

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF NEW YORK**

Michael DiBagio, Justin C. Wilbur,
Plaintiffs,

vs.

Case No. 5:14-CV-161
(DNH/ATB)

Metropolitan Casualty Insurance Company,
Defendant.

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Metropolitan Casualty Insurance Company,
Counter Claimant,

vs.

Michael DiBagio, Justin C. Wilbur
Counter Defendants,

ORDER OF DISMISSAL BY REASON OF SETTLEMENT

The Court has been advised by counsel that this action has been settled, or is in the process of being settled. Counsel has also advised the Court that no infant or incompetent is a party to this action. Accordingly, pursuant to N.D.N.Y.L.R. 68.2(a), it is hereby

ORDERED as follows:

(1) The above-captioned case is hereby dismissed and discontinued in its entirety, without costs, and without prejudice to the right of any party to reopen this action within thirty (30) days of the date of this Order if the settlement is not consummated.

2) Any application to reopen this case must be filed within thirty (30) days of the date of this Order. An application to reopen filed after the expiration of that thirty-day period, unless it is extended by the Court prior to its expiration, may be summarily denied solely on the basis of untimeliness.

(3) If the parties wish for the Court to retain ancillary jurisdiction for the purpose enforcing any settlement agreement, they must submit a request that the Court retain jurisdiction over enforcement of the agreement or submit the agreement to the Court for incorporation of its terms into an Order retaining jurisdiction within the above-referenced thirty (30) day period for reopening the matter.

(4) The dismissal of the above-captioned action shall become with prejudice on the thirty-first day following the date of this Order, unless any party moves to reopen this case within thirty (30) days of the date of this Order upon a showing that the settlement was not consummated, or the Court extends the thirty (30) day period prior to its expiration.

(5) The Clerk of the Court is respectfully directed to close this case and forward a copy of this Order to the parties pursuant to the Court's local rules.

IT IS SO ORDERED.

Dated: May 23, 2017
Utica, New York



United States District Judge