

**COURT OF APPEALS  
DECISION  
DATED AND FILED**

**October 1, 2008**

David R. Schanker  
Clerk of Court of Appeals

**NOTICE**

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. See WIS. STAT. § 808.10 and RULE 809.62.

**Appeal No. 2007AP2444**

**Cir. Ct. No. 2005CV1482**

**STATE OF WISCONSIN**

**IN COURT OF APPEALS  
DISTRICT II**

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**ARTHUR D. DYER,**

**PLAINTIFF-APPELLANT,**

**V.**

**PAUL LAW,**

**DEFENDANT-RESPONDENT.**

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APPEAL from an order of the circuit court for Racine County:  
STEPHEN A. SIMANEK, Judge. *Affirmed.*

Before Brown, C.J., Anderson, P.J., and Snyder, J.

¶1 PER CURIAM. Arthur D. Dyer appeals from a circuit court order dismissing his claims against Paul Law on the grounds that the parties' previous settlement agreement released all claims. We agree and affirm.

¶2 In 1999, Dyer and Law entered into an agreement to exchange properties (the Exchange Agreement). Law transferred the Settler Avenue property to Dyer via warranty deed. Disputes later arose and litigation ensued. The parties executed an April 2001 settlement agreement which stated as follows:

The parties hereby agree to substitute their performance required under the Exchange Documents for those provided herein and the documents contemplated hereby. The parties hereby release each other from any claim or cause of action relating to the Exchange Documents.

The settlement agreement defined “Exchange Documents” as the Exchange Agreement together with other related documents. The settlement agreement set out the parties’ new obligations relating to various properties and indebtedness.

¶3 Dyer later learned that he could not develop the Settler Avenue property he received in the exchange with Law because a survey revealed that a portion of the property was below the ordinary high water mark (OHWM) and therefore subject to the control of the Wisconsin Department of Natural Resources. Dyer also claimed defects relating to a right-of-way for access to the Settler Avenue property; disputes with Racine county also arose. In 2005, Dyer sued Law alleging, inter alia, breach of the warranty of title due to the OHWM restrictions, defects in the property, and that the settlement agreement did not preclude these claims.

¶4 Law sought summary judgment because the settlement agreement barred Dyer’s claims. The circuit court agreed and characterized the situation as follows:

[T]here’s a settlement agreement that contemplates not only the dismissal of the prior lawsuit with prejudice, but also contemplates release of all claims relating to this property transaction. The guys washed their hands. It was

a good expression, I think, and walked away from each other saying, it's done.

Dyer appeals from the circuit court order dismissing his claims.

¶5 We review decisions on summary judgment by applying the same methodology as the circuit court. *M & I First Nat'l Bank v. Episcopal Homes Mgt., Inc.*, 195 Wis. 2d 485, 496, 536 N.W.2d 175 (Ct. App. 1995). That methodology has been recited often, and we need not repeat it here except to observe that summary judgment is appropriate when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. *Id.* at 496-97.

¶6 The construction of a settlement agreement is guided by contract law. *See Fleming v. Threshermen's Mut. Ins. Co.*, 131 Wis. 2d 123, 132, 388 N.W.2d 908 (1986). We perform that construction de novo. *Borchardt v. Wilk*, 156 Wis. 2d 420, 427, 456 N.W.2d 653 (Ct. App. 1990).

The lodestar of contract interpretation is the intent of the parties. In ascertaining the intent of the parties, contract terms should be given their plain or ordinary meaning. If the contract is unambiguous, our attempt to determine the parties' intent ends with the four corners of the contract, without consideration of extrinsic evidence.

*Huml v. Vlazny*, 2006 WI 87, ¶52, 293 Wis. 2d 169, 716 N.W.2d 807 (citations omitted).

¶7 The settlement agreement states that Dyer and Law “release each other from any claim or cause of action relating to the Exchange Documents.” The use of “such sweeping words” as “any” makes “the settlement ... ‘global’ in its coverage.” *Id.*, ¶53. The language of the settlement agreement is broad and not qualified. Furthermore, the agreement is not ambiguous. *See Taylor v. Taylor*, 2002 WI App 253, ¶7, 258 Wis. 2d 290, 653 N.W.2d 524 (language of an

agreement “is ambiguous if it is reasonably susceptible to more than one meaning”). In the absence of ambiguity, it is not appropriate to consider any extrinsic evidence of the parties’ intent. *Huml*, 293 Wis. 2d 169, ¶55.

¶8 Dyer argues that the warranty deed for the Settler Avenue property is not an “Exchange Document,” and therefore the settlement agreement did not waive claims relating to the deed and warranties thereunder. We disagree. The settlement agreement recited the parties’ agreement to exchange properties. The conveyance of the Settler Avenue property to Dyer occurred via warranty deed, and the transaction closed. Therefore, warranties under the Settler Avenue deed were extant at the time the parties entered into the settlement agreement. The settlement agreement does not exclude those warranties from the terms of the release—a release whose unambiguous language is global.

¶9 Dyer contrasts the disputes that resulted in the settlement agreement with the current disputes about alleged defects in the Settler Avenue property and breach of the warranty of title. Dyer argues that because the disputes are very different in nature, the settlement agreement does not bar the current claims. Again, we disagree. The parties’ intent is determined from the plain language of the settlement agreement, which is not ambiguous. Pursuant to the settlement agreement, the parties agreed “to settle their dispute and to re-structure their business dealings on the terms and conditions set forth” in the settlement agreement. By its unambiguous terms, the settlement agreement governs the parties’ dealings from the date of its execution forward.

¶10 The settlement agreement is unambiguous and its scope is sufficiently broad to preclude the present action. The settlement agreement contains no qualifying or limiting language and releases “any claim or cause of

action relating to the Exchange Documents.” The settlement agreement did not reserve or expressly exclude any claims. As the circuit court succinctly put it, the parties sought to “walk[] away from each other.” We affirm the circuit court’s order dismissing Dyer’s claims against Law.

*By the Court.*—Order affirmed.

This opinion will not be published. See WIS. STAT. RULE 809.23(1)(b)5 (2005-06).

