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Department of Employee Trust Funds
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Correspondence Memorandum

Date: November 11, 2021
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 (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. Assistant attorneys general from the Department of Justice (DOJ) represent 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 November 11, 2021, there are two cases that involve ETF and/or the Board.

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 – Discovery is ongoing with several depositions occurring throughout 2021. Each side is limited to 20 depositions. The DOJ and ETF are reviewing documents provided in response to discovery demands and are also producing documents demanded by the other side. A jury trial is scheduled for June 6 – 30, 2022.

Reviewed and approved by John Voelker, Secretary –
 Electronically Signed 11/15/21

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ETF	12.09.21	5D

Case 2

Issue – Whether a WRS member relied on misinformation from an ETF employee when deciding the timing of his retirement, 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 DOJ filed a motion to dismiss the case in September 2020. The court denied that motion on October 4, 2021. The DOJ then filed a motion for summary judgment and supporting brief on October 15, 2021. Briefing on the motion is scheduled to conclude on November 15, 2021. Discovery is ongoing. A jury trial is set for March 28, 2022.

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