

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

September 2021

NEW CASES

Wyntiss Hall v. Hurley Medical Center, University of Michigan, U-M Board of Regents, and Michael Roebuck, individually. Genesee County Circuit Court. (Judge Brian S. Pickell) (Served July 22, 2021)

Plaintiff filed a four-count complaint alleging race and sex discrimination, retaliation, breach of express contract, and promissory estoppel after his employment was reduced to part-time. Plaintiff seeks an amount in excess of \$100,000, together with interest, costs and attorney's fees. On August 10, 2021, Defendants filed a notice of transfer to the Court of Claims. On August 24, 2021, Plaintiff filed a motion to transfer the case back to the Genesee Circuit Court.

CASE UPDATES

The Mackinac Center for Public Policy, a nonprofit Michigan corporation v The University of Michigan, a state public body. Court of Claims. (Judge Elizabeth Gleicher) (Served March 24, 2021)

Plaintiff filed a one-count complaint alleging violations of the Freedom of Information Act ("FOIA"). Plaintiff asks the Court to order defendant to provide all documents sought in the FOIA request, apply penalties, and award costs and attorney's fees. On May 10, 2021, Defendant filed a motion for summary judgement that was denied on July 12, 2021.

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 files three one-count complaints in the Court of Claims alleging violations of the Freedom of Information Act. ("FOIA") Plaintiff seeks all documents sought in the FOIA requests, penalties, and attorney's fees. To date, two of the three complaints have been dismissed.

Stacy Deitert v. Board of Regents of the University of Michigan. Washtenaw County Circuit Court. (Judge Carol Kuhnke) (Served June 23, 2017)

Plaintiff was a patient services associate who claimed she was suffering from various medical issues and that her request for an accommodation to file for long-term disability and extended sick leave was wrongly denied. Plaintiff alleged violations of the Family Medical Leave Act and the Person's With Disabilities Civil Rights Act. Plaintiff requested an Order awarding her compensatory damages, punitive damages, costs, and attorney's fees. On September 18, 2017, an Order of partial voluntary dismissal with prejudice was entered dismissing the FMLA claim and any claim for punitive damages or equitable relief under the PWDCRA claim. Defendant filed a motion for summary disposition that was granted with prejudice on October 17, 2018. On November 7, 2018, Plaintiff filed a motion for reconsideration that was denied on May 2, 2019. Plaintiff filed an appeal of right on May 23, 2019. On August 26, 2021, the Court of Appeals reversed the granting of summary disposition and remanded the case back to the circuit court for future proceedings.

Hassan M. Ahmad, Esq. v University of Michigan. Court of Claims. (Judge Stephen Borrello) (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 20, 2021, the University filed a motion to dismiss.

Ying Luo v Yang Zhang and University of Michigan. Washtenaw County Circuit Court. (Filed March 17, 2021)
(Judge Patrick J. Conlin, Jr.)

Plaintiff files a four-count complaint including allegations of sexual assault and negligence. Plaintiff seeks a judgement against all defendants, together with interests, costs, and attorney's fees. On August 10, 2021, Defendant University of Michigan was dismissed as a defendant without prejudice.

CASE RESOLUTIONS

David St. Pierre v University of Michigan. United States District Court, Eastern District of Michigan. (Judge Matthew F. Leitman) (Served January 22, 2020)

Plaintiff claimed age and disability discrimination as a result of the termination of his employment. Plaintiff sought \$100,000,000 in damages. On March 13, 2020, Defendant filed a partial motion to dismiss Plaintiff's Complaint. The parties stipulated to the dismissal of Count II of Plaintiff's Complaint – Age Discrimination. On May 24, 2021, Defendant filed a motion for summary judgement. Settlement has been reached between the parties. This case is concluded.

Josie M. Fisher v University of Michigan, JW Hunt OTC, Inc., David Jin, Keith E. Smukala, Western Reserve Financial Corporation, d.b.a. "Western Reserve Group", Community Insurance Company c/o CT Corporation System, as statutory agent and John Does #1-10. Court of Common Pleas, Erie County, Ohio. (Judge Tygh M. Tone) (Served January 27, 2020)

Plaintiff claimed she was involved in a three-car collision involving Defendant Jin while driving her vehicle on the Ohio Turnpike. Plaintiff claims she suffered severe injuries, mental anguish, anxiety, distress, and pain and suffering. Plaintiff sought in excess of \$25,000 interest, costs, and attorney's fees. On October 30, 2020, the court dismissed Defendant University of Michigan and Defendant Jin in his capacity as an agent of the University. Settlement has been reached between the parties. This case is concluded.

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 alleged that, while at a University of Michigan football game, law enforcement personnel approached him and falsely accused him of being intoxicated. Plaintiff claimed that unlawful and excessive actions by law enforcement caused him injuries and damage. Plaintiff's six-count complaint alleged illegal search and seizure, excessive force, and malicious prosecution, and state-law claims for false arrest/false imprisonment and malicious prosecution. Plaintiff sought 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 that was denied. On December 17, 2018, Defendant Berent filed a notice of appeal. On January 11, 2019, an Order was entered to stay proceedings. On June 24, 2020, the Court affirmed the district court's denial of qualified immunity for Plaintiff's excessive force claim but reversed the Court's denial of qualified immunity for the false arrest and malicious prosecution claims and the state law counterparts. On February 3, 2021, the Court entered a Stipulation for Voluntary Dismissal Without Prejudice of Counts I, II, IV, and V Against Defendants Arnett and Cratsenburg. On July 14, 2021, Defendants Berent and County of Washtenaw filed a renewed motions for summary judgement. Settlement has been reached between the parties. This case is concluded.

