

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

November 2021

NEW CASES

Munich Reinsurance American, Inc. v The Veritas Insurance Corporation. United States District Court, Eastern District of Michigan. (Filed September 15, 2021) (Judge Stephanie Dawkins Davis)

Plaintiff seeks a declaratory judgment that the insurance policy between Plaintiff and Veritas does not cover claims related to the sexual misconduct claims against Martin Philbert. On October 12 2021, Veritas filed an answer and counterclaim alleging that the claims are covered by the insurance policy and should be paid by Plaintiff.

Liu Honggang and Guo Qian v Shanghai Jiao Tong University and The University of Michigan. People's Court of Minhang District, Shanghai, People's Republic of China. (Filed September 3, 2021)

Plaintiffs filed a lawsuit against Shanghai Jiao Tong University ("SJTU") and The University of Michigan as a result of the death of their child Liu Peijia, who fell from a balcony at STJU.

Bradley Foerster v The University of Michigan, a public state body. Court of Claims. (Served October 27, 2021) (Judge Christopher M. Murray)

Plaintiff filed two 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 request, penalties, and costs.

Myria Petrou v The University of Michigan, a state public body. Court of Claims. (Served March 19, 25, 30, 2021 and October 27, 2021) (Judges Michael Kelly, Christopher Murry and Cynthia Stephens)

Plaintiff has filed four 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 costs. To date, two of the three complaints have been dismissed.

CASE UPDATES

Jeffrey Majchrzak, Michelle DeJean, Linda Majchrzak-Wagner, Marianne Oster, Lisa Wagner, Greg Majchrzak, Robert Majchrzak, and Steven Majchrzak v Wayne County, Wayne County Medical Examiner, Carl J. Schmidt, MD and Reggie Harvel, jointly and severally. United States District Court, Eastern District of Michigan. (Served June 6, 2020) (Judge Mark A. Goldsmith)

Plaintiffs are the siblings of Timothy Williams Majchrzak (deceased), and allege that, after his death, the medical examiner's office conducted an autopsy without their consent and also failed to timely notify the next of kin that the body was in the morgue, resulting in the body remaining in the morgue for over a year. Plaintiffs' four-count complaint includes alleged violations of due process, gross negligence, and intentional infliction of emotional distress. Plaintiffs seek compensatory, exemplary, and punitive damages, together with interest, costs, and attorney's fees. On October 4, 2021, Defendants filed a motion for summary judgement.

Dana Telep v Board of Regents of the University of Michigan, Gretchen Pagac, and Jeffrey Wood. Washtenaw County Circuit Court. (Judge Carol Kuhnke) (Served January 4, 2021)

Plaintiff filed a three-count complaint alleging age discrimination in violation of the Elliot-Larsen Civil Rights Act, retaliation, and hostile work environment arising out of the termination of her position. Plaintiff seeks front and back pay, exemplary damages, interests, costs, and attorney's fees. Defendants filed a Notice of Transfer

to the Court of Claims as to Plaintiffs demands for declaratory and/or equitable relief, including future wages and benefits, and as to Plaintiffs claims in Count II. The Washtenaw County Circuit Court case is stayed as to Counts I and III. On October 13, 2021, the parties stipulated to the dismissal of defendant Jeffrey Wood.

Andrew Lipian v University of Michigan, Jeffrey Frumkin, Elizabeth Seney, Pamela Heatlie, Melody Racine, Martin Philbert, Martha Pollack, Steven West, Aaron Dworkin, Mark Schlissel, and Christopher Kendall. United States District Court, Eastern District of Michigan (Judge Arthur Tarnow), (Filed October 31, 2018) AND **Andrew Lipian v Jeffery Frumkin, Elizabeth Seney, Pamela Heatlie, Steven West, Aaron Dworkin, Melody Racine, and Christopher Kendall.** Washtenaw County Circuit Court. (Filed March 20, 2020) (Judge David S. Swartz)

