

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

-----  
DONALD NICHOLS,

Plaintiff,

ORDER

v.

02-C-0245-C

OFFICER GRESSMAN,

Defendant.  
-----

When defendant Gressman could not be served with plaintiff's complaint in this case, he was dismissed without prejudice to plaintiff's refiling his lawsuit against him at a later time. Subsequently, plaintiff entered into a settlement agreement with the remaining defendants and filed a stipulated order of dismissal. The case was closed on January 30, 2003. On May 2, 2003, I granted plaintiff's motion to reopen the case on plaintiff's representation that he had located defendant Gressman. Now counsel for the former defendants has written to request that the court reconsider its May 2 decision. According to counsel, when plaintiff signed the settlement agreement entered into by the parties, he released defendant Gressman from liability along with the other defendants. Counsel has submitted a copy of the settlement agreement which states in relevant part:

The Plaintiff so releases and so discharges all other persons . . . such as are classed as joint tortfeasors under the laws of the State of Wisconsin or the United States, completely barring any right of action against any such tortfeasors whether or not named herein. Said release and discharge extends to and includes, without limitation because of enumeration, any claims, demands, or causes of action based on . . . 42 U.S.C. sec. 1983; any other matter in Title 42 of the United [sic] States Code. . . .

Now, therefore, IT IS ORDERED that plaintiff may have until May 28, 2003, in which to show cause by proof served on Assistant Attorney General Sandra L. Tarver and filed with the court why this case should not be dismissed immediately as barred under the settlement agreement in this case. If, by May 28, 2003, plaintiff fails to respond to this order, I will vacate the order of May 2, 2003 and close this case.

Entered this 14th day of May, 2003.

BY THE COURT:

BARBARA B. CRABB  
District Judge