

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

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Subject: Litigation

September 2011

NEW CASES

Aiman Farhoud and Souhar Farhoud v Darice Rosario. Washtenaw County Circuit Court. (Judge Timothy P. Connors) (Filed August 1, 2011).

Plaintiff Aiman Farhoud is a patient care technician at the University of Michigan Hospital. Defendant Darice Rosario is a nurse co-worker. Plaintiff Farhoud alleges that Defendant made false accusations against him when she told her supervisors that Farhoud advised a co-worker "go do this procedure before I kill somebody." Plaintiff alleges that Rosario's accusations resulted in his being subjected to investigation by UMH security personnel (after which he was cleared of any wrongdoing) as well as suffering embarrassment, humiliation, mortification, depression, sleeplessness, anxiety, missed time from work, damage to his reputation in the workplace and his community, and lost wages and benefits. Plaintiff Souhar Farhoud (Aiman's wife) claims damage to her reputation in the community, emotional distress, humiliation, mortification, embarrassment, sleeplessness, and anxiety. Plaintiffs seek judgment in excess of \$25,000 plus costs, interest, and reasonable attorney fees.

Sheri Barron v University of Michigan and University of Michigan Health System. U.S. District Court, Eastern District of Michigan, Southern Division. (Judge Mark A. Goldsmith) (Served August 10, 2011).

Plaintiff was a Registered Nurse at University Hospital. She alleges she was harassed and discriminated against based upon her age and her disability and/or perceived disability when, after returning from a disability leave of absence of more than seven years, she was told that she was no longer qualified to work as a registered nurse until she took a refresher nursing class. Barron claims that she applied for approximately 70 Registered Nurse positions within UM following that training but she has not been promoted from the nurse's aid position. Plaintiff also alleges that she was told she would not be considered for promotion because of her age. As a result, Plaintiff claims she has suffered economic (wages, disability benefits and other disadvantages) and emotional (mental anguish, humiliation, embarrassment, emotional distress) damages and losses. She seeks judgment against the University, plus damages, costs and attorney fees.

Renali Transport v RIS Risk Management Services, Regents of the University of Michigan and Lajuana Crawford. 19th Judicial District Court. (Filed August 11, 2011).

Plaintiff provides non-emergency medical transportation services to individuals who may be disabled and/or otherwise unable to drive due to physical injuries. Plaintiff claims that it provided services to Defendant Crawford following an accident. Plaintiff claims that the University (Veritas) was required to provide insurance coverage to Crawford under Michigan's no-fault automobile law. Plaintiff alleges that \$736.13 is due and owing by the University for the aforementioned services. Renali seeks payment, including interest, costs and attorney fees. (Note: This case relates to the

Lajuana Crawford v Regents lawsuit, reported in an earlier litigation summary. The Crawford litigation is ongoing.)

RESOLUTIONS

Pino Colone v Patrick Wardell, Hurley Medical Center and University of Michigan. Genesee County Circuit Court. (Judge Richard B. Yuille) (Filed June 14, 2007).

Plaintiff was employed by the University as an emergency room physician working at Hurley Hospital in Flint. He claims that he was a Whistleblower when he reported an incident to the State Nurse Licensing Board that he felt was inappropriate patient care. Plaintiff states that, subsequent to that report, he was retaliated against by both Hurley Hospital and the University when he was reassigned to work at another hospital. He seeks damages in excess of \$25,000, costs and attorney's fees. The University filed a motion for summary disposition as did Hurley Hospital/Patrick Wardell. Judge Yuille dismissed Plaintiff's conspiracy and public policy claims; the judge also dismissed the Whistleblower claim against Hurley Hospital but retained the Whistleblower claim against the University as well as the Elliott-Larsen retaliation claim against the University and Hurley. Defendants University, Hurley Medical Center and Patrick Wardell filed an application for leave to file an interlocutory appeal of Judge Yuille's ruling to the Michigan Court of Appeals. The Court of Appeals granted leave and also granted Defendants' motion to stay the proceedings in the trial court while the appeal is pending. Oral argument was heard in the Court of Appeals on March 2, 2009. On October 8, 2010, the Court of Appeals found in favor of the University. Plaintiff filed an application for leave to appeal to the Michigan Supreme Court; on April 6, 2011, the Michigan Supreme Court denied Plaintiff's application. Final Judgment of Dismissal was entered by Judge Yuille on July 28, 2011. This case is concluded.

Edward P. St. John v Regents of the University of Michigan, Stephen L. DesJardins, Dean Deborah Loewenberg Ball, and Associate Dean Annemarie Palinscar. United States District Court, Eastern District of Michigan. (Judge Julian Abele Cook, Jr.) (Filed June 7, 2010).

Plaintiff, a tenured professor in the School of Education, claims that he was relieved of his teaching duties without the opportunity of a hearing, which he states is a violation of his Fourteenth Amendment due process rights. He also makes claims under the Michigan Whistleblower Protection Act, the Americans with Disabilities Act, breach of contract, and defamation as well as tortious interference with business expectancy/business relations by the named defendants. Professor St. John seeks damages, costs, attorney fees, interest, and lost profits. He also asks the court to enjoin the defendants from further violating his rights under the law. A Stipulated Order for Dismissal of Plaintiff's Complaint with Prejudice and Without Costs was entered by the court on August 9, 2011; this case is concluded.