Debbie Lynn Pipkins v University of Michigan Hospital. Washtenaw County Circuit Court. (Served September 1, 2020) (Judge Patrick J. Conlin)

Plaintiff was an employee at Michigan Medicine's Patient Relation and Clinical Risk Department and alleged she was forced to retire on the basis of her race and in retaliation for filing a discrimination complaint. Her three-count complaint included claims for race discrimination, retaliation, and hostile work environment. On November 13, 2020, Defendant filed a motion for summary disposition that was denied on December 17, 2020. On February 8, 2021, Defendant filed a motion for partial summary disposition. Settlement has been reached between the parties. This case is concluded.

Andre K. Davis v Regents of the University of Michigan, a constitutional body corporate, Sally J. Churchill, individually and in her official capacity; Rebecca Pickus, individually; Marie Visconti, individually and in her official capacity, jointly and servally (sic). United States District Court, Eastern District of Michigan. (Judge Laurie J. Michelson) (Served September 23, 2019)

Plaintiff is incarcerated at the Chippewa Correctional Facility in Kincheloe, Michigan. He alleged the University violated his first amendment and due process rights when he was dismissed from the University's Inside-Out Prison Exchange Program—a class taught to prisoners and students. Plaintiff sought compensatory damages, punitive damages, interests, and costs. On October 30, 2019, Defendant Visconti filed a motion for summary judgement that was granted on May 14, 2020. On January 14, 2020, Defendants Regents of the University of Michigan, Sally Churchill and Rebecca Pickus filed a motion for summary judgement that was granted on July 9, 2021.

Karen Wilson v University of Michigan Hospital, and Gregory Lambert. United States District Court, Eastern District of Michigan. (Judge Linda V. Parker) (Served January 13, 2020)

Plaintiff claimed she was forced to resign after allegedly being wrongfully accused of improper conduct and harassed and retaliated against for filing an EEOC charge. Plaintiff claimed she has suffered loss of earnings and earning capacity, loss of career opportunities, loss of reputation and esteem, mental and emotional distress, and loss of pleasures of ordinary life. Plaintiff sought compensatory damages, economic and non-economic damages, and punitive or exemplary damages, plus costs, interests, and attorney's fees. On March 13, 2020, Defendants filed a partial motion to dismiss Count II of Plaintiff's Complaint that was granted in part dismissing Count II as to the University of Michigan but denying the motion as to Gregory Lambert. Settlement has been reached between the parties. This case is concluded.

In re: Leontina M. Lima, Debtor/Janet M. Nesse, Trustee v The Regents of the University of Michigan. United States Bankruptcy Court for the District of Maryland. (Served September 3, 2020) (Judge Lori Simpson)

This bankruptcy adversary proceeding case involved an alleged preferential payment made by the debtor parent for her daughter's tuition. The trustee is suing for recovery of \$27,332.00 that Ms. Lima, the debtor, paid on behalf of her daughter. Settlement has been reached between the parties. This case is concluded.

The Mackinac Center for Public Policy, a nonprofit Michigan corporation v The University of Michigan, a state public body. Court of Claims. (Judge Christopher Murray) (Served January 5, 2021)

Plaintiff filed a one-count complaint alleging violations of the Freedom of Information Act ("FOIA"). Plaintiff asked the Court to order defendant to provide all documents sought in the FOIA request, apply penalties, and award costs and attorney's fees. On May 10, 2021, the University filed a motion to dismiss. On May 28, 2021, plaintiff filed a response to the motion to dismiss that requested the entry of judgment in its favor. On July 12, 2021, the court entered an opinion and order in plaintiff's favor that required defendant to provide plaintiff with all salary records of the employees of the Office of Institutional Equity for the 2019 and 2020 calendar years, including overtime pay, bonuses, and all other forms of monetary compensation. On September 7, 2021, the court entered an order awarding plaintiff fees and costs.

University of Michigan Professional Nurse Council v Regents of the University of Michigan. Court of Claims. (Judge Cynthia Stephens) (Filed February 3, 2021)

Plaintiff claimed the Michigan Nurses Association (“MNA”) refused to abide by the democratic will of the University of Michigan Professional Council (“UMPNC”) members and has taken unauthorized and illegal actions against the elected UMPN local leadership after UMPNC disaffiliated from MNA claiming a violation of Michigan’s Public Employee’s Relations Act (“PERA”). Plaintiff claimed Injunctive relief is necessary to maintain the status quo ante until MERC can render a decision as to whether the employer has committed a violation of PERA. Plaintiff also sought costs and attorney’s fees. The request for injunctive relief was denied on March 2, 2021. On August 12, 2021, the parties stipulated to the dismissal of this case with prejudice.

Cheryl Fox v The Board of Regents of the University of Michigan. Court of Claims. (Judge Michael Kelly) (Served January 5, 2021)

Plaintiff filed a one-count breach of contract complaint arising out of her allegations that she was denied long-term disability benefits. Plaintiff sought damages, past due benefits, and reinstatement of her eligibility for ongoing benefits, together with interest, costs, and attorney’s fees. On September 3, 2021, the parties stipulated to the dismissal of this case with prejudice.

Respectfully submitted,



Timothy G. Lynch
Vice President and General Counsel

September 2021