

THE UNIVERSITY OF MICHIGAN
REGENTS COMMUNICATION
ITEM FOR INFORMATION

Subject: Litigation

December 2022

NEW CASES

Jasmine Mehta v University of Michigan. Washtenaw County Circuit Court. (Judge Carol Kunkle) (Filed September 27, 2022).

Plaintiff alleges she slipped and fell on a University-owned sidewalk that was icy and snow covered, resulting in an injury requiring surgery. Plaintiff's two-count complaint includes claims for negligence. Plaintiff seeks an amount in excess of \$25,000 together with costs, interest, and attorney's fees.

Heather Kerchen, Lori Kerchen, and Dale Kerchen v Christian Raphaelides (in his individual and official capacities), University of Michigan, James H. Woods (in his individual and official capacities), & Unknown Does (in their individual—and where appropriate—official capacities). United States District Court, Eastern District of Michigan. (Judge Shalimar Kumar) (Served October 1, 2022)

Plaintiffs filed a wrongful death case on behalf of Todd Kerchen after he was found deceased in his home on January 25, 2000. Plaintiffs claim that the drugs that caused Mr. Kerchen's death were stolen from a University lab that had failed to enact proper drug access procedures. The six-count complaint includes claims for deprivation of life without due process of law, wrongful death, Drug Dealer Liability Act, Section 6, Drug Dealer Liability Act, Section 5 (Estate), Drug Dealer Liability Act, Section 5 (The Family) and Drug Dealer Liability Act, Section 7. Plaintiffs seek compensatory and punitive/exemplary damages in the amount of \$300,000,000.00, plus attorney and expert's fees.

Matthew P. Vyletel v University of Michigan and Regents of the University of Michigan. United States District Court, Eastern District of Michigan. (Judge Matthew Leitman) (Filed October 17, 2022) AND **Matthew P. Vyletel v University of Michigan – Dearborn.** United States District Court, Eastern District of Michigan. (Judge Sean Cox) (Filed November 14, 2022)

Plaintiff, a University of Michigan-Dearborn student, filed claims under 42 U.S.C. § 1985 claiming violations of the First Amendment and age, race and sex discrimination in two separate lawsuits when he was banned from the Formula Society of Automotive Engineers ("FSAE") team. Plaintiff seeks in excess of \$75,000.

CASE UPDATES

Thomas Smith v The Regents of the University of Michigan, The University of Michigan, a Michigan Corporation, Michigan Medicine, a Michigan non-profit entity, Andrew Gray Urquhart, M.D. Kathryn Maguire, R.N. Washtenaw County Circuit Court. (Filed June 15, 2022) (Judge Archie C. Brown)

Plaintiff, a former employee at the University of Michigan, alleges a noose was fashioned and displayed in the workplace in June 2019. Plaintiff's three-count complaint includes alleged violations of (1) ELCRA, for hostile work environment and race discrimination and (2) the Freedom of Information Act. Plaintiff seeks a judgment in excess of \$2,000,000 together with interest, costs and attorney's fees. On September 14, 2022, Defendants filed a motion for summary disposition.

Grace Foxworthy, Individually and on behalf of all similarly situated individuals v Michigan Medicine. Court of Claims. (Filed July 29, 2022) (Judge Elizabet L. Gleicher)

Plaintiff filed a four-count complaint after she was terminated from her position as a medical assistant associate for inappropriate modification/alterations to her own electronic medical record. Plaintiff's complaint includes claims for alleged violations of the Fair Labor Standards Act; Improved Workforce Opportunity Wage

Act; Persons with Disabilities Civil Rights Act and retaliation; and the Family Medical Leave Act. Plaintiff seeks designation of a class action, unpaid overtime wages, liquidated and compensatory damages, together with interest and attorney's fees. On October 20, 2022, Defendant filed a motion for partial summary disposition requesting dismissal of Count I-FLSA claim and Count IV-FMLA claim. On October 28, 2022, Plaintiff filed an amended Complaint dismissing Rebecca Hathaway as a defendant as well as Plaintiff's FMLA claim.

