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Department of Employee Trust Funds  
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## Correspondence Memorandum

**Date:** February 26, 2016  
**To:** Employee Trust Funds Board  
Teachers Retirement Board  
Wisconsin Retirement 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 is presented quarterly to inform board members about the status of pending legal cases involving the Department of Employee Trust Funds (ETF) and the three 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, we will provide you with the name of the attorney handling it.

As of February 26, 2016, there are three pending cases that involve the retirement boards or ETF.

### Case No. 1:

Issue – Whether an individual WRS member is eligible for duty disability benefits under s. 40.65 of the Wisconsin Statutes.

Summary – ETF denied a WRS member's claim for duty disability benefits because the employer failed to certify that the injury was duty-related. The member appealed the denial, and it was overturned by the Administrative Law Judge (ALJ). The employer

Reviewed and approved by Robert J. Conlin, Secretary

Electronically Signed 3/3/16

Board	Mtg Date	Item #
JM	3.24.16	4G

appealed that decision to the Labor and Industry Review Commission (LIRC). LIRC overturned the ALJ's decision and reinstated the denial. On April 24, 2015, the member filed an action in Waukesha County Circuit Court challenging LIRC's decision. The complaint names the employer, LIRC and ETF as defendants.

Status – The Waukesha County Circuit Court ruled in favor of the employer and upheld the denial of duty disability benefits. On February 12, 2016, the member appealed the decision to the Wisconsin Court of Appeals.

Attorney – DOJ attorney.

**Case No. 2:**

Issue – Whether an individual WRS member is eligible for duty disability benefits under s. 40.65 of the Wisconsin Statutes.

Summary – ETF denied a WRS member's claim for duty disability benefits because the employer failed to certify that the injury was duty-related. The member appealed the denial, and it was overturned by the ALJ. The employer appealed that decision to LIRC. LIRC upheld the ALJ's decision. On August 19, 2015, the employer filed an action in Waukesha County Circuit Court challenging LIRC's decision. The complaint names the member, LIRC and ETF as defendants.

Status – The employer and member have settled the case, resulting in an award of duty disability benefits.

Attorney – DOJ attorney.

**Case No. 3:**

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 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.

Status – On October 8, 2014, the trial court 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,

Status of Pending Legal Cases

February 26, 2016

Page 3

2014, the wife appealed the decision, and the parties have filed legal briefs in the Wisconsin Court of Appeals – District 3. A decision is pending.

Attorney – DOJ attorney.

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