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Department of Employee Trust Funds
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SECRETARY

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Correspondence Memorandum

Date: February 22, 2019

To: Employee Trust Funds Board
Teachers Retirement Board
Wisconsin Retirement 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 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/or the 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. An assistant attorney general from the Department of Justice (DOJ) represents the Boards and ETF in any litigation in court. If there are any questions about a case, we will provide you with the name of the attorney handling it.

As of February 22, 2019, there is one case that involves the retirement boards or ETF.

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

Reviewed and approved by Robert J. Conlin, Secretary

Electronically Signed 3/4/19

Board	Mtg Date	Item #
JM	3.21.19	4G

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 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 plaintiffs 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 and being briefed.

Attorney – DOJ attorneys.

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