



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:** April 20, 2017  
**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 court cases involving insurance issues, the Department of Employee Trust Funds (ETF) and/or the Group Insurance Board (GIB). 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 GIB and/or ETF are parties or are otherwise involved, not to provide legal advice concerning the cases listed here. Each case 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, we will provide you with the name of the attorney handling the case.

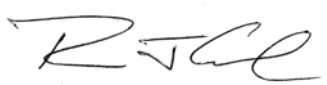
As of April 20, 2017, there are ten cases, which can be divided into the following categories:

**Court Cases Handled by DOJ (6)**

ETF (GIB not a party) ..... 5  
GIB and ETF..... 1

**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  
 Electronically Signed 5/5/17

Board	Mtg Date	Item #
GIB	5.24.17	10F

## **COURT CASES HANDLED BY DOJ**

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

Issue – Uniform Benefits offered through the State of Wisconsin Group Health Insurance Program contains an exclusion for “Procedures, services and supplies related to surgery and sex hormones associated with gender reassignment.” The issue in this litigation is whether that exclusion violates Title VII of the Civil Rights Act of 1964, the Equal Protection Clause of the 14<sup>th</sup> Amendment of the U.S. Constitution and the Patient Protection and Affordable Care Act.

Summary – ETF, the GIB, and ETF Secretary Conlin, among others, are named defendants in a complaint filed in the United States District Court for the Western District of Wisconsin. The plaintiffs are two WRS members who are represented by the American Civil Liberties Union.

Status – The complaint was filed on April 7, 2017.

Attorney – DOJ attorney.

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

Issue – ETF provided income continuation insurance benefits and long-term disability benefits following personal injuries sustained by the plaintiff as a result of alleged negligence by a chiropractor and seeks repayment for those payments made.

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

Status – A two-week jury trial is scheduled on July 10 – 21, 2017.

Attorney – DOJ attorney.

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

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

Summary – ETF was named a subrogated plaintiff in a Racine 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 – The parties reached a settlement that concluded the litigation.

Attorney – DOJ attorney.

**Case No. 4:**

Issue – ETF provided income continuation insurance benefits following plaintiff's involvement in a motorcycle accident and seeks repayment for those payments made.

Summary – ETF was named an involuntary plaintiff in an Eau Claire 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 early stages. No trial date has been set.

Attorney – DOJ attorney.

**Case No. 5:**

Issue – ETF provided income continuation insurance 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 Dane 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 – The parties reached a settlement that concluded the litigation.

Attorney – DOJ attorney.

**Case No. 6:**

Issue – ETF provided income continuation insurance 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 Dane 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 proceeding with no trial date set at this time.

Attorney – DOJ attorney.

**WPS SUBROGATION CASES**

WPS has retained private counsel to handle these cases; no ETF or DOJ attorney is involved. There are four 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 available at the board meeting to answer questions.