

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PAUL A. LYNCH, DAVID L. DENNER,  
MARGERY E. COUSINO, DONALD M.  
CLARKE and RICHARD R. REINBOLT,

UNPUBLISHED  
July 23, 2002

Plaintiffs-Appellants,

V

BEDFORD TOWNSHIP,

No. 232351  
Monroe Circuit Court  
LC No. 00-011390-CH

Defendant-Appellee.

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Before: Talbot, P.J., and Cooper and D.P. Ryan\*, JJ.

MEMORANDUM.

Plaintiffs appeal by right from a circuit court order dismissing this case pursuant to MCR 2.613(B). We affirm.

In 1995, defendant settled a zoning dispute brought by a third party and Judge Harvey Koselka, appointed to act as a Monroe circuit judge, entered the consent judgment. Plaintiffs filed this action seeking to invalidate the judgment and to enjoin defendant from taking certain action in accordance with the terms of that judgment, asserting that it had been approved in violation of the Open Meetings Act (OMA), MCL 15.261 *et seq.* That case was assigned to Judge William LaVoy, who ruled that the matter was not properly before him and dismissed the case.

Judge LaVoy did not have the authority to rule on plaintiffs' case whether the case leading to entry of the consent judgment was still pending or had been dismissed. Plaintiffs' complaint sought to invalidate all or part of the prior consent judgment or to enjoin defendant from any further violations of the OMA when taking action pursuant to that judgment. Because

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Judge Koselka was still available and able to act, any such request for relief had to be brought before him. MCR 2.613(B); *Wilson v Romeos*, 387 Mich 664, 678; 199 NW2d 208 (1972).

Affirmed.

/s/ Michael J. Talbot

/s/ Jessica R. Cooper

/s/ Daniel P. Ryan