Plaintiff, a University of Michigan student in the School of Music, Theater and Dance, alleges violations of Title IX of the Education Amendments of 1972 and Michigan's Elliott-Larsen Civil Rights Act. Plaintiff seeks compensatory damages, exemplary and punitive damages, interest, costs, and attorney's fees. On December 6, 2018, Defendant University of Michigan filed a motion to dismiss. On December 14, 2018, Defendant David Daniels filed a counter-claim against Plaintiff. On January 4, 2019, Plaintiff filed a motion to dismiss Defendant Daniels's counter-claim. On February 21, 2019, an Order was entered dismissing Count II of Plaintiff's Complaint and dismissing the counter-claim. On September 26, 2019, after the court granted leave, Plaintiff filed an amended complaint asserting additional Title IX claims as well as Equal Protection Clause, Due Process Clause, and First Amendment claims under 42 U.S.C. § 1983. Plaintiff also added Jeffrey Frumkin, Elizabeth Seney, Pamela Heatlie, Melody Racine, Martin Philbert, Martha Pollack, Steven West, Aaron Dworkin, Mark Schlissel, and Christopher Kendall as defendants. On October 25, 2019, the individual defendants filed a motion to dismiss. On December 13, 2019, all Defendants filed a motion for summary judgment. On April 9, 2020, the district court entered an Opinion and Order granting in part and denying in part Defendants' motion to dismiss and granting in part and denying in part Defendants' motion for summary judgment. All claims against the individual defendants were dismissed. Additionally, all of Plaintiff's claims against the University were dismissed except his Title IX claim alleging that the University's response to sexual harassment was deliberately indifferent. On April 23, 2020, the University filed a motion to certify a portion of the district court's April 9, 2020 Opinion and Order for interlocutory appeal as well as a motion to stay proceedings pending a resolution of any appeal that were both denied.

On March 20, 2020, Plaintiff filed a State Court lawsuit against Jeffrey Frumkin, Elizabeth Seney, Pamela Heatlie, Melody Racine, Steven West, Aaron Dworkin, and Christopher Kendall asserting sex discrimination and retaliation claims arising under the Elliott-Larsen Civil Rights Act and a claim for false light invasion of privacy. On June 19, 2020, Defendants removed the State Court case to the Federal Court and filed a motion to dismiss that case the same day. Plaintiff filed an amended complaint, removing Kendall and Dworkin as defendants, and removing the retaliation claim. Plaintiff also filed a motion for remand that was granted on July 15, 2020. On April 7, 2020, Defendants filed a motion for summary disposition that was granted on September 30, 2019. Plaintiff filed an appeal on October 20, 2020. On February 1, 2020, the Michigan Court of Appeals dismissed Plaintiff's appeal after the parties stipulated to its dismissal. A trial date has been set for May 2, 2022.

Maria Kenesey v University of Michigan. Washtenaw County Circuit Court. (Judge Patrick J. Conlin, Jr.)
(Served May 18, 2021)

Plaintiff, a former graduate student at the University, filed a two-count complaint alleging she was inappropriately denied in-state tuition and, as a result, has an outstanding balance due that has delayed her receiving her diploma and transcripts. Plaintiff asks the Court to determine that she was a Michigan resident, is entitled to in-state tuition, and is not obliged to make any further tuition payments. Plaintiff seeks an amount of \$3,708.80 from Defendant, a mandatory injunction ordering the University to release her diploma and transcripts, together with costs and attorney's fees. On September 29, 2021, defendant filed a motion for summary disposition.

Carole McGillen v The University of Michigan and Michelle Boertman. Washtenaw County Circuit Court (Served November 16, 2020) (Judge Carol Kuhnke)

Plaintiff was an Administrative Manager Senior at the University of Michigan Medical Group and alleges that she was denied promotion and remote work accommodations and terminated on the basis of a disability and her age. She further alleges that she was retaliated against for reporting complaints of age and disability discrimination. Plaintiff seeks past and future wage loss; non-economic damages for emotional distress, embarrassment and humiliation; and costs, interest and attorney's fees. On November 5, 2021, Plaintiff filed a motion for summary disposition.

