

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

July 2022

NEW CASES

Stevan Rajkovic v The University of Michigan. United States District Court, Eastern District of Michigan. (Filed May 10, 2022) (Judge Page Hood)

Plaintiff was employed by Defendant as an IT Desktop Support Specialist and alleges he was terminated on May 2, 2022 after Defendant allegedly failed to provide him with any accommodations for his request for religious exemption from Defendant's COVID-19 policies. Plaintiff six-count complaint includes alleged violations of the First Amendment, due process, Title VII, Michigan Constitution, Elliot-Larsen Civil Rights Act, and wrongful discharge. Plaintiff seeks reinstatement with benefits and lost wages, real and compensatory damages including back pay together with costs, expenses and attorney's fees.

Leon Arizola v The University of Michigan, a state public body. Washtenaw County Circuit Court. (Filed March 17, 2022) (Judge Patrick J. Conlin, Jr.)

Plaintiff claims that while he was at the University of Michigan's children's hospital where his daughter was recovering from surgery, he was racially profiled by the University's Department of Public Safety and Security. Plaintiff's three-count complaint includes alleged violations of the Elliot-Larsen Civil Rights Act for discrimination in public accommodations, the Michigan Penal Code, and false imprisonment. Plaintiff seeks damages, costs and attorney's fees. Settlement has been reached between the parties. This case is concluded.

Timothy Thiry v Board of Regents of the University of Michigan, Camie Munsell, Steve Brabbs, and Sharon Curry. United States District Court, Eastern District of Michigan. (Filed May 27, 2022) (Judge Robert Cleland)

Plaintiff was an electrician for the University of Michigan until his resignation on July 29, 2021, after an alleged threat of termination. Plaintiff's four-count complaint includes alleged discrimination and retaliation under the Rehabilitation Act, alleged violations of 42 USC section 1982 for unlawful restrictions of protected activity, and retaliation. Plaintiff seeks a declaratory and injunctive order against Defendants, compensatory, exemplary and punitive damages, together with interest, costs and attorney's fees.

Thomas Smith v The Regents of the University of Michigan, The University of Michigan, a Michigan Corporation, Michigan Medicine, a Michigan non-profit entity, Andrew Gray Urquhart, M.D. Kathryn Maguire, R.N. Washtenaw County Circuit Court. (Filed June 15, 2022) (Judge Archie C. Brown)

Plaintiff was a former employee at the University of Michigan and alleges a noose was fashioned and displayed in the workplace in June 2019. Plaintiff's three-count complaint includes alleged violations of ELCRA and the Freedom of Information Act. Plaintiff seeks a judgment in excess of \$2,000,000 together with interest, costs and attorney's fees

CASE UPDATES

Shamiliya Williams v The University of Michigan; U-M Work Connections; Jennifer Barnett; Christine Fergus, agent of Work Connections; Jerri Atkins, Amy Grier, senior HR representative University of Michigan and Mary S. Coleman President of the University of Michigan. United States District Court, Eastern District of Michigan. (Judge Gershwin Drain) (Filed April 6, 2022)

Plaintiff was an Executive Assistant for LSA's Psychology department and alleges she was wrongfully terminated from her employment as a result of her alleged disabilities, race, color, marital status and after taking medical leave. Plaintiff's six-count complaint includes alleged violations of the Whistleblowers' Protection Act, the Elliott-Larsen Civil Rights Act, the Americans with Disabilities Act, the Family Medical Leave Act, and claims of race and age discrimination. Plaintiff seeks compensatory, exemplary and punitive damages together with interest costs, and attorney's fees. On May 20, 2022, Defendants filed a partial motion to dismiss.

Jane Doe v University of Michigan, David Baum, Elizabeth Seney, Margaret Gytoko and Chung Owyang. United States District Court, Eastern District of Michigan. (Judge Robert Cleland) (Filed January 25, 2022)

Plaintiff alleges defendants failed to conduct an investigation of her Title IX report despite allegations of sexual assault and harassment. Her three-count complaint alleges violations of Title IX and negligence. Plaintiff seeks injunctive relief, compensatory and punitive damages, costs, and attorney's fees. On March 10, 2022, Defendants filed a motion to dismiss. On May 25, 2022, Defendants refiled the motion to dismiss as Plaintiff did not respond to the first motion but instead filed an amended complaint.

