

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

December 2017

NEW CASES

John Haedrich v Joshua Akers, Laura Wolff-Powers, Charlotte Vorms, City University of New York, and University Paris 8. Wayne County Circuit Court (Judge Cathy M. Garrett) (Filed August 29, 2017)

Plaintiff alleges that Defendant Akers, a professor at the University of Michigan – Dearborn, wrote an article accusing Plaintiff and Sussex Immobilier of operating with malicious intent. Plaintiff's two-count complaint includes counts alleging defamation and libel, among other things. Plaintiff seeks in excess of \$25,000, special and general damages, together with interest, costs and attorney's fees. On November 8, 2017, Defendant Akers filed a motion for summary disposition.

William Crosby v University of Michigan. 15th District Court (Judge Joseph Burke) (Filed September 11, 2017)

Plaintiff filed a Small Claims Affidavit and Claim in the 15th District Court. The University removed the matter to the general civil division. The allegations relate to an "as is" vehicle sale that occurred at auction on or about June 7, 2017. Plaintiff demands a full refund and states that the "vehicle sold at auction should have been salvaged." On October 25, 2017, Defendant filed a motion to dismiss.

Ye Lu v University of Michigan, Board of Regents of the University of Michigan and Ryan Wilcox. United States District Court, Eastern District of Michigan. (Judge Denise Paige Hood) (Filed October 20, 2017)

Plaintiff was a Research Lab Specialist in Internal Medicine at the University and claims he was terminated from his position because of his race, national origin, and age and further claims he retaliated against for opposing discrimination. Plaintiff seeks lost wages and benefits, past and future; reinstatement; compensatory, exemplary, and punitive damages; and costs, interest, and attorney's fees.

Kimberley Urbaniak v. University of Michigan, and York Risk Services Group, Inc. Livingston County Circuit Court. (Judge Reader) (Served October 27, 2017)

Plaintiff claims she was awarded University's Long-Term Disability plan ("LTD") benefits in 2014 then later denied the continuation of LTD benefits in 2017. Plaintiff requests an Order declaring that Defendants be prohibited from terminating her LTD benefits and declare she is permanently disabled.

Onica Ashley v VHS of Michigan, Inc. d/b/a Detroit Medical Center, and/or VHS Harper-Hutzel Hospital, Inc., d/b/a Harper-Hutzel Hospital, and Vermeulen Funeral Homes, Inc. d/b/a Perry Funeral home (Wayne County), and Carl Schmidt, MD, MPH, Wayne County Medical Examiner. Wayne County Circuit Court. (Judge Cathy M. Garrett) (Served October 10, 2017)

This is a new lawsuit and petition to show cause seeking a writ of mandamus requiring Plaintiff Dr. Carl Schmidt, Wayne County Medical Examiner, to exercise his authority as medical examiner to effectuate the final disposition of 36 deceased infants and fetuses held by the Perry funeral home. Plaintiff alleges that, due to improper processing of agreements for the donation of infant remains to Wayne State for medical research, the remains have been held by the funeral home for several years. The six-count complaint includes breach of contract, negligence and gross negligence, and intentional infliction of emotional distress. The Order to show cause was denied and the case was dismissed as to Dr. Carl Schmidt.

Detroit Free Press v The Regents of the University of Michigan. Court of Claims (Judge Michael J. Talbot)
(Filed November 21, 2017)

Plaintiff filed a Complaint claiming the University of Michigan violated the Freedom of Information Act ("FOIA") by denying Plaintiff's FOIA request for the complete compensation package of the University's Chief Investment Officer. The two-count complaint alleges violations of FOIA, the Michigan constitution, and common law. Plaintiff requests the Court order the Regents of the University of Michigan to provide copies of all requested records within the scope of the FOIA request. Plaintiff also seeks damages, costs and attorney's fees.

