

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

November 2015

NEW CASES

Sonam Krichbaum v Carrie Phillips, an individual, and University of Michigan, a public university.
Washtenaw County Circuit Court (Judge Timothy Connors) (Served October 5, 2015)

Plaintiff, a nurse, alleges she has suffered retaliation and harassment by a nurse manager. Plaintiff's claims include violations of the Elliott-Larsen Civil Rights Act, Whistleblower Act, and Intentional Infliction of Emotional Distress. Plaintiff seeks exemplary and compensatory damages, including pain and suffering, costs, interest, and attorney's fees.

Joanne Odom and Reginald Whitlow v University of Michigan and University of Michigan Health System.
Washtenaw County Circuit Court (Judge David S. Swartz) (Served October 26, 2015)

Plaintiffs, supervisors for the hospital patient transportation department, allege they were discharged from their respective positions because of their ages. Plaintiffs' claims include embarrassment and humiliation, pain and suffering, and harm to reputation. Plaintiffs seek back pay, front pay and reinstatement, exemplary damages, interest, costs, and attorney's fees.

Michael Gonzales v Board of Regents of the University of Michigan. Court of Claims (Judge Mark Boonstra) (Served November 2, 2015)

Plaintiff brings a breach of contract claim against the University out of an alleged denial of his long term disability benefits. Plaintiff seeks all past due benefits and reinstatement of his eligibility for ongoing benefits, together with interest, costs and attorney's fees.

CASE UPDATES

Jennifer Dibbern v The University of Michigan, a Domestic Nonprofit Corporation, the Board of Regents of The University of Michigan, a public constitutional body corporate, Mary Sue Coleman, President of The University of Michigan, an individual acting in her official capacity, Rachel S. Goldman, in her individual and official capacity, Tresa Pollock, in her individual and official capacity and Peter Green, in his individual and official capacity. United States District Court, Eastern District of Michigan. (Judge Sean F. Cox) (Filed December 21, 2012)

Plaintiff was a graduate student in materials science engineering at the University. She alleges she was dismissed from the graduate program in December 2011 after reporting incidents of peer-to-peer sexual and gender-based harassment in the College of Engineering and claims she was retaliated against for attempting to remedy a sexually hostile environment. Plaintiff further alleges the University failed to meet its obligations under Title IX by willfully and knowingly allowing a sexually hostile educational environment to continue. Plaintiff's twelve-count complaint includes claims under Title IX, 42 U.S.C. Section 1983, and the Elliot-Larson Civil Rights Act, as well as claims for negligence, breach of fiduciary duty, emotional distress and invasion of privacy. Plaintiff seeks damages, costs, and attorney's fees. On January 25, 2013, Plaintiff filed an Amended Complaint adding Peter Green as a named defendant and dropping the claims for negligence, breach of fiduciary duty, and emotional distress. On March 4, 2013, Defendants filed a Partial Motion to Dismiss Plaintiff's claims for sexual harassment, sex discrimination, retaliation, and Section 1983 claims for equal protection and first amendment. The parties have agreed to dismiss the Equal Protection/Section 1983 and First Amendment/Section 1983 claims as to the University of Michigan and the Board of Regents of the University of Michigan because they are barred by the 11th Amendment. The parties further agreed to dismiss these counts against the individual Defendants in their official capacities except to the extent that prospective, non-monetary relief is granted. On June 5, 2013, a stipulated order was entered dismissing Defendants University of Michigan and the Board of Regents of the University of Michigan from Counts III (Equal Protection/Section 1983) and V (First

Amendment/Section 1983) of Plaintiff's First Amended Complaint based on 11th Amendment immunity. It was further ordered that Defendants, Mary Sue Coleman, Rachel Goldman, Tresa Pollack, and Peter Green, acting in their official capacities, are also dismissed from Counts III and V of Plaintiff's First Amended Complaint, except to the extent that Plaintiff seeks prospective, non-monetary relief. On June 7, 2013, Plaintiff filed a Second Amended Complaint. On October 19, 2015, Defendants filed a motion for summary judgement.

Karen McMahon v Regents of the University of Michigan and Marvin Pettway. United States District Court, Eastern District of Michigan (Judge Gershwin A. Drain) (Filed March 24, 2014)

Plaintiff, a horticulturalist for the grounds department at the University of Michigan, alleges the University failed to accommodate her disability in violation of the Americans with Disabilities Act, Michigan's Persons with Disabilities Civil Rights Act, and Section 504 of the Rehabilitation Act. Plaintiff seeks damages, costs, interest, and attorney's fees as well as prospective, equitable, and injunctive relief. On July 6, 2015, Defendants filed a motion for summary judgement that was denied on October 22, 2015.

