

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

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DENISE MAMMOS,

Plaintiff,

v.

WYNDHAM VACATION RESORTS, INC.,

Defendant.  
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ORDER

13-cv-59-bbc

The parties have filed a document that they call “joint stipulation to dismiss with prejudice, without costs or attorney’s fees and joint stipulation to request court to withdraw order on summary judgment.” Dkt. #41. Of course, the parties are free to settle their claims at any time, but they cite no authority for their request to withdraw the summary judgment order, so I am denying that portion of their request.

If the parties are concerned about issue preclusion, this would not likely apply because the summary judgment order will not be incorporated into a judgment. “Normally, when a case is resolved by settlement or stipulation, courts will find that the ‘valid final judgment’ requirement of issue preclusion has not been satisfied.” Talmage v. Harris, 486 F.3d 968, 974 (7th Cir. 2007); see also Wisconsin Electric Power Co. v. Northern Assurance Co. of America, 07-C-299-S, 2007 WL 5614077, \*2 (W.D. Wis. Dec. 17, 2007) (“Ordinarily, judgments based on settlement are intended to preclude litigation on the particular claims

at issue, but are not intended to preclude future litigation on the issues presented.”).

To the extent the parties are concerned about the precedential effect of the opinion, the court explained in Gould v. Bowyer, 11 F.3d 82, 83 (7th Cir. 1993), that such concern is unfounded because a district court opinion is not binding precedent on any judge, even the judge who issued the opinion. The “only significance [of the opinion] is as information.” Id. Thus, once an opinion is issued and the judicial meme has been sent into the ether, any “damage” has already been done. Other judges may adopt or reject the conclusions in the opinion, regardless whether the opinion was “withdrawn.”

It is not clear whether the parties’ stipulation of dismissal is contingent on withdrawal of the summary judgment opinion. Accordingly, I will schedule a telephone status conference to determine how the parties wish to proceed. The conference will be canceled if the parties file a new stipulation of dismissal before then.

#### ORDER

IT IS ORDERED that the parties’ request to withdraw the summary judgment opinion, dkt. #41, is DENIED. A telephone status conference is set for May 14, 2014 at

8:30 a.m. Plaintiff is responsible for setting up the call.

Entered this 6th day of May, 2014.

BY THE COURT:  
/s/  
BARBARA B. CRABB  
District Judge