

IN THE SUPREME COURT OF IOWA

No. 19-1572

JACKSON COUNTY NO. LACV028137

**EARL FREER, Successor Administrator to SHELLI R. FREER,
as Administrator of the Estate of NICOLE J. SANSOM,
and MICHAEL SANSOM, Individually,**

Plaintiffs-Appellants

v.

DAC, INC., d/b/a PRAIRIE HOUSE,

Defendant-Appellee

**APPEAL FROM THE IOWA DISTRICT COURT IN AND FOR JACKSON
COUNTY**

THE HONORABLE JOHN TELLEEN

**APPELLANTS' FINAL BRIEF
AND REQUEST FOR ORAL ARGUMENT**

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STATEMENT OF THE ISSUES

I. THE DISTRICT COURT'S ORDER DENYING PLAINTIFFS' MOTION TO ENFORCE SHOULD BE REVERSED AND REMANDED FOR THE PURPOSE OF ENFORCING THE PARTIES' HIGH-LOW SETTLEMENT AGREEMENT.

Summary of Authorities:

Arch v. White, No. 18-0827, 2019 WL 2019928 (Iowa Ct. App., Feb. 20, 2019)

Bakke v. Bakke, 47 N.W.2d 813 (Iowa 1951)

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ROUTING STATEMENT

Appellants, Earl Freer, as Successor Administrator of the Estate of Nicole J. Sansom, and Michael Sansom, Individually, assert this case should be retained by the Iowa Supreme Court as this appeal presents a substantial issue of first impression and substantial questions of enunciating or changing legal principles. *See* Iowa R. App. P. 6.1101(2)(c); Iowa R. App. P. 6.1101(2)(f).

Issues as to the enforceability of high-low settlement agreements and the jurisdictional requirements for enforcement have not yet been addressed by the Iowa Court of Appeals or the Iowa Supreme Court. Even the law regarding enforcement of typical settlement agreements is far from clear. *See Wright v. Scott*, 410 N.W.2d 247, 248-49 (Iowa 1987); *Wende v. Orv Rocker Ford Lincoln Mercury, Inc.*, 530 N.W.2d 92, 94 & n.1 (Iowa Ct. App. 1995). High-low settlement agreements are increasingly used, so a definitive statement from the Iowa Supreme Court on these substantial questions of developing law and first impression would be helpful to the bench and bar.

Further, this case has previously been before the Iowa Supreme Court, and this appeal will require interpretation of the Supreme Court's prior decision. As a practical matter, the Supreme Court is most suited to address the important and novel issues raised in this appeal given this context.

STATEMENT OF THE CASE

Plaintiffs appeal from the district court's denial of their Motion to Enforce Settlement Agreement. (App. 84). Plaintiffs' motion was filed in the wrongful death action brought by Plaintiffs against Defendant, after the jury rendered a verdict in Defendant's favor and the district court had thereupon entered judgment for Defendant. Prior to the jury rendering its verdict, the parties had settled this matter using a high-low settlement agreement. The jury's take-nothing verdict provided the basis for Defendant's obligation to pay the low or minimum amount agreed upon in the settlement: \$100,000.

After the jury's verdict, Plaintiffs challenged the verdict in a post-trial motion. Defendant filed a motion to enforce the settlement, arguing the settlement agreement did not contemplate the filing of post-trial motions by the parties. (App. 17-18). Plaintiffs filed a notice of appeal prior to the district court's entry of a written ruling on the pending motions. On appeal, a majority of the Supreme Court held Plaintiffs had waived their post-trial motion when they filed their notice of appeal prior to entry of a written ruling. (App. 34-35). Accordingly, the Court affirmed the district court's judgment for Defendant. (App. 36).

Plaintiffs then filed the subject motion to enforce the settlement agreement in district court. (App. 44). The district court denied Plaintiffs' motion on the ground

that the Supreme Court’s decision had affirmed the judgment for Defendant, leaving this case “at an end.” (App. 83). Plaintiffs appeal this ruling.