William Elliott Ashford, an individual v **University of Michigan, University of Michigan – Dearborn, Gary Gorski**, an employee of the University of Michigan and the University of Michigan-Dearborn, sued in his personal and official capacity, jointly and severally, and **Jeffrey Evans**, an employee of the University of Michigan and the University of Michigan-Dearborn, sued in his personal and official capacity, jointly and severally. United States District Court, Eastern District of Michigan. (Served March 4, 2020) (Judge Terrence G. Berg)

Plaintiff, a police officer for the University of Michigan – Dearborn Police Department, claims he was suspended and threatened with termination in violation of his first amendment rights. Plaintiff's four-count complaint includes claims for alleged violations of the First Amendment, Title IX, and Michigan's Whistleblower Protections Act, and a claim of retaliation in violation of public policy. Plaintiff seeks compensatory, economic, and noneconomic damages, lost wages and benefits (past and future), and exemplary and punitive damages. Plaintiff also seeks declaratory and equitable relief to include the removal of all discipline related to the claims in this case from his record, together with interest, costs, and reasonable attorney fees. On March 15, 2022, the Court terminated Defendant's motion for summary judgment without prejudice pending further proceedings. Defendants filed a motion for summary judgment that was granted and denied in part on October 18, 2022.

Shamiliya Williams v **The University of Michigan; U-M Work Connections; Jennifer Barnett; Christine Fergus**, agent of Work Connections; **Jerri Atkins**, **Amy Grier**, senior HR representative **University of Michigan** and **Mary S. Coleman** President of the **University of Michigan**. United States District Court, Eastern District of Michigan. (Judge Gershwin Drain) (Filed April 6, 2022)

Plaintiff was an Executive Assistant for LSA's Psychology department and alleges she was wrongfully terminated from her employment as a result of her alleged disabilities, race, color, marital status and after taking medical leave. Plaintiff's six-count complaint includes alleged violations of the Whistleblowers' Protection Act, the Elliott-Larsen Civil Rights Act, the Americans with Disabilities Act, the Family Medical Leave Act, and claims of race and age discrimination. Plaintiff seeks compensatory, exemplary and punitive damages together with interest costs, and attorney's fees. On May 20, 2022, Defendants filed a partial motion to dismiss that was granted and denied in part on November 8, 2022.

John Doe, M.D. v. **The Board of Regents of the University of Michigan, Marie Lozon, M.D., and Justin Dimick, M.D., Individually.** United States District Court, Eastern District of Michigan (Judge Gershwin Drain) (Filed December 29, 2022)

Plaintiff filed a six-count complaint after he received notice from Defendants of an intent to suspend his clinical privileges indefinitely and report this suspension to the National Practitioner Data Bank ("NPDB") and the State of Michigan Board of Medicine. Plaintiff's complaints included claims for alleged violations of due process, breach of contract, breach of fiduciary and public duties, intentional infliction of emotional distress, and retaliation. Plaintiff sought injunctive and equitable relief, compensatory, exemplary and punitive damages; and he asked that his clinical privileges be restored, his board certification renewed, and his name renewed with the NPDB. Plaintiff also sought interest, costs, and expert witness and attorney's fees. Defendants filed a motion to dismiss that was granted on June 16, 2022. Plaintiff submitted a Motion for Reconsideration on July 13, 2022 that was denied on November 18, 2022.

Isabelle Brouman, Maya Crosman, Shaina Mahler, Amelia Brown, Lauren Lambert, Cassie McQuater, Katherine McMahan, and Kristen Beecy v The University of Michigan, and The Regents of the University of Michigan (official capacity only), Jointly and Severally, and Bruce Conforth, individually. Washtenaw County Circuit Court. (Judge Timothy Connors) (Served March 9, 2022)

Plaintiffs allege Defendant Conforth used his position within the University to sexually assault and harass female university students. Plaintiffs' eleven-count complaint includes claims of sex discrimination in violation of the Elliott-Larsen Civil Rights Act; violations of the Michigan Equal Accommodations Act; due process – invasion of bodily integrity; gross negligence; negligent supervision; negligent failure to warn or protect; negligent failure to train or educate; negligent retention; assault and battery (as to Conforth only); vicarious liability; and expressed/implied agency. On March 15, 2022, Defendants UM and Regents of the University of Michigan filed a notice transferring the case to the Court of Claims. On March 17, 2022, Defendants UM and Regents of the University of Michigan filed a motion for summary disposition. On March 28, 2022, Plaintiffs filed a motion to remand the case back to Washtenaw County Circuit Court. On May 11, 2022, the Court of Claims granted Plaintiffs' motion to remand in part, remanding only Plaintiffs' Elliott-Larsen claim to the extent Plaintiffs sought monetary damages. That claim against Defendants UM and Regents of the University of Michigan is stayed pending the resolution of the remaining claims in the Court of Claims. Defendants UM and Regents of the University of Michigan motion for summary disposition remains pending.

On March 24, 2022, Defendant Conforth filed a motion for summary disposition in Washtenaw County Circuit Court that was denied on June 13, 2022. Defendants filed a motion for summary disposition that was granted on October 28, 2022. Plaintiffs filed an appeal on November 18, 2022.