Bella Osak v Board of Regents of the University of Michigan, Jolanta Grembecka and Tomasz Cierpicki. Michigan Court of Claims. (Judge Rosemarie E. Aquilina) (Served October 4, 2010).

Ms. Osak was employed in the University's Department of Pathology where she worked as a Research Laboratory Specialist. Plaintiff alleges that she was discriminated against because of her age when she was terminated five months after she began working at the University. Her claims also include defamation and tortious interference with a business relationship. In her complaint, Ms. Osak claims that Dr. Grembecka defamed her when Grembecka accused Osak of falsifying research data. Plaintiff seeks reinstatement, damages, lost wages, interest, costs and attorney fees. On February 9, 2011, the court dismissed Ms. Osak's age discrimination claim; the claims of defamation and tortious interference with a business relationship remain. A motion for summary disposition on the defamation and tortious interference claims was filed on behalf of the Defendants and granted by Judge Aquilina; this case is concluded.

Joseph Dean Vigil v Regents of the University of Michigan, Edie Goldenberg, Christina Whitman and Anna Kirkland. United States District Court, Eastern District of Michigan. (Judge Patrick J. Duggan) (Served January 3, 2011).

Mr. Vigil is a former Ph.D. candidate in Political Science. He states that he was removed from the program for allegedly not defending his dissertation within six years of becoming a candidate. His allegations include violations of the First Amendment right to free speech, due process, breach of contract, defamation, and discrimination based on his race and ethnicity. Plaintiff seeks damages, interest, costs, attorney fees, and reinstatement to Rackham. On July 28, 2011, a Judgment was entered granting Defendants' motion to dismiss with prejudice all of Plaintiff's claims, except Plaintiff's breach of contract claim, which was dismissed without prejudice. This case is concluded.

Lauren Sisak v Tamara Lin Beach. Washtenaw County Circuit Court. (Judge Donald E. Shelton) (Filed March 2, 2011).

Plaintiff claims that on August 8, 2008, she was crossing the street when she was struck by a vehicle driven by Defendant Beach. The vehicle is owned by the University and Ms. Beach is a University employee. Plaintiff alleges that Beach was grossly negligent and that, as a result of the accident, Plaintiff suffered permanent injuries. She seeks damages in excess of \$25,000, including interest, costs and attorney fees. Settlement was reached between the parties and this case is concluded.

CASE UPDATES

Christine McCahan v Samuel Kelly Brennan and The Regents of the University of Michigan. Michigan Court of Claims. (Judge Paula J.M. Manderfield) (Served December 18, 2008). McCahan v University of Michigan and Samuel Kelly Brennan. Washtenaw County Circuit Court. (Judge Archie Brown) (Filed February 6, 2009).

Ms. McCahan claims that a University vehicle driven by a UM student (Brennan) on December 12, 2007 struck her vehicle while making an illegal left turn. She claims the collision caused serious and permanent injuries to her person and that Brennan was negligent in the operation of the vehicle. She seeks judgment against Brennan in excess of \$25,000. She also claims that the University, as the owner of the vehicle, is liable for the injuries she sustained and that the University was negligent in entrusting Brennan to operate its motor vehicle. She also seeks damages, costs, interest and attorneys' fees against the University. Plaintiff dismissed the claims against the UM student and refiled them in Washtenaw County Circuit Court. The two cases have been consolidated and will be heard by Judge Brown in Washtenaw County. On April 30, 2009, Judge Brown, sitting as a Court of Claims judge, granted the University's Motion for Summary Disposition on the grounds of failure to provide proper notice in the Court of Claims. On December 18, 2009, the Washtenaw County Circuit Court entered an order dismissing Brennan for the reason that he was not grossly negligent. Plaintiff appealed to the Michigan Court of Appeals; on February 1, 2011, the court upheld the dismissal of plaintiff's claim. On July 22, 2011, the Michigan Supreme Court ordered oral argument on Plaintiff's application for leave to appeal the Michigan Court of Appeals' upholding of the trial court's dismissal of the case.

Catherine Wilkerson v Kevin Warner, Janet Conners, Michael Matthews, Mark West, Dean Lloyd, Dr. Robert Domeier and Huron Valley Ambulance, Inc. U.S. District Court, Eastern District of Michigan. (Judge John Feikens) (Filed November 20, 2009).

On November 30, 2006, Plaintiff, along with others, protested an invited speaker at the Michigan League. Dr. Wilkerson claims that, during the protest, she was assaulted, falsely arrested and detained by University of Michigan police officers, and that she was subsequently charged with attempted resisting and obstructing. A jury trial was held and Plaintiff was found not guilty of those charges in December 2007. Plaintiff claims that she suffered damages including loss of earnings, medical expenses, pain and suffering, and attorney's fees. Her counts include violations of First and Fourth Amendment rights, conspiracy, assault and battery, false imprisonment, and malicious prosecution. She seeks damages, attorney's fees, interest and costs. Plaintiff filed a motion to amend complaint to add a claim for conspiracy against Defendant Mathews on June 3, 2011. A Motion for Summary Judgment was filed on behalf of Defendants Mathews, West and Conners on June 17, 2011. All motions have been briefed and oral argument has been requested by the parties.

