

THE UNIVERSITY OF MICHIGAN  
REGENTS COMMUNICATION  
ITEM FOR INFORMATION

Subject: Litigation

July 2018

NEW CASES

Lynwellyn H. Gudger v University of Michigan Survey Research Center, Dianne Casey, SRO Program Manager, Luis Suarez, SRO Program Manager, Lydia Harper, SRO Team Leader, Mike Etzel, SRO employee and Ethics Attorney, Michelle Marsciano, SRO employee, Yvonne Illic, SRO employee, Sharon Black, SRO employee, Julie J. Gudger, mother of plaintiff. Cook County Circuit Court, Illinois County Department. (Filed February 26, 2018) (Judge Margaret Brennan)

Plaintiff, a former interviewer for the Institute for Social Research, claims that defendants conspired to violate her civil rights and caused her physical harm and emotional stress. Plaintiff seeks in excess of \$3.5 million dollars plus costs. On May 16, 2018, Defendant Harper filed a motion to dismiss.

Christopher Cruickshank v Robert Mardeusz. 53rd District Court. (Served April 10, 2018) (Judge Carol Reader)

Plaintiff is a former Custodian for the University's Building Services department and claims his supervisor lied regarding the facts used to support a disciplinary action. Plaintiff seeks \$6,000. On May 1, 2018, Defendant filed removal from the small claims division to the general civil division of the 53rd District Court. Defendant filed a motion to dismiss that was granted.

Jill S. Oviatt v University of Michigan Regents, Lee C. Bollinger, and Rick Brandon. United States District Court, Eastern District of Michigan. (Filed June 7, 2018) (Judge Arthur Tarnow)

Plaintiff is a former employee at the University of Michigan. Her five-count complaint includes age, race, sex and religious discrimination counts, as well as alleged violations of the Americans with Disabilities Act. Plaintiff seeks \$10,000,000, plus penalties.

John Doe v. University of Michigan, Board of Regents of the University of Michigan, Pamela Heatlie, Robert Sellers, Martin Philbert, Erik Wessel, Laura Blake Jones, E. Royster Harper, Suzanne McFradden and Paul Robinson. United States District Court, Eastern District of Michigan (Filed June 4, 2018) (Judge Arthur Tarnow)

Plaintiff, a student at the University of Michigan, alleges violations of the University's Policy and Procedures on Student Sexual and Gender-Based Misconduct and other Forms of Interpersonal Violence (Sexual Misconduct Policy). His five-count complaint includes alleged violations of the Fourteenth Amendment, Title IX, and the Elliott-Larsen Civil Rights Act. Plaintiff seeks equitable relief to include an injunction halting the investigation and decision-making process with regard to the University's Office for Institutional Equity complaint against Plaintiff, and an injunction prohibiting Defendants from further use of the Sexual Misconduct Policy. Plaintiff further seeks legal relief to include compensatory, exemplary and punitive damages, interest, costs and attorney's fees. On June 4, 2018, Plaintiff filed an *ex parte* motion to proceed under pseudonym and a motion for temporary restraining order and preliminary injunction. Defendants' opposition to Plaintiff's motion for preliminary injunction was filed on June 15, 2018. On July 6, 2018, the Court entered its Order Granting In Part and Denying In Part Plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction. Despite Plaintiff's request for campus-wide changes to the University's policies and procedures, the Court limited its relief to the ongoing investigation regarding Plaintiff's alleged misconduct. The Court ordered that as soon as practicable, the University shall provide provide Plaintiff with the opportunity for a live hearing in accordance with the procedures set forth in the Statement of Student Rights and Responsibilities.

CASE UPDATES

**Pamela Smock v Mark Schlissel, Regents of the University of Michigan, and Andrew Martin.** United States District Court, Eastern District of Michigan. (Judge Arthur J. Tarnow) (Filed February 2, 2018)

Plaintiff is a tenured Professor of Sociology in the College of Literature, Science and the Arts. Her lawsuit alleges a violation of due process, the First Amendment, and retaliation, after she was disciplined because her behavior towards students was found to be inappropriate and involved sexually charged discussions. Plaintiff asks that the practices and actions of Defendants be declared unconstitutional. Plaintiff further seeks an injunction prohibiting any future acts by Defendants allegedly violating Plaintiff's constitutional rights and an Order removing the investigation from Plaintiff's file and reversing the sanctions. Plaintiff further asks the Court to award her compensatory damages, exemplary damages, lost wages and benefits, interest, costs, and attorney's fees. On March 14, 2018, Defendants filed a motion to dismiss. On May 16, 2018, Plaintiff filed a motion for summary judgment.

**Julia Pennington v The University of Michigan.** Washtenaw County Circuit Court. (Judge Timothy Connors) (Served February 6, 2018)

Plaintiff was a Senior Administrative Assistant in the Department of Radiology and alleges she was terminated from her position because of her age and alleged disability. Plaintiff seeks in excess of \$25,000, compensatory damages for lost wages and benefits, emotional distress damages, exemplary and punitive damages, costs, and attorney's fees. On May 17, 2018, Defendant filed a motion for summary judgment.