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. On January 17, 2022, Defendant University of Michigan filed a Notice of Transfer to the Court of Claims as to Plaintiff's demands for declaratory and/or equitable relief and stays the Washtenaw County Circuit Court case as to all matters for which a jury trial has been requested until final judgment on Plaintiff's equitable and declaratory claims. On September 28, 2021, this case was remanded back to the Washtenaw County Circuit Court. On May 26, 2022, Defendants filed a motion for summary disposition.

Suleyman Uludag, Ph.D. v University of Michigan – Flint, a public university. Genesee County Circuit Court. (Judge Joseph Farah) (Served September 24 2020)

Plaintiff, a tenured associate professor of computer science for the University of Michigan-Flint, filed a one-count breach of contract claim alleging that, while he was physically away from campus (in Turkey), he performed his contractual duties of research and service and offered to teach remotely and defendant refused to provide his salary and benefits. Plaintiff sought in excess of \$25,000 together with interest, costs, and attorney's fees. On March 23, 2022, Defendant filed a motion for summary judgement that was granted on May 24, 2022. Plaintiff filed a claim of appeal on June 13, 2022.

Isabelle Brouman, Maya Crosman, Shaina Mahler, Amelia Brown, Lauren Lambert, Cassie McQuater, Katherine McMahan, and Kristen Beecy v The University of Michigan, and The Regents of the University of Michigan (official capacity only), Jointly and Severally, and Bruce Conforth, individually. Washtenaw County Circuit Court. (Judge Timothy Connors) (Served March 9, 2022)

Plaintiffs allege Defendant Conforth used his position within the University to sexually assault and harass female university students. Plaintiffs' eleven-count complaint includes claims of sex discrimination in violation of the Elliott-Larsen Civil Rights Act; violations of the Michigan Equal Accommodations Act; due process – invasion of bodily integrity; gross negligence; negligent supervision; negligent failure to warn or protect; negligent failure to train or educate; negligent retention; assault and battery (as to Conforth only); vicarious liability; and expressed/implied agency. On March 15, 2022, Defendants UM and Regents of the University of Michigan filed a notice transferring the case to the Court of Claims. On March 17, 2022, Defendants UM and Regents of the University of Michigan filed a motion for summary disposition. On March 28, 2022, Plaintiffs filed a motion to remand the case back to Washtenaw County Circuit Court. On May 11, 2022, the Court of Claims granted Plaintiffs' motion to remand in part, remanding only Plaintiffs' Elliott-Larsen claim to the extent Plaintiffs sought monetary damages. That claim against Defendants UM and Regents of the University of Michigan is stayed pending the resolution of the remaining claims in the Court of Claims. Defendants UM and Regents of the University of Michigan motion for summary disposition remains pending.

On March 24, 2022, Defendant Conforth filed a motion for summary disposition in Washtenaw County Circuit Court that was denied on June 13, 2022.

Hassan M. Ahmad, Esq. v University of Michigan. Court of Claims. (Judge Elizabeth Gleicher) (Served June 23, 2017)

Plaintiff filed a Complaint claiming the University of Michigan violated the Freedom of Information Act ("FOIA"). On August 16, 2017, Defendant filed a motion to dismiss that was granted. On November 20, 2017, Plaintiff filed an appeal. On June 20, 2019, the Michigan Court of Appeals issued an unpublished opinion in which it held that the requested records are public records. The court remanded the case to the Court of Claims for further proceedings consistent with the court's opinion. On July 31, 2019, the University filed an application for leave to appeal to the Michigan Supreme Court. On March 6, 2020, the Supreme Court granted leave to appeal. On April 9, 2021, after granting leave to appeal, the Michigan Supreme Court affirmed the Court of Appeals' ruling by equal division. The case has been remanded to the Court of Claims for further proceedings. On July 19, 2021, the University filed a motion to dismiss that was denied on September 30, 2021. On October 21, 2021, the University filed an application for leave to appeal from Court of Claims September 30, 2021 ruling. On November 9, 2021, the Court of Appeals denied the application for leave to appeal. On March 11, 2022, Plaintiff filed a motion for partial summary disposition, which remains pending.

