plaintiff claims that the individual defendants, student editors of the Michigan Daily, wrongly accused her of plagiarism. Plaintiff also claims that University officials failed to oversee the Daily, thereby endorsing and sanctioning the wrongful treatment of the Plaintiff by the named defendants. Plaintiff's claims include defamation, intentional infliction of emotional distress and deprivation of her due process rights. She seeks damages in excess of \$25,000, costs and interest. The University filed a motion for summary disposition, which was granted by Judge Collette on November 17, 2010. The lawsuits against the Michigan Daily, Gary Graca, Jacob Smilovitz and Courtney Ratkowick continue but this concludes the case against the University, subject to any appeal that the plaintiff may file. The case against the Michigan Daily is pending in the Court of Claims and the case against the individual student editors is pending in Washtenaw County Circuit Court. Judge Collette granted the motion for summary disposition on behalf of the Daily on February 9, 2011. A motion for summary disposition was filed on behalf of the named defendants and was granted by Judge Brown. This case is concluded.

CASE UPDATES

Keith Yohn v Board of Regents of the University of Michigan, Peter Polverini, Paul Krebsbach and Mark Snyder. Michigan Court of Claims. (Judge Thomas L. Brown) (Filed October 7, 2008).

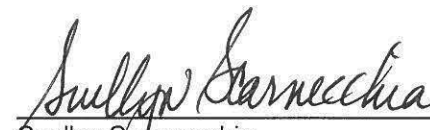
Professor Yohn's complaint alleges that Paul Krebsbach, Chair of the Biomedical and Materials Science Department in the School of Dentistry, is keeping a secret file on Dr. Yohn to force Plaintiff out of his tenured University appointment. He also alleges that Defendant Snyder committed misconduct by working on his intramural dental patients during work hours, causing Plaintiff to suffer anger and loss of sleep; Plaintiff complained to Dean Polverini and later filed a grievance of Snyder's misconduct. Dr. Yohn also complained that Dr. Krebsbach embarrassed him in front of his fellow faculty members at a faculty meeting, and that later an officer from DPS was sent to his home to ask him about some alleged threats made by Plaintiff at that meeting. Dr. Yohn seeks an order to

expunge all evidence of the DPS incident report noted above, jail time for defendants Polverini and Krebsbach, \$3 million for mental anguish and suffering, and exemplary damages. The University's motion for summary disposition was granted by the court on June 24, 2009, thereby dismissing all of Plaintiff's claims with prejudice. Plaintiff contested the proposed order, and a hearing was held on September 2, 2009. The judge granted the University's motion to dismiss the entire case, denied Plaintiff's motion opposing the order of dismissal, denied with prejudice Plaintiff's motion to amend his complaint, and awarded the defendants \$36,000 in costs and fees. Plaintiff filed an appeal with the Michigan Court of Appeals. In addition, Plaintiff filed a motion for an immediate preliminary injunction, asking the Court of Appeals to prohibit defendant Snyder from performing certain of his duties. The Court of Appeals denied the motion for immediate preliminary injunction. Plaintiff filed an Application for Leave to Appeal Prior to Decision by Court of Appeals with the Michigan Supreme Court. On October 26, 2010, the Michigan Supreme Court denied plaintiff's application for leave to appeal. Plaintiff filed a motion in the Court of Appeals for peremptory reversal, which was denied by the court on February 16, 2011. On March 22, 2011, the Court of Appeals ruled unanimously in favor of the University and upheld the lower court's dismissal of Dr. Yohn's lawsuit. Plaintiff filed an application for leave to appeal to the Michigan Supreme Court. On May 17, 2011, the Court of Appeals granted the University's motion for attorney's fees in the amount of \$34,178.

Peggy Suess v University of Michigan-Flint. Genesee County Circuit Court. (Judge Richard B. Yuille) (Served November 1, 2010).

Plaintiff worked as an administrative assistant at the School of Health Professions & Studies on the Flint Campus. Ms. Suess claims that she was discriminated against because of her age and that, after filing a complaint about that disparate treatment, she was discharged in retaliation. Ms. Suess seeks damages, lost wages, reinstatement to her position, costs and attorney fees. The court has ordered the parties to facilitation.

Respectfully submitted,



Suellen Scarnecchia
Vice President and General Counsel

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