**Bryan Richards v County of Washtenaw, Thomas Arnett, Justin Berent, and John Cratsenberg.** United States District Court, Eastern District of Michigan. (Judge Sean F. Cox) (Filed March 13, 2018)

Plaintiff alleges that, while at a University of Michigan football game, law enforcement personnel approached him and falsely accused him of being intoxicated. Plaintiff claims that unlawful and excessive actions by law enforcement caused him injuries and damage. Plaintiff's six-count complaint alleges illegal search and seizure, excessive force, and malicious prosecution, and state-law claims for false arrest/false imprisonment and malicious prosecution. Plaintiff seeks an amount in excess of \$75,000, together with interest, costs, and attorney's fees. On June 20, 2018, Defendant Berent, an UM police officer, filed a motion for summary judgment and motion to stay.

**Don M. Bosco, Personal Representative of Estate of Heping Zhao v Ameer Raouf.** Washtenaw County Circuit Court. (Judge Timothy Connors) (Filed March 22, 2017)

Plaintiff, Don M. Bosco, has been appointed as Personal Representative of the Estate of Heping Zhao by the Probate Court of Washtenaw County. Plaintiff claims that as a result of wrongful acts by former Michigan employee Defendant Raouf, Zhao suffered injuries resulting in his death. Plaintiff seeks economic and non-economic damages, together with costs, interest and attorney's fees. On May 22, 2017, Defendant filed a motion to dismiss and for summary disposition that was denied. On August 17, 2017, Defendant-Appellant filed a delayed application for leave to appeal that was denied. Defendant filed a second motion to dismiss on alternative grounds.

**Trevor Le Gassick, as Trustee of the James A. Bellamy Trust, under Trust Agreement dated August 6, 1998, as amended, and as Personal Representative of the Estate of James Bellamy, Deceased v Regents of the University of Michigan and Andrew D. Martin.** Probate Court for the County of Washtenaw. (Judge Julia B. Owdziej) (Filed April 23, 2018)

The Trustee of the Bellamy Trust filed a breach of contract claim alleging that the University is not using funds distributed to it in accordance with the intent of the donor. The University submitted a Petition for Instruction to the Washtenaw County Probate Court, requesting the Court determine that the Trustee does not have legal standing to file a claim against the University and seeking an interpretation of the terms of the Trust. Defendants filed a motion for summary disposition that is currently pending.

## CASE RESOLUTION

**Losec, a Michigan Corporation, and Sidney Combs v Matthew Beaudry, Bryan Earl and University of Michigan-Dearborn Athletic Department.** (Wayne County Circuit Court) (Judge Muriel Hughes) (Served May 11, 2017)

Plaintiff accused Defendants of conversion, misuse of funds, refusal to pay for goods and services received and used, and refusal to account for and return funds on legal demand. Plaintiff requested an amount in excess of \$25,000, exemplary damages, cost, fees, and sanctions. Plaintiff also requested the Court compel Defendants to prepare a true and accurate accounting of the funds, ledgers, budget, activities, and assets. Settlement was reached between the parties. This case is concluded.

**Cynthia Scott v Board of Regents of the University of Michigan.** Court of Claims. (Judge Cynthia Stephens) (Served February 19, 2018)

Plaintiff brought a breach of contract claim against the University out of an alleged denial of her long-term disability benefits. Plaintiff sought an amount in excess of \$25,000, an accounting from Defendant as to her rate of LTD benefits and to the nature, amount, and maximum benefit period for other benefits she may be eligible, and interest, costs and attorney's fees. Settlement has been reached between the parties. This case is concluded.

**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 alleged 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 included violations of the Michigan Whistleblower's Protection Act and race discrimination. She sought damages, costs, interest, and attorney's fees. Defendants filed a motion for summary disposition that was denied on January 19, 2017. Defendants filed a claim of appeal as of right on a portion of the matter. On January 25, 2018, the Court of Appeals reversed the trial Court's denial of summary disposition in favor of Defendant Kendrick and Foster with respect to Plaintiff's intentional tort claims. Settlement has been reached between the parties. This case is concluded.

**Mohib Boutros v University of Michigan.** United States District Court, Eastern District of Michigan. (Judge Sean F. Cox) (Served June 2, 2017)

Plaintiff, a Database Administrator for the University, claimed he was discriminated and retaliated against, harassed, and made to endure a hostile work environment because of his alleged disability and/or because he took sick/medical leave, in an effort to constructively discharge and/or terminate his employment. Plaintiff claimed he suffered emotional pain and suffering, inconvenience, mental anguish, and loss of enjoyment of life. He sought lost wages, past and future, compensatory damages, liquidated damages, punitive and exemplary damages, costs, interest and attorney's fees. Settlement has been reached between the parties. This case is concluded.

Respectfully submitted,



Timothy G. Lynch  
Vice President & General Counsel

July 2018