STATEMENT OF FACTS

Shelli R. Freer, Individually and as Administrator of the Estate of Nicole J. Sansom,¹ and Michael Sansom, Individually, filed this wrongful death action against DAC, Inc. seeking damages for the wrongful death of Nicole Sansom. Nicole choked to death on July 6, 2015, while a resident at Prairie House, an Iowa Intermediate Care Facility for the Intellectually Disabled. Prairie House was owned by DAC, Inc. The facts pertinent to Plaintiffs' tort claims are not relevant to the issues surrounding the enforcement of the parties' high-low settlement agreement.

Trial and Settlement Agreement

This case proceeded to a jury trial on July 10, 2017, and was submitted to the jury on July 18, 2017. During jury deliberations, the parties, through counsel, entered into a high-low settlement agreement. Pursuant to this agreement, both parties agreed to a minimum recovery of \$100,000.00 and a maximum recovery of \$1,000,000.00, effectively capping the minimum and maximum that Plaintiffs could receive upon return of the jury verdict. (App. 27:1-6). This agreement was memorialized in a two-line email that only noted the maximum and minimum recoveries with no other contractual stipulations. (App. 10)

¹ Earl Freer was later substituted as Successor Administrator of the Estate of Nicole Sansom following the death of his wife, Shelli R. Freer, in May 2019.

On July 19, 2017, the jury returned a defense verdict, and on July 25, 2017, the district court entered judgment for Defendant. (App. 8-9); (App. 11). As the email reducing the high-low settlement agreement to writing did not address the parties' ability to file post-trial motions, Plaintiffs filed a timely combined motion for new trial and change of venue. (App. 13-16). In response, Defendant filed a Motion to Strike the Plaintiffs' Motion and a Motion to Enforce Settlement Agreement, arguing the agreement precluded Plaintiffs from filing any post-trial motions. (App. 17-19). The district court declined to rule on Plaintiffs' motion as the court considered it moot, based on a finding that the high-low settlement agreement precluded Plaintiffs from filing post-trial motions. (App. 27:1-6). This ruling effectively granted Defendant's motion to enforce the settlement agreement. Prior to entry of a written order by the district court, Plaintiffs appealed. (App. 33).

First Appeal

The Iowa Supreme Court retained Plaintiffs' appeal. (App. 33). Because Plaintiffs had appealed prior to the entry of a written order, the Supreme Court remanded the case back to the district court for the limited purpose of entering a nunc pro tunc order into the record, memorializing the district court's oral ruling. (App. 34). On February 15, 2019, the district court entered a written order enforcing

the high-low settlement agreement and concluding Plaintiffs' post-trial motion was therefore moot. (App. 52-57).

Thereafter, on June 14, 2019, the Iowa Supreme Court affirmed the district court's July 25, 2017, judgment for Defendant. (App. 36). A majority of the Court held Plaintiffs waived or abandoned their post-trial motion when they filed a notice of appeal prior to the district court's written ruling on their motion. (App. 35-36). The Supreme Court reasoned the premature filing of the notice of appeal divested the district court of jurisdiction to rule on Plaintiffs' post-trial motion. (App. 35). While not expressly stated by the Court, one can surmise that the lack of jurisdiction likewise rendered the nunc pro tunc order of no effect. (App. 35-36). The majority did not touch on any issue relating to the high-low settlement agreement that Defendant had sought to enforce in its post-trial motion. (App. 37-38).

Current Appeal

Shortly thereafter, on June 20, 2019, Plaintiffs' attorney, Thomas Kyle, sent an email to Patrick Woodward, Defendant's attorney, requesting payment of the \$100,000.00 owed by virtue of the settlement agreement. (App. 59). Notwithstanding that Defendant had previously sought to enforce the settlement agreement, Defendant refused to tender the agreed upon sum, instead offering to pay a substantially lower amount in exchange for a release and hold harmless agreement.

(App. 59). At that point, Plaintiffs filed a motion to enforce in the wrongful death action pending in district court. (App. 44-46).

