



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 21, 2020
To: Employee Trust Funds Board
From: 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 ETF Board.

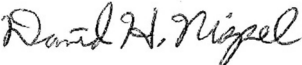
The purpose of the memorandum is to inform board members of litigation in which the Board and/or ETF are parties, not to provide legal advice concerning the cases listed. An assistant attorney general from the Department of Justice (DOJ) represents ETF and/or the Board in any litigation in court. If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

As of May 21, 2020, there is one case that involves ETF.

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

Summary – In April 2018, ETF partially terminated its contract with the vendor. 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 benefits administration system. The vendor filed its answer and affirmative defenses in April 2019 and a counterclaim in June 2019.

Status – In January of 2020, the vendor filed a Motion for Summary Judgment arguing that ETF did not properly terminate the contract and because of that, ETF’s complaint should be dismissed. On May 18, the circuit court denied the vendor’s motion. The DOJ filed its own Motion for Summary Judgment on ETF’s behalf arguing, in part, that sovereign immunity prevented the vendor from pursuing its claims for damages for unpaid work from ETF. The court also denied that motion on April 8. A scheduling

Reviewed and approved by David Nispel, General Counsel,
 Office of Legal Services
 Electronically Signed 6/2/20

Board	Mtg Date	Item #
ETF	6.18.20	6J

Status of Pending Legal Cases

May 21, 2020

Page 2

conference is set for June 9, 2020 to determine the more immediate next steps in the case.

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