

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

**ALINA BOYDEN and
SHANNON ANDREWS,**

Plaintiffs,

Case No. 17-cv-264

vs.

**STATE OF WISCONSIN DEPARTMENT
OF EMPLOYEE TRUST FUNDS, et al.,**

Defendants.

JOINT RULE 26(f) REPORT

Plaintiffs, Alina Boyden and Shannon Andrews, (“Plaintiffs”) through their attorneys, Hawks Quindel, S.C., by Nicholas E. Fairweather and Michael R. Godbe, the American Civil Liberties Union of Wisconsin Foundation, by Laurence J. Dupuis, and the American Civil Liberties Union Foundation, by John A. Knight, Defendants, State of Wisconsin Department of Employee Trust Funds, State of Wisconsin Group Insurance Board, Robert J. Conlin, Secretary of the Department of Employee Trust Funds, Board of Regents of the University of Wisconsin System, Raymond W. Cross, President of the University of Wisconsin System, Rebecca M. Blank, Chancellor of the University of Wisconsin-Madison, University of Wisconsin School of Medicine and Public Health and Robert N. Golden, M.D., Dean of the University of Wisconsin School of Medicine and Public Health (“State Defendants”), by their attorneys, Brad D. Schimel, Wisconsin Attorney General, and Assistant

Attorneys General, Steven C. Kilpatrick and Colin T. Roth, and Defendant, Dean Health Plan, Inc. (“Dean”) (All Defendants collectively referred to henceforth as “Defendants”), through its attorneys, Reinhart Boerner Van Deuren, S.C., by Attorney Lynn M. Stathas, pursuant to Fed. R. Civ. P. 26(f), submit the parties’ Rule 26(f) Joint Pretrial Report.

1. Counsel for the Plaintiffs and State Defendants held a telephone conference on July 19, 2017, and discussed the matters set forth in Fed. R. Civ. P. 26. Counsel for the Plaintiffs and Dean held a telephone conference on July 21, 2017, and discussed the matters set forth in Fed. R. Civ. P. 26. All parties have had the opportunity to review and consent to the filing of the present Rule 26(f) Joint Pretrial Report.

2. **Nature of the Case.** The Plaintiffs allege that Defendants’ denial of employer-provided health insurance coverage for transition-related care for transgender employees constitutes sex discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, et seq. (“Title VII”), sex and transgender status discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, U.S. Const. amend. xiv, § 1 (“Equal Protection Clause”), brought pursuant to 42 U.S.C. § 1983, and sex discrimination in violation of the Patient Protection and Affordable Care Act § 1557, 42 U.S.C. § 18116 (“Section 1557”). Defendants have filed Motions to Dismiss raising multiple defenses.

3. **Issues of Jurisdiction or Venue.** Except for the State Defendants' Rule 12(b)(1) motion to dismiss, the parties agree that this Court has subject matter jurisdiction and that the Western District of Wisconsin is the appropriate venue for this case.

4. **Related Cases.** The parties are unaware of any related cases.

5. **Material Factual and Legal Issues.** The parties agree that the following issues exist: 1) whether Defendants Conlin, Cross, Blank and Golden, in their individual and official capacities, violated the Equal Protection Clause of the 14th Amendment, and what damages and/or injunctive relief should be awarded to Plaintiffs, if any; 2) whether Defendants Board of Regents, School of Medicine, ETF, GIB, and Dean violated Title VII of the Civil Rights Act of 1964, and what damages and/or injunctive relief should be awarded to Plaintiffs, if any; 3) whether Defendants ETF and GIB violated Section 1557 of the Patient Protection and Affordable Care Act, and what damages and/or injunctive relief should be awarded to Plaintiffs, if any.

6. **Simplification of Issues.** The parties will work cooperatively to simplify the issues where appropriate.

7. **Admissions and/or Stipulations.** The parties will work cooperatively to make those appropriate stipulations of fact and regarding authenticity of documents in order to avoid unnecessary proof.

8. **Advance Rulings from the Court.** The parties will attempt to bring to the Court's attention at the earliest possible time any issues relating to admissibility of evidence on which an advance ruling would be helpful.

9. **Privilege and Confidentiality.** The parties have discussed potential issues regarding the production of and public disclosures of confidential information. The parties expect they will be able to resolve these issues by producing any such information pursuant to a stipulated Protective Order, which will be presented to the Court for approval. To the extent any disputes arise concerning the production of privileged or confidential information, the provisions of the Federal Rules of Civil Procedure shall control.

10. **Amendment of Pleadings.** The Plaintiffs propose that the parties be given forty-five (45) days from the date of the preliminary pretrial conference to amend the pleadings for any purpose without leave of the Court. Defendants propose that no further amendment to the pleadings be permitted without leave from the Court.

11. **Motions Pending or Contemplated.** The Defendants have filed Motions to Dismiss, both of which are currently pending. The Parties anticipate filing motions for summary judgment.

12. **Length of Trial.** The parties anticipate that this matter may be tried in approximately four (4) days.

13. **Settlement Discussions.** The parties have not discussed settlement of this lawsuit to date.

14. **Initial Disclosures and Discovery Schedule.** Plaintiffs propose that Rule 26(a)(1) initial disclosures be made on or before August 2, 2017, and that discovery commence on July 26, 2017. Defendants propose that the initial disclosures be made and discovery commence only after the Court denies, in whole or in part, their motions to dismiss, and that initial disclosures will not be due until thirty (30) days after any such denial of the motions. Counsel for the parties will supplement their initial disclosures pursuant to Rule 26(e) Federal Rules of Civil Procedure.

15. **Discovery Cut-Off.** The Plaintiffs propose that discovery will end approximately six (6) weeks before trial. Defendants propose that discovery close one (1) month after the dispositive motions deadline.

16. **Electronic Service.** The parties confirm that documents filed through the Court's ECF system are served by ECF notification. The parties also consent that service by electronic means shall be allowed as set forth in Fed. R. Civ. P. 5(b)(2)(E) and that such service shall be complete upon transmission and shall be considered the same as personal service, provided that the sender does not receive any indication that such electronic transmission was unsuccessful.

17. **Discovery Requests in Electronic Format.** The parties agree that copies of all written discovery requests and proposed findings of fact shall be provided and/or served electronically in a format editable by the other party (such as Word format), and that copies of all proposed findings of fact as required by the Court's standing order regarding summary judgment motions shall be served

electronically in a similar editable format. The parties agree to cooperate with respect to responding to discovery of electronically stored information.

18. **Witnesses and Exhibits.** The parties agree that disclosure of all witnesses and exhibits for trial shall be completed in accordance with the Federal Rules of Civil Procedure or the deadline set by the Court pursuant to its preliminary pretrial order.

19. **Expert Witnesses.** The parties propose the following deadlines for expert disclosures:

Plaintiffs: One hundred twenty (120) days before dispositive motions deadline.

Defendants: Sixty (60) days before dispositive motions deadline.

Plaintiffs' Rebuttal: Thirty (30) days before dispositive motions deadline.

20. **Dispositive Motions.** The parties agree that all dispositive motions shall be filed no later than five (5) months before trial.

21. **Trial and Final Pretrial Dates.** The Plaintiffs believe that this matter will be ready for trial on or after July 30, 2018. Given that motions to dismiss are pending, Defendants believe that the trial should be scheduled for a later date. The parties request that the final pretrial conference be held one (1) week prior to trial.

Dated this 21st day of July, 2017.

HAWKS QUINDEL, S.C.

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