CASE UPDATES

Michael Sanders, as Personal Representative for the estate of Nancy Sanders, Deceased v Kenneth Wright.
Washtenaw County Circuit Court (Judge Carol Kuhnke) (Filed July 8, 2014)

Plaintiff claims that defendant, while driving a UM commuter bus, struck Plaintiff's Decedent, Nancy Sanders, who later died of injuries. The complaint alleges gross negligence and seeks in excess of \$25,000 in damages with costs, interest, and attorney's fees. Defendant filed a motion for partial summary disposition to dismiss Count II of the First Amended Complaint that was granted on April 26, 2017, without prejudice. On July 11, 2017, Defendant filed a motion for summary disposition on all remaining Counts that was denied. Defendant filed a notice of appeal.

Eugene D. Daneshvar v Daryl R. Kipke, and NeuroNexus Technologies, Inc. United States District Court,
Eastern District of Michigan (Judge Stephen J. Murphy) (Filed June 6, 2013)

Plaintiff, a doctoral candidate at the University of Michigan, College of Engineering, alleges that, after disclosing his inventions to defendant Daryl Kipke, plaintiff's faculty advisor, Defendants used Plaintiff's inventions for their own benefit. His three-count complaint alleges fraud, breach of fiduciary duty, and unjust enrichment, and he seeks exemplary damages and costs. The lawsuit was filed in Washtenaw Circuit Court; but, on July 18, 2013, defendant NeuroNexus removed it to federal court in the Eastern District of Michigan. NeuroNexus filed an answer on July 18, 2013, on behalf of both Defendants, denying all liability and filing counterclaims for (a) a declaration of non-inventorship of Plaintiff, and (b) defamation of defendant Kipke. On November 19, 2014, the Court ordered Plaintiff to show cause why his Complaint should not be dismissed for lack of prosecution. On December 1, 2014, the Court lifted the stay of litigation. On January 23, 2015, Defendants filed a motion for partial judgment on the pleadings that was granted and denied in part. On July 13, 2015, Defendants filed a motion for summary judgment. On March 24, 2017, the Court ruled on several non-dispositive motions, including (a) granting in part defendants' motion to strike plaintiff's declaration made in opposition to the motion for summary judgment; (b) denying plaintiff's motion to compel discovery against the University; (c) granting plaintiff's motion for additional briefing on disputed patent claim terms; and (d) granting one firm's motion to withdraw as counsel for plaintiff and denying another firm's motion to withdraw as counsel for plaintiff. On July 19, 2017, the Court granted Defendants' motion for summary judgment on all of Plaintiffs' claims and denied Defendants' motion for summary judgment of liability on Defendants' defamation counterclaim. On September 7, 2017, Plaintiff filed a notice of appeal.

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 claims she was suffering from various medical maladies and that her request for an accommodation to file for long-term disability and extended sick leave was denied. Plaintiff alleges violations of the Family Medical Leave Act and the Person's With Disabilities Civil Rights Act. Plaintiff requests 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.

Karen Bankovich v University of Michigan. Court of Claims. (Judge Stephen Borrello) (Served March 17, 2017).

Plaintiff, Karen Bankovich, claims the University breached its Long-Term Disability plan (“LTD”) by denying her LTD benefits. Plaintiff asks the Court to reverse the University’s decision and order Plaintiff be paid LTD benefits according to the terms of the plan. Plaintiff also seeks costs and attorney’s fees. On October 24, 2017, Defendant filed a motion for summary disposition.

John Doe v David H. Baum, Susan Pritzel, Tabitha Bentley, E. Royster Harper, and Nadia Bazy. United States District Court, Eastern District of Michigan. (David M. Lawson) (Filed September 1, 2016)

Plaintiff is a former student at the University of Michigan. Plaintiffs’ claims arise out of actions taken against him violating the University’s Policy on Sexual Misconduct by Students. Plaintiff’s three-count complaint included alleged violations of 42 U.S.C. § 1983 regarding Due Process and First Amendment Free Speech. Plaintiff sought removal of all references to allegations or investigation, discipline, or sanctions from his file; immediate reinstatement to the University as a student in good standing; and compensatory, exemplary, and punitive damages, along with interest, costs, and attorney’s fees. Plaintiff filed an Amended Complaint on October 3, 2016, adding Title IX claims and Michigan Elliott-Larson Civil Rights gender discrimination claims. On October 21, 2016, Defendants filed a motion to dismiss that was granted on January 5, 2017. On February 2, 2017, Plaintiff filed a motion to re-open and/or for reconsideration, to amend the complaint, and to vacate order to due process claim based on evidence that was denied. Plaintiff filed a notice of appeal.