Defendant subsequently filed a combined motion to dismiss and resistance to Plaintiffs' motion to enforce. (App. 63-66). In support of its motion to dismiss, Defendant argued Plaintiffs' motion to enforce was moot because the Supreme Court had affirmed the judgment for Defendant and had concluded the district court did not have jurisdiction to rule on "post-trial motions." (App. 63-64, ¶¶ 5-8).² (Of course, those statements by the Supreme Court were directed only to the district court's ability to rule on a post-trial motion while an appeal was pending, the issue before the Court in the first appeal. As noted above, the enforceability of the high-low settlement agreement, or whether it could be enforced in the wrongful death action, was not addressed by the Supreme Court.) (App. 37). Defendant claimed in its resistance to Plaintiffs' motion to enforce that Plaintiffs had repudiated the settlement agreement. (App. 64-65, ¶¶ 1-3).

On August 23, 2019, the district court entered its ruling and order on Plaintiffs' motion to enforce settlement agreement. (App. 81-85). In its order, the

² Defendant also argued the motion to enforce was not brought by a proper party, as Shelli R. Freer died on May 24, 2019, and no substitution of administrator had occurred. (App. 63). Earl Freer was later substituted as Successor Administrator prior to the district court issuing its opinion on Plaintiff's motion to enforce. (App. 81).

court characterized the issue as whether the Iowa Supreme Court's June 14, 2019, opinion left in place the district court's nunc pro tunc order enforcing the parties' high-low settlement agreement. (App. 81-82). The district court reasoned that the Supreme Court affirmed only the July 25, 2017, judgment for Defendant and that the case was, therefore, at an end. (App. 83). The district court did not address Defendant's alternative repudiation argument. (App. 84).

ARGUMENT

I. THE DISTRICT COURT’S ORDER DENYING PLAINTIFFS’ MOTION TO ENFORCE SHOULD BE REVERSED AND REMANDED FOR THE PURPOSE OF ENFORCING THE PARTIES’ HIGH-LOW SETTLEMENT AGREEMENT.

Iowa courts have a well-established history of enforcing and supporting the amicable settlement of disputes in order to obviate the need for further litigation between settling parties. High-low settlement agreements are a type of settlement that Iowa courts have an interest in encouraging. Such agreements allow both parties to protect their interests during trial, minimizing the risk of an unanticipated jury verdict.

The district court in the present case erred in failing to address the issue raised in Plaintiffs’ motion to enforce, namely whether the parties’ settlement agreement was enforceable, and instead ruled on whether the district court’s nunc pro tunc ruling on *Defendant’s* motion to enforce survived the first appeal. This Court should hold that the parties’ settlement agreement is enforceable, as the first appeal did not address this question and the entry of judgment for Defendant—an occurrence anticipated in a high-low settlement agreement—should not preclude enforcement.

Finally, although Defendant did not challenge the procedural mechanism used by Plaintiffs to enforce the parties’ settlement agreement, this Court should embrace the opportunity to give guidance to Iowa courts and attorneys on this issue. In the

interest of providing a speedy remedy for settling parties and encouraging the settlement of legal disputes, this Court should recognize a trial court's jurisdiction to enforce a high-low settlement agreement when that agreement relies on the jury verdict providing the basis for the trial court's final order and judgment. These matters will be separately discussed in detail below.

A. PRESERVATION OF ERROR AND STANDARD OF REVIEW

Plaintiffs preserved error on this issue by raising it in briefing to the district court. (App. 45, ¶ 9); (App. 47-50). The district court subsequently decided and ruled upon this issue. (App 81-84). The district court's decision regarding the issues raised in Plaintiffs' motion to enforce settlement agreement is reviewed for correction of errors at law. *Wright v. Scott*, 410 N.W.2d 247, 249-50 (Iowa 1987).

B. THE DISTRICT COURT'S ORDER MISCHARACTERIZED THE ISSUE BEFORE THE COURT IN REGARD TO PLAINTIFFS' MOTION TO ENFORCE, AND THEREFORE, SHOULD BE REVERSED.

In the August 23, 2019 order at issue here, the district court characterized the crux of this issue as being "whether the Iowa Supreme Court's June 14, 2019, opinion does or does not leave in place *a district court Order* enforcing the parties' high/low settlement agreement of \$100,000 to \$1 million entered shortly prior to the jury's verdict." (App. 81-82). The issue presented by Plaintiffs' motion to enforce

is actually whether or not the Iowa Supreme Court's June 14, 2019, opinion does or does not leave in place *the parties' high-low settlement agreement*.

