

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

ALINA BOYDEN and
SHANNON ANDREWS,

Plaintiffs,

Case No. 17-cv-264

v.

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

Defendants.

**PLAINTIFFS' RESPONSE TO STATE DEFENDANTS'
ADDITIONAL PROPOSED FINDINGS OF FACT IN SUPPORT OF ITS
SUPPLEMENTAL MOTION FOR SUMMARY JUDGMENT**

NOW COME Plaintiffs, Alina Boyden and Shannon Andrews, through their attorneys, the American Civil Liberties Union and Haws Quindel, S.C., and submit the following responses to Defendants' Additional Proposed Findings of Fact:

176. Theodore Neitzke attended the GIB's December 30, 2016, meeting by telephone and participated in a closed session with legal counsel. (Dkt. # 83-13:1-3).

RESPONSE: No dispute.

177. The closed session portion of the December 30, 2016, GIB meeting convened at 3:13 p.m. (Dkt. # 83-13:3).

RESPONSE: No dispute.

178. Neitzke departed the December 30, 2016, GIB meeting at 5:00 p.m. (Dkt. # 83-13:3).

RESPONSE: No dispute.

179. The closed session of the December 30, 2016, GIB meeting did not end until 6:24 p.m. (Dkt. # 83-13:3).

RESPONSE: No dispute.

180. After the conclusion of the closed session of the December 30, 2016, GIB meeting, the meeting went back into an open session and there was a vote by GIB to reinstate the Exclusion. (Dkt. # 83-13:3).

RESPONSE: No dispute.

181. Because he left the December 30, 2016, GIB meeting during the closed session, Neitzke was one of the two members who were absent and did not vote to reinstate the Exclusion in open session. (Dkt. # 83-13:3).

RESPONSE: No dispute that Defendant Neitzke did not cast a vote on reinstating the Exclusion in open session, but disputed that Neitzke's absence is similar to Bonnie Cyganek, the other GIB member who did not cast a vote. Ms. Cyganek did not attend the meeting at all and was not present during the closed session. In contrast, Defendant Neitzke was present during the closed session discussion. (Dkt. # 103-19:4). There is no indication in the minutes that he spoke against reinstating the Exclusion. In addition, Defendant Neitzke did articulate opposition to and cast a vote against removing the Exclusion at the May 24, 2017 GIB meeting. (Dkt. # 103-22:10; Dkt. # 68, Ellinger Dep. 152:19-22).

Dated this 22nd day of August, 2018.

HAWKS QUINDEL, S.C.

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