

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

November 2010

NEW CASES

Terry Majors v The University of Michigan. United States District Court, Eastern District of Michigan. (Judge Anna Diggs Taylor) (Served October 8, 2010).

Plaintiff was employed as a custodian at the University until his termination on August 12, 2008. He claims that the University terminated him because of his race (African American) and seeks reinstatement, damages, costs and attorney fees.

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. 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.

Peggy Suess v University of Michigan-Flint. Genesee County Circuit Court. (Judge Richard B. Yuille) (Served November 1, 2010).

Plaintiff worked as an administrative assistant at the School of Health Professions & Studies on the Flint Campus. Ms. Suess claims that she was discriminated against because of her age and that, after filing a complaint about that disparate treatment, she was discharged in retaliation. Ms. Suess seeks damages, lost wages, reinstatement to her position, costs and attorney fees.

RESOLUTIONS

Sherman Wilson v University of Michigan. Washtenaw County Circuit Court. (Judge Melinda Morris) (Served July 8, 2010).

Plaintiff alleges that, on April 27, 2007, he sustained injuries from falling down some stairs on University property. He claims that the steps were deteriorated and collapsed, and that he sustained serious and disabling injuries as a result of the fall. Mr. Wilson seeks damages, costs and attorney's fees. The University filed a motion to dismiss the complaint, which was granted by the court on October 13, 2010.

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.

Mohammed Nawwas and Mysa Nawwas v Regents and Steven L. Sinelli. Washtenaw County Circuit Court. (Judge David S. Swartz) (Filed April 2, 2008).

Plaintiff Mohammed Nawwas purchased a piece of equipment from the University's Property Disposition Office. On January 4, 2007, plaintiff claims that an employee of the Property Disposition Office, at the direction of supervisor Steven Sinelli, was operating a hi-lo vehicle in order to load the equipment onto Plaintiff's truck when the equipment fell off the hi-lo vehicle and injured Plaintiff's arm. Plaintiff alleges that Sinelli's conduct was negligent and that, as a result, Plaintiff Mohammed Nawwas was severely injured. Plaintiffs seek damages in excess of \$25,000, as well as attorney's fees, costs and interest. On May 6, 2009, Judge Swartz granted the Defendants' motions for summary disposition, holding that operation of Property Disposition was not a proprietary function and therefore the University had governmental immunity. Judge Swartz also ruled that Defendant Sinelli's actions were not gross negligence. Plaintiffs appealed the case to the Michigan Court of Appeals. On October 26, 2010, the Court of Appeals affirmed the trial court's dismissal of both the claim against the University and the claim against our employee, Steve Sinelli.

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 Polverini and Krebsbach, \$3 million for mental anguish and suffering, and exemplary damages. The University's

motion for summary disposition was granted by the court on June 24, 2009, thereby dismissing all of Plaintiff's claims with prejudice. Plaintiff contested the proposed order, and a hearing was held on September 2, 2009. 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. Plaintiff filed an appeal with the Michigan Court of Appeals. In addition, Plaintiff filed a motion for an immediate preliminary injunction, asking the Court of Appeals to prohibit defendant Snyder from performing certain of his duties. The Court of Appeals denied the motion for immediate preliminary injunction. Plaintiff filed an Application for Leave to Appeal Prior to Decision by Court of Appeals with the Michigan Supreme Court. On October 26, 2010, the Michigan Supreme Court denied plaintiff's application for leave to appeal.

CASE UPDATES

Theresa Gratsch v Regents of the University of Michigan. (Judge Timothy Connors) (Filed August 27, 2009).

Plaintiff filed this lawsuit alleging that the University retaliated against her for filing an earlier lawsuit in which she complained of gender discrimination. She claims that the University and her immediate supervisor, Dr. Sue O'Shea, forced Plaintiff to resign under duress, which resignation was not voluntary and constitutes a constructive termination. She seeks damages, costs, interest and attorney's fees. Plaintiff filed a motion to consolidate the two cases; that motion was denied by Judge Morris on December 14, 2009 and the two cases will be heard separately. The University filed a motion for summary disposition.

Stephen Tripodi v Regents of the University of Michigan. Genesee County Circuit Court. (Judge Richard Yuille) (Served September 15, 2009).

Plaintiff claims that the University's Flint Campus denied him access to all of the University's student services, benefits and programs while he was a student in the fall of 2007, based on his gender. He claims that he has suffered depression, humiliation, and loss of reputation. He seeks damages in excess of \$40 million. The University filed a motion for summary disposition, which was granted by the judge. Plaintiff filed an appeal with the Michigan Court of Appeals.

Respectfully submitted,


Suellen Scarnecchia
Vice President and General Counsel

November 2010