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January 10, 2014

Honorable J.P. Stadtmueller
U.S. District Court
Eastern District of Wisconsin
Federal Courthouse
517 East Wisconsin Avenue
Milwaukee, WI 53202

Re: Watson v. King Vassel
Case No: 11-CV-236
Our File No: 911.19

Dear Judge Stadtmueller:

We are in receipt of the plaintiff's request of the Court filed this afternoon. (Document 190). On behalf of defendant Jennifer King Vassel, we disagree with the plaintiff's reading of ***Goesel***, and as such there is no need for the settlement agreement to be filed with the court. ***Goesel*** is factually distinguishable. As stated in the second paragraph of the decision (as it pertains to the Goesel case) it was a suit on behalf of a minor and the trial court's local rules required court approval of the settlement. The other part of the decision related to the Massuda case. The settlement agreement in that case was filed by the defense in support of a motion to dismiss in support of its contention that the current lawsuit was derivative of claims from a previous suit that had previously settled. (***Goesel***, third paragraph, pp. 1-2 of the Seventh Circuit decision.) None of these facts are present in this case.

Further, the ***Goesel*** decision supports not filing the settlement agreement in the instant case. The ***Goesel*** court noted that "most settlement agreements never show up in a judicial record and so are not subject to the right of public access. Either the agreement is made before a suit is filed [. . .] or, if after, the parties file a stipulation of dismissal and in that event they're not required to make the agreement a part of the court record." ***Goesel***, p. 4, second paragraph. As stated by the court, the parties in the Goesel case did not have the option of non-disclosure because of the local rule regarding disclosure of minor settlements. ***Id.*** As to the Massuda case, the defendants wanted a redacted copy of a settlement agreement sealed in the appeals court, but filed it in an appendix on appeal, and did not object to the appeals court unsealing the redacted settlement agreement if it chose to do so. ***Goesel***, p. 8.

In fact the court noted that "[b]ut for the most part settlement terms are of potential public interest only when judicial approval of the terms is required, or they become an issue in a subsequent lawsuit, or the settlement is sought to be enforced." ***Goesel***, p. 5. The plaintiff extracts from ***Goesel*** one phrase out of context on page five of the Seventh Circuit decision. That phrase began with the qualification that "[o]ne can imagine exceptions," indicating that it may be dictum. "A dictum is 'any statement made by a court for use in argument, illustration, analogy or suggestion. It is a remark, an aside, concerning some rule of law or legal proposition that is not necessarily essential to the decision and lacks the authority of adjudication.'" ***United States v. Crawley***, 837 F.2d 291, 292 (7th Cir. 1988) (citation omitted).

After considering the definition of dictum, including the above definition, the ***Crawley*** court presented many reasons as to why a court should not provide weight to a passage found in a previous opinion, *e.g.*, a dictum. ***Id.*** at 292-293. Applied to the case at bar, the phrase cited by the plaintiff from ***Goesel*** was not an integral part of the decision. ***Id.*** There is no need for the settlement agreement to be filed.

Thank you for your consideration of this matter.

Very truly yours,

s/Bradley S. Foley

BSF/cgw

cc:(via ECR) all counsel