Andrew Lipian v University of Michigan, Jeffrey Frumkin, Elizabeth Seney, Pamela Heatlie, Melody Racine, Martin Philbert, Martha Pollack, Steven West, Aaron Dworkin, Mark Schlissel, and Christopher Kendall. United States District Court, Eastern District of Michigan (Judge Arthur Tarnow), (Filed October 31, 2018) AND **Andrew Lipian v Jeffery Frumkin, Elizabeth Seney, Pamela Heatlie, Steven West, Aaron Dworkin, Melody Racine, and Christopher Kendall.** Washtenaw County Circuit Court. (Filed March 20, 2020) (Judge David S. Swartz)

Plaintiff, a University of Michigan student in the School of Music, Theater and Dance, alleges violations of Title IX of the Education Amendments of 1972 and Michigan's Elliott-Larsen Civil Rights Act. Plaintiff seeks compensatory damages, exemplary and punitive damages, interest, costs, and attorney's fees. On December 6, 2018, Defendant University of Michigan filed a motion to dismiss. On December 14, 2018, Defendant David Daniels filed a counter-claim against Plaintiff. On January 4, 2019, Plaintiff filed a motion to dismiss Defendant Daniels's counter-claim. On February 21, 2019, an Order was entered dismissing Count II of Plaintiff's Complaint and dismissing the counter-claim. On September 26, 2019, after the court granted leave, Plaintiff filed an amended complaint asserting additional Title IX claims as well as Equal Protection

Clause, Due Process Clause, and First Amendment claims under 42 U.S.C. § 1983. Plaintiff also added Jeffrey Frumkin, Elizabeth Seney, Pamela Heatlie, Melody Racine, Martin Philbert, Martha Pollack, Steven West, Aaron Dworkin, Mark Schlissel, and Christopher Kendall as defendants. On October 25, 2019, the individual defendants filed a motion to dismiss. On December 13, 2019, all Defendants filed a motion for summary judgment. On April 9, 2020, the district court entered an Opinion and Order granting in part and denying in part Defendants' motion to dismiss and granting in part and denying in part Defendants' motion for summary judgment. All claims against the individual defendants were dismissed. Additionally, all of Plaintiff's claims against the University were dismissed except his Title IX claim alleging that the University's response to sexual harassment was deliberately indifferent. On April 23, 2020, the University filed a motion to certify a portion of the district court's April 9, 2020 Opinion and Order for interlocutory appeal as well as a motion to stay proceedings pending a resolution of any appeal that were both denied.

On March 20, 2020, Plaintiff filed a State Court lawsuit against Jeffrey Frumkin, Elizabeth Seney, Pamela Heatlie, Melody Racine, Steven West, Aaron Dworkin, and Christopher Kendall asserting sex discrimination and retaliation claims arising under the Elliott-Larsen Civil Rights Act and a claim for false light invasion of privacy. On June 19, 2020, Defendants removed the State Court case to the Federal Court and filed a motion to dismiss that case the same day. Plaintiff filed an amended complaint, removing Kendall and Dworkin as defendants, and removing the retaliation claim. Plaintiff also filed a motion for remand that was granted on July 15, 2020. On April 7, 2020, Defendants filed a motion for summary disposition that was granted on September 30, 2019. Plaintiff filed an appeal on October 20, 2020. On February 1, 2020, the Michigan Court of Appeals dismissed Plaintiff's appeal after the parties stipulated to its dismissal.

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 McFadden and Paul Robinson. United States District Court, Eastern District of Michigan (Filed June 4, 2018) (Judge Terrence Berg)

Plaintiff, a student at the University of Michigan, was accused of violating 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 alleges violations of the Fourteenth Amendment, Title IX, and the Elliott-Larsen Civil Rights Act. Plaintiff seeks equitable relief, including an injunction (1) halting the investigation and decision-making process with regard to the University's Office for Institutional Equity complaint against Plaintiff and (2) prohibiting Defendants from further use of the Sexual Misconduct Policy. Plaintiff further seeks compensatory, exemplary and punitive damages, interest, costs and attorney's fees. On June 4, 2018, Plaintiff filed an *ex parte* motion to proceed under a 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. The Court ordered that the University provide Plaintiff with the opportunity for a live hearing in accordance with the procedures set forth in the Statement of Student Rights and Responsibilities as soon as practicable.

