

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOHN D. FARR and MARGARET E. : CIVIL ACTION
FARR :
v. :
GRANITE SALES, INC., et al. : NO. 97-3464

MEMORANDUM ORDER

The above personal injury case is in the court's current trial pool and will be called for trial to commence on August 12, 1998.

On August 3, 1998 the court received a letter from plaintiffs' counsel enclosing a written settlement agreement executed by the parties. Counsel also enclosed a proposed order by which this case would be "placed in Suspended Status" until the performance of the parties obligations under the settlement agreement has been completed.

The agreement provides for an initial payment of \$100,000 and twenty monthly payments of \$10,000 through April 15, 2000. The agreement provides that should any default in the payment obligation occur, plaintiffs may request the court to remove this case from "suspended status" and proceed to trial on the merits. Defendants would receive a "credit" for all amounts paid prior to a default against any judgment obtained by plaintiffs at such a trial.

While the settlement agreement contemplates the retention of this case on the court's docket in "suspended status," it is not clear whether this is an essential condition

of the settlement. In any event, the court will not sign an order placing this case in suspense for almost two years until the final promised installment payment is tendered.

It is axiomatic that a settlement agreement, written or oral, is binding and enforceable. See, e.g., Green v. John H. Lewis & Co., 436 F.2d 389, 890 (3d Cir. 1970); Good v. Pennsylvania R.R. Co., 384 F.2d 989, 990 (3d Cir. 1967); Ballato v. General Electric, 147 F.R.D. 95, 96 (E.D. Pa. 1993) ("it is firmly established law in this circuit that an agreement to settle a lawsuit voluntarily entered into is binding upon the parties"); Pugh v. Super Fresh Food Markets, Inc., 640 F. Supp. 1306, 1307 (E.D. Pa. 1986). Should a party breach its obligations under a settlement agreement, an aggrieved party may move to enforce the agreement and compel performance. The parties, of course, are free to provide for acceleration of the entire outstanding balance upon a default in the making of any scheduled installment payment. Such provisions are routinely included in installment payment agreements.

To maintain on the court's docket settled cases whenever the parties have agreed to perform various obligations over time is inconsistent with the sound management of court dockets, with court practice and with the very notion of resolving litigation by settlement.

If the parties wish to settle this case for \$300,000 with an agreement for prompt payment of \$100,000 and subsequent installment payments totaling \$200,000, they may do so. If they

ask the court to retain jurisdiction for the purpose of enforcing the settlement agreement should that become necessary, the court will do so. The court, will not, however, retain on its docket for a lengthy period a settled case because the parties' agreement requires some future performance.

If the parties prefer not to settle unless the case can still be tried on the merits at plaintiffs' option at some future time upon a breach of the settlement terms, the case should be tried and resolved now.

ACCORDINGLY, this day of August, 1998, upon consideration of plaintiffs' request for an order placing this case in suspended status until April 15, 2000 , **IT IS HEREBY ORDERED** that said request is **DENIED** and the parties shall advise the court by Noon on August 10, 1998 that this case is or is not in fact settled and, if so, whether they wish the court to retain jurisdiction to enforce any settlement agreement should that be necessary and, if this case is not in fact settled, trial will commence at 10:00 a.m. on August 12, 1998 in Courtroom 9B, Ninth Floor, U.S. Courthouse, 601 Market Street, Philadelphia.

BY THE COURT:

JAY C. WALDMAN, J.