



STATE OF WISCONSIN
Department of Employee Trust Funds
 Robert J. Conlin
 SECRETARY

Wisconsin Department
 of Employee Trust Funds
 PO Box 7931
 Madison WI 53707-7931
 1-877-533-5020 (toll free)
 Fax 608-267-4549
 etf.wi.gov

Correspondence Memorandum

Date: May 24, 2019

To: Employee Trust Funds Board

From: David H. Nispel, General Counsel
 Dan Hayes, Attorney
 Office of Legal Services

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 Board. In order to maintain Wisconsin Retirement System (WRS) member confidentiality, the names of the parties and case numbers are not identified in this memorandum.

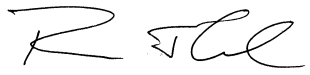
The purpose of the memorandum is to inform board members of litigation in which the Board and/or ETF are parties, not to provide legal advice concerning the cases listed. An assistant attorney general from the Department of Justice (DOJ) represents ETF and/or the Board in any litigation in court. If there are questions about a case, we will provide you with the name of the attorney handling it.

As of May 24, 2019, there are two cases that involves the retirement ETF or the Board.

Case No. 1:

Issue – At the time the plaintiff’s filed their complaint, Uniform Benefits offered through the State of Wisconsin Group Health Insurance Program contained 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 6/10/19

Board	Mtg Date	Item #
ETF	6.20.19	5H

Status of Pending Legal Cases

May 24, 2019

Page 2

Summary – ETF, the GIB, and ETF Secretary Conlin, among others, were named defendants in a complaint filed in the United States District Court for the Western District of Wisconsin. The plaintiffs were two Wisconsin Retirement System members who were represented by the American Civil Liberties Union and the Hawks Quindel law firm, located in Madison.

Status – On September 18, 2018, the court issued a decision and order in favor of the plaintiffs pursuant to a motion for summary judgment. The court then issued its final decision on October 11, 2018, permanently enjoining the use of the exclusion by the defendants and entering judgment in favor of the plaintiffs in the amount of \$780,500. The amount of attorneys' fees to be awarded was not determined. On November 9, 2018, the State appealed the decision to the United States Court of Appeals for the Seventh Circuit. On November 21, 2018, the plaintiffs filed a cross-appeal. On March 26, 2019, a settlement agreement was filed by the parties. The appeal and cross-appeal were dismissed in exchange for payment of \$1,670,000 to the plaintiffs. The permanent injunction ordered by the Circuit Court remains in place, and the case is closed.

Attorney – DOJ attorneys.

Case No. 2:

Issue – Whether a software vendor that ETF hired to design and build a new benefits administration system breached its contract with ETF.

Summary – In March 2019, ETF filed a lawsuit in Dane County Circuit Court alleging breach of contract and breach of the duty of good faith and fair dealing against a vendor involved in ETF's modernization effort and new benefit administration system. The vendor filed its answer and affirmative defenses in April 2019.

Status – The suit is in early stages of litigation.

Attorney – DOJ attorneys.

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