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 Robert J. Conlin
 SECRETARY

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Correspondence Memorandum

Date: May 25, 2018

To: Employee Trust Funds Board
 Teachers Retirement Board
 Wisconsin Retirement Board

From: David H. Nispel, General Counsel
 Dan Hayes, Attorney

Subject: Status of Pending Legal Cases

This memo is for informational purposes only. No Board action is required.

This memorandum is presented quarterly to inform board members about the status of pending or recently concluded legal cases involving the Department of Employee Trust Funds (ETF) and/or the retirement boards. In order to maintain Wisconsin Retirement System (WRS) member confidentiality, the names of the parties and case numbers are not identified in this memorandum.

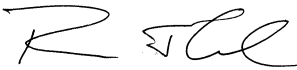
The purpose of the memorandum is to inform Board members of litigation in which the Boards and/or ETF are parties, not to provide legal advice concerning the cases listed. If there are any questions about a particular case, we will provide you with the name of the attorney handling it.

As of May 25, 2018, there are two cases that involve the retirement boards or ETF.

Case No. 1:

Issue – Uniform Benefits offered through the State of Wisconsin Group Health Benefit Program contains an exclusion for “Procedures, services and supplies related to surgery and sex hormones associated with gender reassignment.” The issue in this litigation is whether that exclusion violates Title VII of the Civil Rights Act of 1964, the Equal Protection Clause of the 14th Amendment of the U.S. Constitution and the Patient Protection and Affordable Care Act.

Reviewed and approved by Robert J. Conlin, Secretary



Electronically Signed 6/11/18

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Summary – ETF, the Group Insurance Board and ETF Secretary Conlin, among others, are named defendants in a complaint filed in the United States District Court for the Western District of Wisconsin. The plaintiffs are two WRS members who are represented by the American Civil Liberties Union.

Status – The complaint was filed on April 7, 2017. On June 22, 2017, the state moved to dismiss various defendants from the lawsuit. On May 11, 2018, the court ordered that the employer defendants be dismissed. These were: Board of Regents of the University of Wisconsin System, Raymond W. Cross, Rebecca M. Blank, University of Wisconsin School of Medicine and Public Health, and Robert N. Golden. The remaining defendants are: State of Wisconsin Group Insurance Board, Department of Employee Trust Funds and Robert J. Conlin. In addition, plaintiffs' counsel began conducting depositions throughout the month of April 2018, and more depositions are scheduled for late May. The state intends to file a summary judgment motion on May 29.

Attorney – DOJ attorney.

Case No. 2:

Issue – Whether ETF erred in its determination that a member was ineligible for a § 40.63 disability annuity because his employer did not certify that medical issues were a factor in his termination.

Summary – On October 26, 2016, the member filed a Petition for Judicial Review in Dane County Circuit Court to appeal a final decision by the Wisconsin Retirement Board that upheld ETF's denial. Both ETF and the Board are respondents in the case.

Status – On February 22, 2018, the court issued a decision affirming the decision of the Board. The member did not appeal that decision to the Court of Appeals. The case is closed.

Attorney – DOJ attorney.

Staff will be available at the Board meeting to answer questions.