



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

801 W Badger Road
PO Box 7931
Madison WI 53707-7931
1-877-533-5020 (toll free)
Fax 608-267-4549
etf.wi.gov

CORRESPONDENCE MEMORANDUM

DATE: October 21, 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 be able to provide you with the name of the attorney handling the case.

As of October 21, 2014, there are ten cases, which can be divided into the following categories:

Court Cases Handled by DOJ (5)

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

Subrogation Cases Handled by Private Attorney (5)

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

Reviewed and approved by Robert J. Conlin, Secretary

Handwritten signature of Robert J. Conlin

Electronically Signed:
11/4/2014

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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 have been 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 – On October 8, 2014, the judge issued a final judgment. It orders the establishment of two trusts to be funded with life insurance proceeds: 1) \$110,000 educational trust for the wife, and 2) \$100,000 educational and medical trust for the daughter of the sister. All remaining life insurance proceeds and the deceased's entire WRS retirement account were awarded to the sister as a survivor.

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 – Litigation pending. 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 an automobile 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 pending. 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 Pending. 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 – Defendants filed a Motion for Judgment on the Pleadings on October 8, 2014. A decision on that motion is pending.

Attorney – DOJ attorney.

**WPS SUBROGATION CASES**

WPS has retained private counsel to handle these cases; no ETF or DOJ attorney is involved. There are five cases pending in which GIB 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 any questions.