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SECRETARY

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Correspondence Memorandum

Date: January 25, 2019
To: Group Insurance Board
From: David H. Nispel, General Counsel
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 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 any legal advice concerning the cases listed here. An assistant attorney general from the Department of Justice (DOJ) represents the GIB and ETF in any litigation in court. If you have questions about a case, we will be able to provide you with the name of the attorney handling it.

As of January 25, 2019, there is one case in which the GIB and ETF are parties.

Case No. 1:

Issue – At the time the plaintiff’s filed their complaint, Uniform Benefits offered through the State of Wisconsin Group Health Benefit Program contained 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 14th 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

Reviewed and approved by Robert J. Conlin, Secretary

Electronically Signed 1/31/19

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District of Wisconsin. The plaintiffs are two Wisconsin Retirement System members who are represented by the American Civil Liberties Union and the Hawks Quindel law firm, located in Madison.

Status – On September 18, 2018, the court issued a decision and order in favor of the plaintiffs pursuant to a motion for summary judgment. A two-day trial on the issue of damages followed on October 9 and 10. The court then issued its final decision on October 11, 2018, permanently enjoining the use of the exclusion by the defendants and entering judgment in favor of the plaintiff's in the amount of \$780,500. The amount of attorneys' fees to be awarded was not determined. On November 9, 2018, the State appealed the decision to the United States Court of Appeals for the Seventh Circuit. On November 21, 2018, the plaintiffs filed a cross-appeal. Both appeals are currently pending.

Attorney – DOJ attorneys.

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