Peter J. Hammer v Board of Regents of the University of Michigan. Michigan Court of Claims. (Judge James R. Giddings) (Served January 6, 2005).

Plaintiff is a former Assistant Professor at the Law School who was denied tenure in 2002. He alleges that he did not receive tenure because of his sexual orientation, claiming that he relied on the University's promises that he would not be discriminated against based upon his sexual

orientation. Mr. Hammer also alleges that he was not given notice of non-reappointment consistent with the Standard Practice Guide and that because he had an academic appointment for a full eight years, he is entitled to *de facto* tenure pursuant to Regents Bylaw 5.09. Mr. Hammer seeks judgment in excess of \$25,000. The University filed a motion for summary disposition and a motion to dismiss, both of which were denied by Judge Giddings. The University filed an interlocutory appeal to the Michigan Court of Appeals. On January 25, 2007, the Court of Appeals vacated the orders of the Court of Claims and ordered Judge Giddings to reconsider the plaintiff's affidavits consistent with the court rules. The University and plaintiff filed motions and cross-motions for summary disposition; at oral argument in March 2008, the Court stated that it was denying the motions filed by both sides as to the claim of *de facto* tenure and took under advisement the University's motion to dismiss the discrimination claim. In December 2008, and again in November 2009, the Court of Claims granted plaintiff's request to reopen discovery for the purpose of taking additional deposition testimony. The Court of Claims heard additional oral argument on December 11, 2009, on the University's request for the dismissal of Hammer's claim of sexual orientation discrimination. On August 27, 2010, Judge Giddings dismissed Plaintiff's sexual orientation discrimination claim; the claim of *de facto* tenure will proceed to trial. A bench trial was held on July 11, 12 & 14, 2011. Following presentation of Plaintiff's case, the University moved for and was granted a directed verdict. Plaintiff has filed a claim of appeal to the Michigan Court of Appeals.

Mary H. Wagner v Board of Regents of the University of Michigan. Genesee County Circuit Court. (Judge Richard B. Yuille) (Filed April 16, 2010).

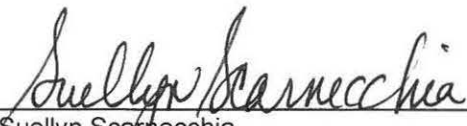
Plaintiff was an Assistant Professor of Music on the Flint Campus. Professor Wagner claims that her application for tenure was denied based on gender discrimination. She alleges that the members of the Executive Committee of the College of Arts & Sciences as well as Dean D.J. Trela harbored bias against women faculty who exercised their rights to bear children and take Modified Duties Leave. She also claims that similarly situated male tenure track candidates were treated differently. Professor Wagner claims gender discrimination in violation of the Elliott-Larson Civil Rights Act and seeks damages for emotional distress, economic losses, attorney's fees and costs. She also seeks reinstatement and tenure. A Motion for Summary Disposition was filed on behalf of the Defendant and denied by Judge Yuille on July 29, 2011.

Linda Martinson v Lee K. Roosevelt, Joanne Motino Bailey, Kathy Dunnuck. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed October 31, 2008). AND **Linda Martinson v Jodi Danhof, Sarah Choinard, Erin Flatley and Catherine Scott.** Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed November 7, 2008). AND **Linda Martinson v Sarah Soroosh Vandergoot.** Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed November 9, 2008). AND **Linda Martinson v Regents of the University of Michigan, Carol Loveland-Cherry, Judith Lynch-Sauer and Bonnie Hagerty.** United States District Court, Eastern District of Michigan. (Judge Paul D. Borman) (Served October 5, 2009).

Plaintiff was enrolled in the School of Nursing. She claims that her classmates (the named defendants in the State court action) made defamatory statements to third parties regarding Plaintiff, and that School of Nursing administrators relied upon those false statements to support her expulsion from the program. Ms. Martinson's claims include defamation and intentional infliction of emotional distress against each of the defendants. She seeks damages in excess of \$25,000 plus costs and interest. Plaintiff filed a fourth lawsuit in the US District Court, naming the Regents as well as administrators at the School of Nursing. Her allegations include violations of Plaintiff's due

process rights. Plaintiff seeks declaratory judgment stating that her expulsion from the School of Nursing is null and void; she also seeks damages, interest, costs and attorney fees. By stipulation of the parties, the three State court cases were dismissed without prejudice; the case will proceed in Federal Court. Plaintiff's counsel filed a motion to withdraw as counsel, and plaintiff continues in *pro per*. Defendants filed a motion to dismiss, which was argued before Judge Borman on August 31, 2011; Judge Borman took the matter under advisement. Defendants also filed a motion for summary judgment, which is pending before the court.

Respectfully submitted,



Suellyn Scarneccchia
Vice President and General Counsel

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