Heather Wurster v The Board of Regents of the University of Michigan and Jeffrey S. Desmond, MD., D. Kerry Laycock, LLC, a Michigan limited liability company. Washtenaw County Circuit Court. (Served June 2, 2020) (Judge Timothy Connors)

Plaintiff's employment at Michigan Medicine was terminated in June 2019. Plaintiff's three-count complaint includes claims for alleged violations of The Elliot-Larsen Civil Rights Act for age discrimination, sex discrimination, and retaliation. Plaintiff seeks back pay, front pay, exemplary damages interest, costs, and attorney's fees. On March 29, 2021, Defendants filed a motion for summary disposition that was denied on September 22, 2021. On May 13, 2021, Plaintiff filed an amended complaint adding Counts IV and V: Tortious Interference with Business Relationship and Expectancy, and Civil Conspiracy (against all defendants except The Board of Regents of the University of Michigan) and adding two additional named defendants. Defendant Desmond filed a motion for summary disposition to Counts IV and V of Plaintiff's amended complaint that was granted on September 21, 2021. Trial is set to begin January 9, 2022.

Laura Beny v University of Michigan, University of Michigan Law School, and Dean Mark D. West, Individual and professional capacity. United States District Court, Eastern District of Michigan. (Filed August 26, 2022) (Judge David A. Lawson)

Plaintiff is a tenured professor at the Law School who claims she has been subjected to disability, race, and gender discrimination, and related claims, including retaliation. Plaintiff filed a fourteen-count complaint that includes claims for alleged violations of the Americans with Disabilities Act (ADA); the Family Medical Leave Act (FMLA); Title VII for race and sex discrimination; Title IX; First Amendment; Fifth Amendment; Fourteenth Amendment for Equal Protection and Due Process; Michigan Persons with Disabilities Act (PWDCRA); Elliott-Larson Civil Rights Act (ELCRA) based on sex, race and familial/marital status, hostile work environment under ELCRA, and retaliation. Plaintiff seeks in excess of \$75,000, together with interest, costs, and attorney's fees. On November 21, 2022, Defendants filed a motion to dismiss.

CASE RESOLUTIONS

Jewell Ridgeway v University of Michigan, a Michigan state agency. Washtenaw County Circuit Court.
(Served March 23, 2021) (Judge Carole Kuhnke)

Plaintiff filed a three-count complaint including alleged violations of the Michigan Civil Rights Act, Michigan Persons with Disabilities Civil Rights Act, and Worker's Compensation Retaliation after she was discharged from her position for unexcused absences. Plaintiff sought in excess of \$25,000, together with interest, costs and attorney's fees. Settlement has been reached between the parties. This case is concluded.

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 alleged that, after his death, the medical examiner's office conducted an autopsy without their consent and 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 included claims for alleged violations of due process, gross negligence, and intentional infliction of emotional distress. Plaintiffs sought compensatory, exemplary, and punitive damages, together with interest, costs, and attorney's fees. On October 4, 2021, Defendants filed a motion for summary judgement that was granted on June 14, 2022. Plaintiff filed an appeal on July 14, 2022. Settlement has been reached between the parties. This case is concluded.

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 alleged that she was denied promotion and remote work accommodations and terminated on the basis of disability and age. She further alleged that she was retaliated against for reporting complaints of age and disability discrimination. Plaintiff sought past and future wage loss; non-economic damages for emotional distress, embarrassment and humiliation; and costs, interest and attorney's fees. Defendants transferred Plaintiffs requests for declaratory or equitable relief to the Court of Claims. On November 5, 2021, Plaintiff filed a motion for summary disposition that was denied. On November 30, 2021, Plaintiff stipulated to the dismissal of her failure to promote claim. On May 4, 2022, Defendants filed a motion for summary disposition that was denied on July 5, 2022. Settlement has been reached between the parties. This case is concluded.

Michael Dooley v Adam Steinberg and Randy Wise Chrysler – U.M. Washtenaw County Circuit Court.
(Served March 12, 2020) (Judge David Swartz)

Plaintiff filed a three-count complaint alleging negligence as a result of Defendant Steinberg, a UM employee, driving over his foot, causing serious and permanent injuries. Plaintiff seeks an award in excess of \$25,000, together with costs, interest, and attorney's fees. Trial began on October 31, 2022 and lasted three days. The jury verdict was returned in favor of the Plaintiff. Defendants filed post-trial motions for a new trial or remittitur.

Respectfully submitted,



Timothy G. Lynch
Vice President and General Counsel

December 2022