Vivian Saroki-Keller v The University of Michigan, a Michigan public university, the University of Michigan-Dearborn, a Michigan public university. United States District Court, Eastern District of Michigan. (Served April 14, 2020) (Judge Laurie Michelson)

Plaintiff was a part-time counseling Psychologist for the University of Michigan-Dearborn campus and alleged she was terminated from her position because of her disability. Plaintiff's two-count complaint alleged violations of the Rehabilitation Act and the People with Disabilities Civil Rights Act ("PWDCRA"). Plaintiff asked the Court to enter a judgment ordering Defendants to reinstate Plaintiff and provide reasonable accommodations necessary for Plaintiff to perform her job. Plaintiff also sought compensatory damages, exemplary and punitive damages, together with interest, costs, and attorney's fees. On June 24, 2021, both Plaintiff and Defendants filed motions for summary judgment. On October 22, 2021, Judge Michelson granted defendants' motion for summary judgment and denied plaintiff's motion. Plaintiff filed a notice of appeal.

CASE RESOLUTIONS

Bradley Foerster v The University of Michigan. United States District Court, Eastern District of Michigan. (Filed September 14, 2021) (Judge Terrence G. Berg)

Plaintiff filed a four-count complaint to include alleged violations of 42 U.S.C. 1983, defamation, fraudulent and misrepresentation, intentional infliction of emotional distress and retaliation. Plaintiff sought an injunction where no information from defendant can be used against his medical licensing and credentialing until final resolution of this case; an order declaring the conduct of defendant is unconstitutional; an order for defendant to issue a public apology for its actions; an order for defendant to release any testimony and/recordings in defendant's possession given by or involving Paul Cronin as outlined in the complaint; restoration of plaintiff's academic faculty position at the University with credit given for lost time and grade; restoration of plaintiff's position in the ALS research team/clinic at the University and for defendant to provide an equivalent amount of funding to grant NS 082304 towards ALS imaging research; restoration of ownership of plaintiff's property of 630/620 Geddes Ridge, Ann Arbor, Michigan which is currently owned by faculty at the University, together with reasonably incurred costs in this action. On October 21, 2021, Plaintiff dismissed his complaint without prejudice.

Myria Petrou v The University of Michigan. United States District Court, Eastern District of Michigan. (Filed September 27, 2021) (Judge Terrence G. Berg)

Plaintiff filed a four-count complaint to include alleged violations of 42 U.S.C. 1983, defamation, fraudulent and misrepresentation, intentional infliction of emotional distress and retaliation. Plaintiff sought an immediate injunction where no information from defendant can be used against her medical licensing and credentialing until final resolution of this case; an order declaring the conduct of defendant is unconstitutional; an order for defendant to issue a public apology for its actions; restoration of plaintiff's academic faculty position at defendant with credit given for lost time and grade; restoration of ownership of her property of 630/620 Geddes Ridge, Ann Arbor, Michigan which is currently owned by faculty at the University of Michigan; together with reasonably incurred costs in this action. On October 21, 2021, Plaintiff dismissed her complaint without prejudice.

Keiko Oe v University of Michigan, Mahdi Tabra, and James Lawrence. United States District Court, Eastern District of Michigan. (Filed May 6, 2021) (Judge Gershwin A. Drain)

Plaintiff was a Custodian for Environmental Services at Michigan Medicine until her termination for misconduct. Plaintiff claimed she was discharged in retaliation for alleging racial discrimination in violation of the Elliot-Larsen Civil Rights Act and in violation of the First Amendment. Plaintiff sought economic and non-economic damages, exemplary and punitive or special damages, together with interest, costs, and attorney's fee. Settlement has been reached between the parties. This case is concluded.

Respectfully submitted,



Timothy G. Lynch
Vice President and General Counsel

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