On July 25, 2018, Defendants filed a notice of appeal. Plaintiff filed a cross-appeal. On January 18, 2019, Defendant filed a motion to dismiss the cross-appeal. On April 10, 2019, the United States Court of Appeals for the Sixth Circuit vacated the district court's preliminary injunction and remanded for reconsideration in light of *Doe v. Baum* and the University's interim policy. On May 22, 2019, Plaintiff filed a second amended complaint. On June 5, 2019, Defendants filed a motion to dismiss the second amended complaint. On June 10, 2019, Plaintiff filed a motion for partial summary judgment. On June 12, 2019, Defendants filed an emergency petition with the Sixth Circuit seeking mandamus relief from the District Court's orders requiring the University's President to appear for a settlement conference on the record and in open court. On June 12, the Sixth Circuit stayed the District Court's Order and on August 23, 2019, granted the petition for a writ of mandamus. On October 21, 2019, Defendants filed a motion requesting that the District Court permit the University to proceed with the student conduct hearing or, in the alternative, promptly rule on the pending dispositive motions. On November 15, 2019, the District Court denied Defendants' motion. On March 16, 2020, Defendants filed a petition for a writ of mandamus with the Sixth Circuit, seeking an order requiring the District Order to permit the University to move forward with the student conduct hearing and to implement the Sixth Circuit's order to reconsider Plaintiff's due process claim in light of the University's

interim policy. On March 23, 2020, the District Court entered an Order granting in part and denying in part Defendants' motion to dismiss, granting Plaintiff's motion for partial summary judgment, and denying Defendants' motion to vacate order enjoining student conduct hearing as moot. The District Court dismissed Plaintiff's Title IX claim and declined to exercise supplemental jurisdiction over Plaintiff's Elliott-Larsen Civil Rights Act claim. The District Court declined to dismiss Plaintiff's Fourteenth Amendment Due Process claim on qualified immunity grounds and granted summary judgment in Plaintiff's favor on this claim. On March 24, 2020, the Clerk entered a corresponding Judgment. On March 25, 2020, Defendants filed a Notice of Appeal. On April 10, 2020, Plaintiff filed a motion for injunctive relief, seeking to delay his student conduct hearing. On April 16, 2020, the Court denied Plaintiff's motion as moot after the claimant informed the University that she would no longer participate in a hearing. On April 20, 2020, the Sixth Circuit entered an order dismissing the March 16, 2020 mandamus petition as moot. On April 27, 2020, Plaintiff filed a motion to dismiss the March 25 appeal as moot while also seeking to leave the District Court's March 23 Order intact. On May 1, 2020, Defendants filed a motion for sanctions against Plaintiff requesting that the Court order reimbursement for the legal fees they expended responding to Plaintiff's improper motion for injunctive relief pending Defendants' appeal and preparing the motion for sanctions. On November 25, 2020, the Magistrate Judge issued a Report and Recommendation that the motion for sanctions be denied. Defendants timely filed objections and a ruling on the request for sanctions is pending. On December 23, 2020, the Sixth Circuit granted Plaintiff's motion to dismiss the March 25, 2020 appeal as moot with instructions to vacate the judgment. On January 8, 2021, Plaintiff filed a renewed motion for attorney fees. On November 19, 2021, the Magistrate Judge issued a Report and Recommendation awarding attorney fees. The University filed objections to the Report and Recommendation that were overruled by the District Court's June 28, 2022 Order.

Carole McGillen v The University of Michigan and Michelle Boertman. Washtenaw County Circuit Court (Served November 16, 2020) (Judge Carol Kuhnke)

Plaintiff was an Administrative Manager Senior at the University of Michigan Medical Group and alleged that she was denied promotion and remote work accommodations and terminated on the basis of disability and age. She further alleged that she was retaliated against for reporting complaints of age and disability discrimination. Plaintiff sought past and future wage loss; non-economic damages for emotional distress, embarrassment and humiliation; and costs, interest and attorney's fees. Defendants transferred Plaintiff's requests for declaratory or equitable relief to the Court of Claims. On November 5, 2021, Plaintiff filed a motion for summary disposition that was denied. On November 30, 2021, Plaintiff stipulated to the dismissal of her failure to promote claim. On May 4, 2022, Defendants filed a motion for summary disposition that was denied on July 5, 2022.

