



STATE OF WISCONSIN
Department of Employee Trust Funds
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CORRESPONDENCE MEMORANDUM

DATE: June 2, 2014
TO: Employee Trust Funds Board
Teachers Retirement Board
Wisconsin Retirement Board
FROM: David H. Nispel, General Counsel
SUBJECT: Status of Pending Legal Cases

This memo is for informational purposes only. No Board action is required.

This memorandum is presented quarterly to inform Board members about the status of pending legal cases involving the Department of Employee Trust Funds (ETF) and the various retirement boards. 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 the memorandum is to inform Board members of litigation in which the Boards and/or ETF are parties, not to provide legal advice concerning the cases listed. If there are any questions about a particular case, I will provide you with the name of the attorney handling it.

As of June 2, 2014, there is one case pending in circuit court and one that was recently appealed that involve the various retirement boards and ETF.

Case No. 1:

Issue – Which party is entitled under the applicable law to the retirement death benefits and life insurance 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.

Reviewed and approved by Robert J. Conlin, Secretary

Electronically Signed 6/9/14

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Status – The parties have been unable to reach a settlement. A four-day trial was held in early April, 2014. Post-trial briefs have been filed, and a hearing is set for June 20, 2014, at which time the judge will issue an oral decision.

Attorney – DOJ attorney.

Case No. 2:

Issues – 1) Whether the ETF Board must adjust the date each petitioner should have been reported as a participating employee; 2) whether the seven year statute of limitation was applicable to the petitioners; and 3) whether the ETF Board had the authority to require the employer to pay the employee contribution for the petitioners.

Summary – A group of employees appealed an employer's determination that they were independent contractors and, as such, unable to participate in the WRS. The Administrative Law Judge and ETF Board found that the employees were participating employees in the WRS. However, the Board also determined that the employees must pay their employee contribution for the time period prior to the effective date of 2011 Wisconsin Act 10 and that the seven year statute of limitations applied and barred WRS participation before the seven year period prior to the appeals.

Status – The case was dismissed by the Circuit Court on February 21, 2014 on procedural grounds. The case is now in the Wisconsin Court of Appeals. Plaintiffs filed their initial brief on May 27, 2014. Respondents' briefs are due on June 26, 2014.

Attorney – DOJ attorney.

Staff will be available at the June 26, 2014, Board meeting to answer questions.