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Correspondence Memorandum

Date: August 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 August 21, 2020, there are three cases that involve ETF.

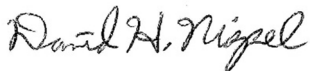
Case 1

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 a counterclaim in June 2019.

Status – The court has denied both parties’ motions for summary judgement. Discovery is ongoing, and a scheduling conference is set for December 3, 2020.

Attorney – DOJ attorneys.

Reviewed and approved by David Nispel, General Counsel, Office of Legal Services
 Electronically Signed 8/29/20

Board	Mtg Date	Item #
ETF	9.17.20	5F

Case 2

Issue – Whether a Wisconsin Retirement System (WRS) member relied on misinformation from an ETF employee when deciding when to retire, denying a right to which he was entitled without due process of law.

Summary – In June 2020, a retired WRS member filed a lawsuit in the United States District Court for the Western District of Wisconsin against an ETF employee related to alleged actions taken within the scope of employment. The member alleges that he received misinformation that caused him to choose a retirement date to his detriment.

Status – The case is in the very early stages of litigation. The complaint has been filed; the answer is due in September.

Attorney – DOJ attorney.

Case 3

Issue – Whether a Final Decision of the Wisconsin Retirement Board in a disability annuity appeal was correct under the law.

Summary – In August 2020, a WRS employer filed a Petition for Judicial Review in Dane County Circuit Court challenging a Final Decision of the Wisconsin Retirement (WR) Board that overturned ETF's denial of disability annuity benefits under Wis. Stat. § 40.63. The benefits were denied because the employer would not certify that the employee left work due to a disability. An administrative law judge found that the employer's failure to certify the disability was not reasonable and correct. The WR Board upheld the administrative law judge's proposed decision.

Status – The employer served the petition on the WR Board on August 21, 2020.

Attorney – DOJ attorney.

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