

THE UNIVERSITY OF MICHIGAN  
REGENTS COMMUNICATION  
ITEM FOR INFORMATION

Subject: Litigation

September 2012

**NEW CASES**

Ivan Morgan v Regents of the University of Michigan. Washtenaw County Circuit Court. (Judge Donald E. Shelton) (Filed August 8, 2012).

Plaintiff is a steamfitter in the Plant Department. He claims that he was discharged in 2008, grieved the termination through his Union, and was reinstated by the arbitrator with back pay. The complaint alleges that plaintiff's back pay was deficient and that he, an African American, has been treated disparately from white co-workers. Mr. Morgan claims race discrimination and seeks damages in excess of \$25,000 as well as costs, interest and attorney fees.

Brandon Jackson v Susan Marie Schaeffgen, Regents of the University of Michigan, and Farm Bureau Insurance Company. Oakland County Circuit Court. (Judge Michael Warren) (Served August 10, 2012).

Plaintiff Brandon Jackson was a passenger in a vehicle that was allegedly struck by a University van driven by employee Schaeffgen. Jackson claims that the vehicle in which he was riding was uninsured and that his claim for payment of no-fault personal protection insurance benefits was denied by Defendant Farm Bureau Insurance Company. Plaintiff alleges that he was injured as a result of Defendant Schaeffgen's negligent operation of the University vehicle; he claims that the University is liable for its employee's negligence. He seeks damages in excess of \$25,000.

Jesse R. Enjaian v Officer Bernard Mundt II, Officer Jose Dorta and the University of Michigan Department of Public Safety. United States District Court, Northern District of California. (Served August 3, 2012).

Mr. Enjaian alleges that DPS Officer Mundt, pursuant to a search warrant, seized electronic equipment from Plaintiff's residence in connection with an alleged charge of stalking. Plaintiff claims that the equipment has not been returned to him. He seeks the return of his property, compensatory and punitive damages, and attorney fees.

Meliisa Hoagland v University of Michigan and Rita McPherson. United States District Court, Eastern District of Michigan. (Judge Patrick J. Duggan) (Filed August 24, 2012).

Plaintiff was employed in the Health System until her discharge on December 20, 2011. She alleges that the University failed to accommodate her disability, discriminated against her based on her disability, and retaliated against her, all in violation of the Americans with Disabilities Act and the Michigan Persons with Disabilities Civil Rights Act. Plaintiff seeks lost wages, damages, attorney's fees, costs, interest, and full reinstatement to her previous employment.

Sheri L. Barron v University of Michigan, University of Michigan Health System, Suellyn Scarnecchia and Angela Nortley. Washtenaw County Circuit Court. (Judge Melinda Morris) (Filed August 28, 2012).

Plaintiff filed a lawsuit against the University in August 2011 (*Sheri Barron v University of Michigan and University of Michigan Health System*, U.S. District Court, Eastern District of Michigan), claiming age and disability discrimination. A report of that lawsuit was included in the Regents Communication dated September 2011. Plaintiff alleges that the remarks in that September 2011 report were false. Plaintiff also alleges that deposition testimony in a separate case also included false information. Her claims include defamation and intentional infliction of emotional distress. She seeks a judgment in an unnamed amount, costs and interest.

## RESOLUTIONS

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. Oral argument was heard before the Supreme Court on March 11, 2012, and on August 20, 2012 the Supreme Court affirmed the Court of Appeals decision. This case is concluded.

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 second career nursing program. She was dismissed from the program. Afterwards, she claimed that her classmates and a faculty member (the named defendants in the State court actions) 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 state court action included defamation and intentional infliction of emotional distress against each of the defendants. She sought damages in excess of \$25,000 plus costs and interest. By stipulation of the parties, the three state court cases were dismissed without prejudice when Plaintiff filed a fourth lawsuit in the U.S. District Court for the Eastern District of Michigan, naming the Regents as well as administrators at the School of Nursing.

In her federal lawsuit, Plaintiff's allegations include various theories alleging violations of federal and state due process rights. Plaintiff seeks declaratory judgment stating that her expulsion from the School of Nursing is null and void, damages, interest, costs and attorney fees. Defendants filed a motion to dismiss and a motion for summary judgment. The motion to dismiss was argued before Judge Borman on August 31, 2011. Judge Borman issued a written opinion dated September 28, 2011 in which he granted the motion in part and denied the motion in part. Judge Borman dismissed all the claims against the University of Michigan and all claims against the individual defendants except for the federal procedural due process claim against the individual defendants. Defendants' motion for summary judgment is still pending before the court. Plaintiff prematurely filed a notice of appeal to the Sixth Circuit Court of Appeals regarding the partial dismissal of her complaint. On August 16, 2012, Judge Borman granted the University's motion for summary judgment and dismissed plaintiff's complaint with prejudice.