In the Matter of the Doris E. Hoffman Revocable Living Trust. Washtenaw County probate Court (Judge Julia Owdziej)

The University filed a joint petition to review and reduce unreasonable Trustee and attorney fees, and to modify the trust. The Co-Petitioner is the Attorney General for the State of Michigan. A trial date has been set for November 23, 2015.

CASE RESOLUTIONS

April Opper Davis v Board of Regents of the University of Michigan. Court of Claims (Judge Deborah Servitto) (Served April 22, 2015)

Plaintiff complained that, after she paid a non-refundable deposit in the amount of \$2,000 for a seat in the MBA program at the University's Ross Business School, she was denied a refund when she accepted admission at another institution. Plaintiff sought compensatory damages in the amount of \$2,000, together with costs, and attorney's fees. On July 23, 2015, Defendant filed a motion for summary disposition that was granted on October 19, 2015.

The World Leadership Program Institute, a District of Columbia not for profit organization v Mark Tessler, Sherman Jackson, Nancy Burns, and David Howell. Washtenaw County Circuit Court (Judge David Swartz) (Filed June 30, 2015)

Plaintiff, The World Leadership Program, filed a claim in state court alleging that defendants wrongfully obtained, handled, and then terminated a grant from the United Arab Emirates that, they contend, would otherwise have funded its activities. Plaintiff claimed breach of contract, fraud, unjust enrichment, and promissory estoppel. Plaintiff sought damages in excess of \$25,000, punitive damages, costs, interest, and attorney's fees. Plaintiff filed a similar complaint in federal court against these same named defendants as well as The Board of Regents of The University of Michigan, The Center for Political Studies, and The Institute for Social Research. That case was dismissed by the court in April 2015. Defendants filed four motions for summary disposition that were granted by Judge Swartz. In addition, at our request, the court imposed \$5,000 in sanctions on plaintiffs.

Gerald Steiner v. Regents of the University of Michigan and Robert Neumann. Washtenaw County Circuit Court (Judge Timothy Connors) (Filed August 21, 2014)

Plaintiff, a police officer for the University of Michigan Police Department, alleged he was denied a promotion and then subsequently demoted from a Police Sergeant to a Police Officer after he complained of the department's use of outdated and unsafe body armor. Plaintiff sought economic and noneconomic damages, costs, interest, and attorney's fees. Settlement was reached between the parties. This case is concluded.

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 UMHS. She alleged she was harassed and discriminated against based on her age and disability or perceived disability when, after returning from a disability leave of absence of more than seven years, she was told that she should take a refresher course before she could be returned to work as a registered nurse. Plaintiff claimed that she applied for approximately 70 registered nurse positions within the University following her leave, and that, after taking the training, she was not promoted from the nurse's-aid position. Plaintiff also alleged that she was told she would not be considered for promotion because of her age. Plaintiff claimed she suffered economic and emotional damages. She sought judgment against the University, damages, costs, and attorney's fees. On March 12, 2013, Defendants filed a motion to dismiss that was denied on May 30, 2013. On June 19, 2013, the Court awarded Defendants costs and attorney's fees as a result of a court filing seeking overdue discovery from Plaintiff. On August 28, 2013, Plaintiff's attorney's motion to withdraw as counsel was granted. Defendant's second motion to dismiss, filed on June 26, 2013, was denied. The Court also imposed additional sanctions upon Plaintiff for her failure to produce overdue discovery. On November 25, 2013, Defendants filed their third motion to dismiss for failure to comply with Court orders; that motion was granted on June 30, 2014, with prejudice. On July 21, 2014, Plaintiff filed an appeal to the Sixth Circuit Court of Appeals. On May 29, 2015, the Court of Appeals affirmed the District Court's decision to dismiss after Plaintiff failed to comply with discovery-related Court orders and pay the monetary sanction assessed against her. Plaintiff filed a motion for rehearing that was denied. Plaintiff filed a Petition for Writ of Certiorari to the U.S. Supreme Court that was denied on November 2, 2015.

Respectfully submitted,



Timothy G. Lynch
Vice President & General Counsel

November 2015