

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Received by the Regents
September 17, 2009

Subject: Litigation

September 2009

NEW CASES

There are no new cases this month.

RESOLUTIONS

Afzal Hossain, Ph.D. v University of Michigan-Dearborn, Malayappan Shridhar, and Subrata Sengupta. Wayne County Circuit Court. (Judge Warfield Moore) (Served May 23, 2007); Michigan Court of Claims. (Judge Beverley Nettles-Nickerson) (Served July 16, 2007).

Plaintiff was an assistant professor of Electrical and Computer Engineering at the Dearborn campus. He claims that, during his employment at the University, he was discriminated against and denied tenure based upon his religion (Muslim), national origin (Bangladesh), and age. Plaintiff's allegations include violation of the Elliott-Larsen Civil Rights Act, intentional infliction of emotional distress, and hostile work environment. He seeks damages in excess of \$25,000, costs, interest and attorney's fees. Plaintiff also filed his case in the Michigan Court of Claims. Settlement was reached between the parties and the case has been dismissed.

Steve Lomske as Father and Next Friend of Minor Natalie Lomske v Permobil, Inc., Mystic Medical Equipment Inc. and Wheelchair Seating Service of the University of Michigan. Wayne County Circuit Court. (Judge John H. Gillis, Jr.) (Served August 15, 2008).

Plaintiff alleges that the University of Michigan's wheelchair seating service sold her a wheelchair in July 2004 which later became subject to a recall. Plaintiff claims the University had a duty to notify her of the recall. In June 2006 the defect failed, the chair collapsed and plaintiff broke her femur. Both the manufacturer and a firm providing maintenance on the wheelchair in early 2006 are additional defendants in the lawsuit. Plaintiff voluntarily dismissed the University from the lawsuit.

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 Poverini and Krebsbach, \$3 million for mental anguish and suffering, and exemplary damages. Trial is scheduled to begin on September 28, 2009. The University's motion for summary disposition was granted by the court on June 24 thereby dismissing all of Plaintiff's claims with prejudice. Plaintiff contested the proposed order, and a hearing was held on September 2. 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.

Ralph Jones v University of Michigan Hospital. Washtenaw County Circuit Court. (Judge Timothy P. Connors) (Filed October 14, 2008).

Plaintiff was a Clinical Manager at the Hospital who was terminated in May 2007 for falsification of his pay records. He claims that he had permission from his supervisor to claim extra pay for the work he performed and alleges that the University violated the Michigan Wage and Fringe Benefits Act. Mr. Jones also claims that administrators at the University defamed him when they informed prospective employers that he falsified his pay. He seeks damages, interest, costs and attorney fees. The University filed a motion to dismiss, which the court has taken under advisement

Henrietta Platt v University of Michigan. United States District Court, Eastern District of Michigan. (Judge Avern Cohn) (Served April 6, 2009).


Ms. Platt claims that she was discriminated against and harassed as an employee based on her race and disability. She also alleges that she was retaliated against after she filed a grievance and was discharged. The University filed a motion to dismiss.

Alissa Zwick v Regents of the University of Michigan, Marilyn Lantz, Wilhelm Piskorowski, Mark Snyder and Fred Burgett. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed May 12, 2006). Michigan Court of Claims. (Judge James R. Giddings) (Filed May 12, 2006). U.S. District Court, Eastern District of Michigan. (Judge Marianne Battani).

Plaintiff is a former Dental School student who was dismissed in her third year of studies. She claims that she was targeted by the Dental School administration and the named defendants for reasons unrelated to her academic studies. Her allegations include violations of her free speech, due process, breach of contract, and defamation. She seeks damages in excess of \$25,000, reinstatement as a Dental School student, interest, costs and attorney's fees. The two cases have been removed to federal court and consolidated in front of Judge Battani. The University filed a motion for summary judgment; on April 28, 2008, the court dismissed all of the claims except Plaintiff's due process claims. The case went to trial before a jury in the Federal court. On December 2, 2008, the jury found for the plaintiff and awarded her \$220,000 in economic damages,

\$500,000 in non-economic damages, and \$1 million in punitive damages. Defendants filed a motion for judgment as a matter of law and an alternative motion for a new trial and remittitur. Plaintiff filed a motion for attorneys' fees, costs and interest. Defendants' motions were denied by the judge; plaintiff's motion for attorneys' fees, costs and interest was granted. The defendants have appealed.

Respectfully submitted,


Suellyn Scarnecchia
Vice President and General Counsel

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