

**IN THE UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF ARKANSAS  
EASTERN DIVISION**

**WILLIAM A. MILLER, Individually** **PLAINTIFFS**  
**and as Administrator of the ESTATE of**  
**MATTHEW TOLBERT MILLER, Deceased**

v. **2:10-CV-00026-BRW**  
**(LEAD CASE)**

**SAM SCALES MARINE OF STUTTGART, LLC** **DEFENDANT**

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**CASSIDY ROBERTS and RHODES ROBERTS,** **PLAINTIFFS**  
**as Wrongful Death Beneficiaries of RODNEY**  
**ROYCE ROBERTS, Deceased, BRAD CORNELISON,**  
**and MCNEIL STANFORD**

v. **3:10-CV-00092-BRW**  
**(CONSOLIDATED CASE)**

**SAM SCALES MARINE OF STUTTGART, LLC** **DEFENDANT**

**ORDER DISMISSING ACTION**  
**BY REASON OF SETTLEMENT**

Counsel has advised the Court that this matter has settled and request that the case be dismissed. The Supreme Court has held that district courts do not have inherent power, that is, automatic ancillary jurisdiction, to enforce settlement agreements. Ancillary jurisdiction to enforce a settlement agreement exists "only if the parties' obligation to comply with the terms of the settlement agreement is made part of the order of dismissal--either by a provision 'retaining jurisdiction' over the settlement agreement or by incorporation of the terms of the settlement agreement in the order."<sup>1</sup> It is the obligation of the parties requesting dismissal to comply with

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<sup>1</sup> *Kokkonon v Guardian Life Insurance Co. of America*, 511 U.S. 375, 114 S.Ct. 1673, 1676-77 (1994); *Meiner v Missouri Dept. of Mental Health*, 62 F.3d 1126, 1127(8th Cir. 1995).

the terms of the settlement and this Court specifically retains jurisdiction to enforce the terms of the settlement agreement forming the underpinning of this dismissal.

IT IS ORDERED that the Complaints, be, and hereby are, dismissed with prejudice, subject to the terms of the Settlement Agreement, and/or Consent Decree. If any party desires that the written settlement agreement be part of the record herein, it should be filed with the Court within twenty (20) days.

IT IS FURTHER ORDERED that the Clerk forthwith serve copies of this Order upon the attorneys for the parties appearing in this action.

Dated this 26<sup>th</sup> day of January, 2012.

/s/Billy Roy Wilson  
UNITED STATES DISTRICT JUDGE