Rebecca Foster v The University of Michigan, The Board of Regents of the University of Michigan, and Alison Davis-Blake, in her official capacity as Dean of the Ross School of Business at the University of Michigan. United States District Court, Eastern District of Michigan. (Judge Bernard Friedman) (Filed May 10, 2017)

Plaintiff is a 2014 graduate of the Executive Masters of Business Administration program (“EMBA”) at the University of Michigan’s Stephen M. Ross School of Business. She filed a one-count complaint claiming a violation of Title IX, alleging that, during her time in the EMBA program, she was stalked and harassed by a fellow EMBA student. Plaintiff claims Defendants failed to provide a prompt and equitable response to Plaintiff’s complaints. Plaintiff seeks repayment for all tuition and related expenses; payment of expenses incurred as consequence of the alleged harassment and retaliation; damages for deprivation of equal access to the educational benefits and opportunities provided by Defendants; damages for lost economic opportunity; and damages for past, present, and future emotional pain and suffering, and ongoing and severe mental anguish. Plaintiff also seeks pre- and post-judgment interest, costs, and attorney’s fees. On March 17, 2017, Plaintiff filed a motion for pseudonymous status or in the alternative to seal the court file. This motion was denied on May 2, 2017. On May 10, 2017, Plaintiff filed a revised Complaint adding Plaintiff Rebecca Foster’s name. On May 24, 2017, Defendant’s filed a motion to dismiss that was denied as moot after Plaintiff filed a first amended complaint. On July 11, 2017, Defendant’s filed a motion to dismiss Plaintiff’s first amended complaint that was denied.

Amy Clements v The Board of Regents of the University of Michigan. Court of Claims. (Judge Christopher Murray) (Served December 22, 2016)

Plaintiff brings a breach of contract claim against the University out of an alleged denial of her long-term disability benefits. Plaintiff seeks damages, including past due benefits, and reinstatement of her eligibility for ongoing benefits, together with interest, costs and attorney’s fees. Both Plaintiff and Defendant filed motions for summary disposition. On October 25, 2017, Judge Murray granted Defendant’s motion for summary disposition and denied Plaintiff’s motion for same. Plaintiff filed a notice of appeal.

Dennis Klein v University of Michigan Board of Regents, University of Michigan Medical Center, Jim Harvey, Bob Harris, Bill O'Dell, Chris Schlaps, Maria Brussolo, Denise Seibert, Luis Mello, and Susan Quine, in their personal and professional capacities. United States District Court, Eastern District of Michigan. (Judge Nancy Edmunds) (Served July 17, 2017)

Plaintiff, who has been on long-term disability since 2015, claims that, in the beginning of October 2008, a continuous process began by which he was treated substantially differently than other employees and that he subjected to workplace harassment at the hands of Defendants either directly or in collusion with Defendant Harvey; and that that led to a stroke. Plaintiff's ten-count complaint alleges intentional infliction of emotional distress, defamation, invasion of privacy, negligent hiring and retention, failure to provide a safe workplace, breach of implied covenant of good faith and fair dealing, violation of Title 42 USC 1983 and 1985, violation of HIPPA, breach of contract, and loss of consortium, society, and companionship. Plaintiff seeks damages in the amount of \$4,000,000, and compensatory damages in the amount of \$4,000,000. On August 14, 2017, Defendants filed a motion to dismiss. On October 13, 2017, Defendant's re-filed a motion to dismiss after Plaintiff filed an amended Complaint.

