



State of Wisconsin
Department of Employee Trust Funds
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Correspondence Memorandum

Date: May 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 or recently concluded 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 May 26, 2016, there is one pending case and one recently concluded case 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 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

Reviewed and approved by Robert J. Conlin, Secretary

Electronically Signed 6/7/16

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filed an action in Waukesha County Circuit Court challenging LIRC's decision. The complaint names the employer, LIRC and ETF as defendants. 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.

Status – The parties are in the process of filing legal briefs in the Court of Appeals.

Attorney – DOJ attorney.

Case No. 2:

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, 2014, the wife appealed the decision in the Wisconsin Court of Appeals – District 3. The Court of Appeals issued a decision, dated April 19, 2016, which overruled the trial court and awarded the entire life insurance and retirement death benefit to the member's sister. The case will not be reviewed by the Wisconsin Supreme Court and is now closed.

Attorney – DOJ attorney.

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