

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

December 2010

NEW CASES

There are no new cases to report this month.

RESOLUTIONS

Julie Amanda Rowe v The Michigan Daily, University of Michigan, Gary Graca, Jacob Smilovitz and Courtney Ratkowitz, Washtenaw County Circuit Court. (Judge Archie C. Brown) (Served February 26, 2010). Julie Amanda Rowe v The Michigan Daily and the University of Michigan. Michigan Court of Claims. (Judge William Collette) (Served February 26, 2010).

Plaintiff was a Daily News Editor at the Michigan Daily during the Winter 2009 term. She claims that she was falsely accused of plagiarism in connection with an article she wrote for the newspaper and that she subsequently resigned her position at the Daily. Plaintiff claims that the individual defendants, student editors of the Michigan Daily, wrongly accused her of plagiarism. Plaintiff also claims that University officials failed to oversee the Daily, thereby endorsing and sanctioning the wrongful treatment of the Plaintiff by the named Defendants. Plaintiff's claims include defamation, intentional infliction of emotional distress and deprivation of her due process rights. She seeks damages in excess of \$25,000, costs and interest. The University filed a motion for summary disposition, which was granted by Judge Collette on November 17, 2010. The lawsuits against the Michigan Daily, Gary Graca, Jacob Smilovitz and Courtney Ratkowitz continue but this concludes the case against the University, subject to any appeal that the plaintiff may file. The case against the Michigan Daily is pending in the Court of Claims and the case against the individual student editors is pending in Washtenaw County Circuit Court.

Jill Oviatt v University of Michigan. Washtenaw County Circuit Court. (Judge David Swartz) (Served September 7, 2010).

Ms. Oviatt is a former employee of the University. She claims that she was fired by the University after communicating by mail with a co-worker. Plaintiff seeks damages and return of her written communication. The University filed a motion to dismiss which was granted by Judge Swartz on November 10, 2010.

Mary Lee Smith, as Personal Representative for the Estate of David Jeffrey Smith v Regents of the University of Michigan. Michigan Court of Claims. (Judge Joyce Draganchuk) (Served June 9, 2009).


David Jeffrey Smith was employed by Schindler Elevator Corporation as an elevator mechanic on the Ross School of Business construction project when he fell to his death on the project site in August 2008. As the Personal Representative of his estate, Plaintiff claims that the University's negligence caused the accident. Plaintiff is seeking judgment in excess of \$25,000, plus damages, costs, and attorney's fees. Settlement was reached between the parties and the case is dismissed.

CASE UPDATES

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.

Respectfully submitted,


Suellyn Scarnecchia
Vice President and General Counsel