CASE RESOLUTION

Arseniy Bakhshersyan v. Regents of the University of Michigan, Erik Wessel, E. Royster Harper, Pamela Heatlie, Daniel Ferency, David Baum, Marita Inglehart, and Arlyn Reed. Court of Claims. (Judge Michael Talbot) (Served May 16, 2017)

Plaintiff, a graduate student in the Masters in Business Administration ("MBA") program sponsored by the Ross School of Business, alleged violations of the Michigan Constitution after he was found to have stalked his former girlfriend when she ended their relationship. Plaintiff was notified of the allegations and given a full and fair opportunity to make his case. Plaintiff was found to have stalked his former girlfriend. Plaintiff appealed in writing. A former federal judge, who serves as the University's external appellate reviewer, affirmed the stalking finding in writing. Plaintiff nonetheless alleged he was denied his constitutional rights under the University's disciplinary process. Plaintiff requested mandatory injunctive and declaratory relief, and sought sanctions, costs, and attorney's fees. On May 26, 2017, Plaintiff filed a verified motion for order to show cause and for preliminary injunction that was denied. On June 8, 2017, Defendants filed a motion to dismiss. On July 7, 2017, Plaintiff filed an Amended Complaint adding several UM employees as defendants as well as a Title IX claim. In response, Defendants filed a supplemental brief regarding dismissal of the first amended complaint. On July 17, 2017, Plaintiff filed his first renewed motion for preliminary injunctions that was denied on July 21, 2017. Plaintiff also has pending felony criminal charges based on the same pattern of stalking. On October 9, 2017, Judge Talbot granted Defendants' motion to dismiss. Plaintiff filed an untimely motion for reconsideration that was denied.

Katie Oppenheim, BSN, RN v. Board of Regents of the University of Michigan. Court of Claims. (Judge Christopher M. Murray) (Filed July 18, 2017)

Plaintiff filed a one-count complaint claiming the University of Michigan violated the Freedom of Information Act. Plaintiff sought a judgment against Defendant for declaratory relief, injunctive relief, punitive damages, costs, and attorney's fees. On September 8, 2017, a stipulated Order to dismiss with prejudice was entered by Judge Murray.

Mackinac Center for Public Policy v University of Michigan. Court of Claims. (Judge Stephen L. Borrello) (Served March 7, 2017)

Plaintiff filed a one-count complaint claiming the University of Michigan violated the Freedom of Information Act ("FOIA"). Plaintiff sought penalties and costs. Settlement has been reached between the parties. This case is concluded.

April Lakey v University of Michigan Hospital. United States District Court, Eastern District of Michigan (Judge Marianne O. Battani) (Served May 29, 2015)

Plaintiff, a Call Center Representative in the Otolaryngology Department, alleged she had been paid less than her Caucasian coworkers and denied a promotion because of her race. Plaintiff claimed she suffered lost wages and benefits and sought damages, interest, costs, and attorney's fees. On July 26, 2016, Defendant filed a motion for summary judgment. On September 14, 2016, Plaintiff's counsel filed a response to Defendant's motion for summary judgment and motion for sanctions and included a motion to withdraw, stating he attempted to obtain a dismissal of this case based on the deposition testimony but Plaintiff would not agree to the dismissal. The Judge granted Plaintiff's counsel's motion to withdraw. On January 19, 2017, the Court granted Defendant's motion for summary judgment. On February 17, 2017, Plaintiff filed a notice of appeal that was denied.

Eric Scott v University of Michigan. United States District Court, Eastern District of Michigan (Judge Paul D. Borman) (Served July 20, 2016)

Plaintiff was a clinical nurse supervisor in the Emergency Department at the University. He claimed he was subjected to a hostile work environment and discrimination based on his race and age and was denied due process prior to being discharged. Plaintiff's claims included intentional infliction of emotional distress, loss of income, damage to reputation, mental or emotional distress, and embarrassment and humiliation. Plaintiff sought damages, costs, interest, and attorney's fees. Settlement was reached between the parties. This case is concluded.

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"). Plaintiff asked the Court to find that the entirety of the documents responsive to the FOIA request by Defendant be "public records" and that no exemption exists; to issue an Order compelling complete production of the FOIA response no later than 30 days from the date of the Order; and order payment of all penalties and costs. On August 16, 2017, Defendant filed a motion to dismiss that was granted.

Respectfully submitted,



Timothy G. Lynch
Vice President & General Counsel

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