CASE RESOLUTIONS

Kliment Milanov, Trenten Ingell, and all other who are similarly situated v University of Michigan, and Regents of the University of Michigan. Court of Claims. (Served April 26, 2020) (Judge Elizabeth Gleicher)

Plaintiffs sought refunds of tuition, room and board, fees, and other applicable costs related to the University's response to the Novel Coronavirus Disease of 2019 pandemic. Plaintiffs' six-count complaint included claims for breach of contract and unjust enrichment. Plaintiffs requested the Court enter a judgement certifying class actions; declaring that the University is financially responsible for notifying members of the classes of the pendency of the lawsuit; declaring that the University has wrongfully kept monies paid for tuition, on-campus housing, meals, and fees; requiring that the University disgorge amounts wrongfully obtained for on-campus tuition, on-campus housing, meals and fees; awarding injunctive relief as permitted by law or equity, including enjoining the University from retaining the prorated, unused monies paid for tuition, on-campus housing, meals and fees; and awarding Plaintiffs' reasonable attorney's fees, costs and expenses. Defendants filed a motion for summary disposition that was denied. On August 18, 2020, Defendants filed a motion for reconsideration that was denied on August 21, 2020. On January 24, 2022, Defendants filed a motion for summary disposition that was granted on May 12, 2022.

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 filed four one-count complaints in the Court of Claims alleging violations of the Freedom of Information Act ("FOIA"). Plaintiff asked for all documents sought in the FOIA requests, penalties, and costs. Plaintiff's fourth and final complaint has been dismissed.

Jeffrey Majchrzak, Michelle DeJean, Linda Majchrzak-Wagner, Marianne Oster, Lisa Wagner, Greg Majchrzak, Robert Majchrzak, and Steven Majchrzak v Wayne County, Wayne County Medical Examiner, Carl J. Schmidt, MD and Reggie Harvel, jointly and severally. United States District Court, Eastern District of Michigan. (Served June 6, 2020) (Judge Mark A. Goldsmith)

Plaintiffs are the siblings of Timothy Williams Majchrzak (deceased), and alleged that, after his death, the medical examiner's office conducted an autopsy without their consent and also failed to timely notify the next of kin that the body was in the morgue, resulting in the body remaining in the morgue for over a year. Plaintiffs' four-count complaint included alleged violations of due process, gross negligence, and intentional infliction of emotional distress. Plaintiffs sought compensatory, exemplary, and punitive damages, together with interest, costs, and attorney's fees. On October 4, 2021, Defendants filed a motion for summary judgement that was granted on June 14, 2022.

John Doe, M.D. v. The Board of Regents of the University of Michigan, Marie Lozon, M.D., and Justin Dimick, M.D., Individually. United States District Court, Eastern District of Michigan (Judge Gershwin Drain) (Filed December 29, 2022)

Plaintiff filed a six-count complaint after he received notice from Defendants of an intent to suspend his clinical privileges indefinitely and report this suspension to the National Practitioner Data Bank ("NPDB") and the State of Michigan Board of Medicine. Plaintiff's allegations included violations of due process, breach of contract, breach of fiduciary and public duties, intentional infliction of emotional distress, and retaliation. Plaintiff sought injunctive and equitable relief, compensatory, exemplary and punitive damages; and he asked that his clinical privileges be restored, his board certification renewed, and his name renewed with the NPDB. Plaintiff also sought interest, costs, and expert witness and attorney's fees. Defendants filed a motion to dismiss that was granted on June 16, 2022.

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 sought 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 Plaintiff's claims in Count II. On October 13, 2021, the parties stipulated to the dismissal of defendant Jeffrey Wood. In the Court of Claims case, Plaintiff filed a motion for summary disposition that was denied on April 5, 2022. Settlement has been reached between the parties. This case is concluded.

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 sought in excess of \$25,000, lost wages, fringe benefits, past and future, together with interest costs, and attorney's fee. 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 Plaintiff's claims in Count II. In the Court of Claims case, Plaintiff filed a motion for summary disposition that was denied on April 5, 2022. Settlement has been reached between the parties. This case is concluded.

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 alleged unreasonable search and seizure in violation of the Fourth Amendment. Plaintiff sought 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. On March 17, 2022, all of plaintiff's claims against all defendants were dismissed with prejudice. Plaintiff filed an appeal that was dismissed on June 28, 2022.

Respectfully submitted,



Timothy G. Lynch
Vice President and General Counsel

July 2022