

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.

DECLARATION OF NICHOLAS E. FAIRWEATHER

I, Nicholas E. Fairweather, do hereby declare:

1. I am an attorney with Hawks Quindel, S.C., and am one of the attorneys representing the Plaintiffs, Alina Boyden and Shannon Andrews, in the above-captioned matter.

2. Plaintiffs made their initial disclosures on October 31, 2017 and initiated discovery in this case on November 14, 2017.

3. Plaintiffs have served multiple sets of requests for admissions, interrogatories and requests for production, and taken depositions of seven witnesses, including Defendant Conlin, two members of Defendant GIB, and four other employees of defendant ETF.

4. The deposition of one additional GIB member, Nancy Thompson, took place this morning. The deposition of GIB member J.P. Wieske is scheduled for May

30, 2018, and the parties are in the process of scheduling depositions of Defendants' experts, who were disclosed on April 19, 2018.

5. Because Defendants in their motion to dismiss challenged standing and the involvement of the named Defendants in the deprivation of Plaintiffs' rights, some of the Plaintiffs' discovery efforts focused on the roles of and relationships among ETF, GIB and state employers with respect to offering, establishing, administering and enforcing the terms of the state employee health insurance plans' benefits package, which contains the challenged exclusion.

6. In addition to confirming the integral roles that Secretary Conlin and ETF play in researching, recommending, administering and enforcing the health benefits package, including the exclusion at issue in this case, the discovery revealed that at least two members of the GIB were actively involved in the effort to have the GIB reconsider its July 2016 decision to eliminate the exclusion of treatments for gender dysphoria, leading ultimately to its reinstatement.

7. Discovery also confirmed the existence of other state employees beyond Ms. Boyden and Ms. Andrews who needed the treatments singled out by the exclusion.

8. Defendants have propounded little in the way of written discovery, requested no documents other than Plaintiffs' medical records related to gender dysphoria, and have not deposed Plaintiffs, their physicians or their expert.

9. Defendants' experts expressed no opinions that relied on any individual facts about Plaintiffs.

10. Plaintiffs have moved expeditiously to ascertain the facts of Ms. Logan's case and prepare an amended pleading to add her as a Plaintiff.

11. They have begun the process of obtaining copies of her pertinent medical records, and will provide copies to Defendants upon request, should the motion to amend be granted.

Dated this 25th day of May, 2018.

/s/ Nicholas E. Fairweather

Nicholas E. Fairweather