



STATE OF WISCONSIN
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CORRESPONDENCE MEMORANDUM

DATE: August 1, 2014
TO: Group Insurance 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 presents the status of pending or recently concluded legal cases involving insurance issues and the Department of Employee Trust Funds (ETF) and the Group Insurance Board (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 this memorandum is to inform you of litigation in which the Board and ETF are parties, or are otherwise involved; not to provide any legal advice concerning the cases listed here. Each of the cases is being handled by either an assistant attorney general from the Department of Justice (DOJ) or a private attorney retained by Wisconsin Physicians Service (WPS). If you have any questions about a particular case, I will provide you with the name of the attorney handling the case.

As of August 1, 2014, there are nine cases, which can be divided into the following categories:

Court Cases Handled by DOJ (5)

ETF (Board not a party) ..... 5
Board and ETF ..... 0

Subrogation Cases Handled by Private Attorney (4)

(per Article XII, Section H, Administrative Service Agreement with WPS)

Reviewed and approved by Robert J. Conlin, Secretary
[Signature] Electronically Signed:
08/07/2014

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## **COURT CASES HANDLED BY DOJ**

### **Case No. 1:**

Issue – Which party is entitled, under the applicable law, to the life insurance and retirement death benefits of the deceased WRS member?

Summary – The wife and sister of the deceased are involved in litigation to determine who is legally entitled to the life insurance and retirement death benefits. ETF was named as a defendant in an effort to prevent the death benefits from being paid. ETF informed the parties and the court that no payments will be made until the case is resolved.

Status – A four-day trial was held on April 1-4, 2014. On June 20, 2014 the judge issued an oral decision awarding most of the WRS life insurance and retirement death benefits to the WRS member's sister, but placing some of the funds in trusts for the wife and a niece. On July 16, 2014, the plaintiff/wife filed a motion for reconsideration of the judge's decision.

Attorney – DOJ attorney.

### **Case No. 2:**

Issue – ETF provided income continuation insurance benefits and long-term disability benefits following plaintiff's involvement in an automobile accident and seeks repayment for those payments made.

Summary – ETF was named a defendant in a Winnebago County Circuit Court case in which the plaintiff seeks damages for personal injuries sustained in the accident and a determination of ETF's subrogation interest.

Status – A jury trial is scheduled for December 1-5, 2014.

Attorney – DOJ attorney.

### **Case No. 3:**

Issue – ETF provided long-term disability benefits following plaintiff's involvement in a car accident and seeks repayment for those payments made.

Summary – ETF was named an involuntary plaintiff in a Portage County Circuit Court case in which the plaintiff seeks damages for personal injuries sustained in the accident and a determination of ETF's subrogation interest.

Status – Litigation is in the early stages. Pleadings have been filed and answered. No trial date has been set.

Attorney – DOJ attorney.

**Case No. 4:**

Issue – ETF provided benefits through its self-funded prescription drug plan administered by Navitus Health Solutions, following a WRS member's work-related injury, and seeks repayment for those payments made.

Summary – ETF was named a defendant in a Brown County Circuit Court case in which the plaintiff seeks damages for personal injuries sustained in the accident and a determination of ETF's subrogation interest.

Status – Litigation is in the early stages. Pleadings have been filed and answered. A jury trial is scheduled for March 2 - 11, 2015.

Attorney – DOJ attorney.

**Case No. 5:**

Issue – WRS member brought an action in federal court against his employer and ETF alleging violations of the Employee Retirement Income Security Act (ERISA) and the Consolidated Omnibus Reconciliation Act (COBRA) related to the termination of his health insurance coverage.

Status – ETF filed a Motion to Dismiss on July 7, 2014. A decision on that motion is pending.

Attorney – DOJ attorney.

**WPS SUBROGATION CASES**

WPS has retained private counsel to handle these cases, and no ETF or DOJ attorney is involved. There are four cases pending in which the Board or ETF has a subrogation interest in a court action filed by a WRS member because ETF provided benefits to that member following a personal injury.

Staff will be at the Board meeting to answer questions.