

UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE

Melissa Jenks, Individually
and as Guardian and Next Friend
of Roderick Jenks

v.

Civil No. 09-cv-205-JD

Textron, Inc.

PROCEDURAL ORDER

On July 18, 2012, during trial, counsel represented to the court that the case had settled. The trial concluded, and the jury was dismissed. Counsel were notified: "Agreement for entry of judgment or stipulation of dismissal to be filed within 30 days or the court will dismiss the case with prejudice." The case settlement deadline was set for August 20, 2012.

The plaintiffs filed an assented-to motion to extend the deadline to August 31, 2012, which was granted. On August 31, however, the plaintiffs filed a motion to extend the deadline until the court could schedule a conference to address the matter. In support, the plaintiffs represented that the parties had been unable to reach agreement on certain terms for the release, which was preventing entry of an agreement for judgment or a stipulation of dismissal. The court granted the motion.

A conference was held on September 13, 2012. Local counsel attended the conference on behalf of the parties to explain the delay. As shown in the minute entry of the same date, the court ordered: "Counsel shall inform the Court promptly as to 1) whether or not they will discuss the settlement issue with either Chief Judge Laplante or Magistrate Judge McCafferty, 2) the date such discussion is scheduled, and 3) the results. Thereafter, if

necessary, a Motion to Enforce Settlement shall be filed and an Evidentiary Hearing will be held.”

Counsel did not inform the court promptly as they had been directed to do. Instead, the deputy clerk contacted counsel on September 21, 2012, and was told that the plaintiffs would likely file a motion to enforce the next week. No motion has been filed, and counsel have not contacted the court about the delay.

Therefore, to avoid further delay, the parties shall resolve the settlement issue as is provided below.

Conclusion

For the foregoing reasons, (1) the parties shall file an agreement for entry of judgment or a stipulation of dismissal; OR (2) the plaintiffs shall file a motion to enforce the settlement **on or before October 24, 2012**. If a motion to enforce the settlement is filed, the court will schedule an evidentiary hearing at which witnesses, including counsel, will testify under oath.

In the event that the parties make neither filing **on or before October 24, 2012**, the case will be dismissed with prejudice.

SO ORDERED.

/s/ Joseph A. DiClerico, Jr.
Joseph A. DiClerico, Jr.
United States District Judge

October 15, 2012

cc: R. Peter Decato, Esq.
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