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, which was heard by the Magistrate. Several counts of Plaintiff's complaint were dismissed and she was ordered to file an amended complaint on the remaining counts, which she has done. The University filed a motion for summary judgment. Settlement was reached between the parties and the case is concluded.

Kimberlyn Malone v James Chulhyun Cho and University of Michigan. Washtenaw County Circuit Court. (Judge Timothy Connors) (Served September 30, 2011)

Plaintiff claims that on November 24, 2008, a University-owned vehicle driven by Cho struck Plaintiff's vehicle from behind when Cho failed to stop at a traffic light. Plaintiff claims the collision caused her serious and permanent injuries and that Defendant was negligent in the operation of the vehicle. Plaintiff seeks judgment against Defendant in excess of \$25,000, as well as costs, interest, and attorney fees. The University filed a motion for summary disposition, which was granted by Judge Connors on February 2, 2012 and concludes the case for the University. On July 31, 2012, Judge Connors issued his opinion and order dismissing Defendant Cho. This closes the case.

Justin Reiser v University of Michigan. Michigan Court of Claims. (Judge Rosemarie E. Aquilina) (Filed May 3, 2012).

Plaintiff claims that, while in a parking structure at the Hospital, he slipped on a wet floor and wrenched his knee and hip. He alleges that, as a result of that fall, he suffered serious injuries. He seeks damages in excess of \$25,000, costs, interest and attorney fees. Settlement was reached between the parties and the case is concluded.

LaJuana Crawford v Michael Rosano and Regents of the University of Michigan. Washtenaw County Circuit Court. (Served January 4, 2011); LaJuana Crawford v Regents of the University of Michigan. (Michigan Court of Claims. (Judge Paula J.M. Manderfield) (Filed March 9, 2011).

Plaintiff was a passenger on a University of Michigan bus, which was struck by a car driven by Michael Rosano. Plaintiff claims that Rosano was negligent in his operation of the vehicle and that Crawford's injuries are a result of the accident. Crawford also alleges that the University, as the owner of the bus, has not paid all of the Personal Protection Benefits to which Plaintiff is entitled. Plaintiff seeks payment of the benefits, interest, costs and attorney fees. Plaintiff filed a related case in the Michigan Court of Claims. She alleges that the University refuses to pay her Personal Protection Benefits relating to the injuries she sustained in the accident, which Crawford claims are due to her. Plaintiff's claims include payment of medical and transportation bills, lost wages, attendant care and household services in excess of \$25,000 along with interest, costs and attorney fees. A settlement of the case was reached between the parties and a consent judgment was entered, thus closing the case.

Gary Frierson v University of Michigan and John Lund. Washtenaw County Circuit Court. (Judge David S. Swartz) (Served November 1, 2011).

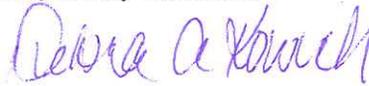
Plaintiff was employed by the University as a food service worker until November 2008. Plaintiff claims he was forced to involuntarily resign after an internal investigation revealed that he had secured UM health insurance benefits for an ineligible person for approximately six years. Plaintiff's claims include malicious prosecution, age discrimination, and intentional infliction of emotional distress. He seeks lost wages, lost medical benefits, attorney fees, costs, and exemplary damages. Plaintiff stipulated to a dismissal of the case.

## CASE UPDATES

The Authors Guild, Inc., et. al. v HathiTrust, Regents of The University of Michigan, et al.. United States District Court, Southern District of New York. (Judge Harold Baer) (Served October 14, 2011)

Plaintiffs claim Defendants are violating, or will violate, Plaintiffs' alleged copyrights through Defendants' efforts to: digitize the works in their libraries, create a shared repository through the HathiTrust, and participate in the HathiTrust's Orphan Works Project. Plaintiffs seek injunctive and declaratory relief as well as attorneys' fees and costs. The University, along with its co-defendants, filed a motion for judgment on the pleadings. The motion addresses some, but not all, of the allegations against the University in the case. On August 6, 2012, oral argument was heard by the court on the motions for summary judgment that were filed by all three parties (plaintiffs, the Library Defendants, and the intervening National Federation for the Blind).

Respectfully submitted,



Debra A. Kowich  
Interim Vice President & General Counsel

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