



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: February 27, 2015
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 February 27, 2015, there are 11 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 (6)

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

Reviewed and approved by Robert J. Conlin, Secretary
[Signature] Electronically Signed:
03/05/15

Table with 3 columns: Board, Mtg Date, Item #. Row 1: GIB, 3.25.15, 7C

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. On November 21, 2014, the wife appealed the decision, and the parties are filing legal briefs in the Wisconsin Court of Appeals – District 3.

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, which was scheduled for December, 2014, has been rescheduled for October 12 – 16, 2015.

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. The court has set a scheduling conference for March 11, 2015.

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 – Case settled and closed. ETF recovered its entire subrogated interest of \$1,335.05.

Attorney – DOJ attorney.

Case No. 5:

Issue – WRS member brought an action in the United States District Court for the Eastern District of Wisconsin 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.

Summary – ETF was named as a defendant in this case because the plaintiff was enrolled in the group health insurance program administered by ETF.

Status – Defendants' Motion for Judgment on the Pleadings was granted by the District Court, and judgment was entered for defendants in January, 2015. Plaintiff appealed the judgment to the 7th Circuit Court of Appeals in Chicago.

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 six 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.

Status of Pending Legal Cases

February 27, 2015

Page 4

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