Plaintiffs discussed the district court's prior nunc pro tunc order, as well as the dissenting opinion in the first appeal, in their trial court brief in support of their motion to enforce. Those citations were only meant to bolster Plaintiffs' argument that an enforceable agreement existed and that Defendant had previously agreed with that conclusion. In their motion to enforce and supportive briefing, Plaintiffs asked the district court to enforce the parties' settlement agreement, *not* the district court's earlier order enforcing it. (App. 45, ¶ 9); (App. 50).

As discussed in further detail below, the high-low settlement agreement remains in place. The Iowa Supreme Court's opinion affirming the jury verdict did not change this foundational fact, as the Court's majority opinion did not even address the enforceability of the settlement agreement. Moreover, the settlement agreement relies upon the affirmed jury verdict to render the agreement valid and enforceable between the parties. Thus, the actual issue the district court should have determined was whether to enforce the settlement agreement. The district court examined Plaintiffs' motion to enforce through an improper lens and decided an issue not pertinent to that motion. For these reasons, the district court's decision should be reversed.

C. THIS COURT SHOULD HOLD ITS DECISION IN THE FIRST APPEAL DID NOT IMPACT THE ENFORCEABILITY OF THE

HIGH-LOW SETTLEMENT AGREEMENT AND SHOULD THEREFORE REMAND THE CASE TO THE DISTRICT COURT TO ENFORCE THE SETTLEMENT AGREEMENT.

Defendant claimed in the district court that Plaintiffs' motion to enforce was moot because the Supreme Court had ruled "that the District Court did not have jurisdiction to enter orders on post-trial *motions*." (App. 63, ¶ 5). Defendant asserted that as a result, "all post-trial *matters* were merged into the judgment for defendant entered on July 25, 2017, and [the district] court does not have jurisdiction to enforce the settlement agreement or hear plaintiffs' motion." (App. 64, ¶ 8). Although Plaintiffs concede the Supreme Court's decision in the first appeal held that the district court did not have jurisdiction to rule on the post-trial motions that were pending when the first appeal was taken, Plaintiffs vigorously dispute that the decision in the first appeal held or operated to merge all post-trial matters into the judgment for Defendant.

The Supreme Court's decision in the first appeal precluded Plaintiffs' challenge of the jury verdict based on the absence of district court jurisdiction to rule on post-trial motions while an appeal was pending,³ but the Court's opinion did not

³ It appears the Supreme Court majority reasoned that law-of-the-case principles did not prevent the Court from ignoring its own remand of the case to the district court for entry of a nunc pro tunc ruling on the post-trial motions. *Freer v. DAC, Inc.*, 929 N.W.2d 685, 688 (Iowa 2019).

examine the enforceability of the high-low settlement agreement, leaving that issue up in the air. While it is true the dissenting justices stated Plaintiffs were left with a take-nothing judgment, *Freer v. DAC, Inc.*, 929 N.W.2d 685, 690 (Iowa 2019) (Mansfield, J. dissenting), this non-binding statement was made in the context of affirmance of the July 25, 2017, verdict, which was, in fact, a take-nothing judgment as the jury found Defendant not liable for the death of Nicole Sansom. (App. 8). As the dissenters also noted, however, if Plaintiffs do not have “an opportunity to challenge the jury verdict in this case,” they “should receive . . . \$100,000.” *Id.* at 691 (Mansfield, J. dissenting).

The Court’s decision in the first appeal merely prevents Plaintiffs from challenging the jury verdict. The high-low agreement still exists, and that agreement relies on—in fact requires—the jury verdict to become operative. By affirming the 2017 take-nothing judgment, the Supreme Court’s decision has satisfied the condition of the settlement agreement that the verdict fall outside the parameters set in that agreement. Consequently, the agreement is still enforceable by the parties. Therefore, contrary to Defendant’s argument and the district court’s decision, this case is *not* at an end simply because Plaintiffs’ post-trial motions were deemed waived and the judgment was affirmed. (App. 83).

Both parties have conceded there is a valid settlement agreement that relied upon the rendering of a jury verdict to become binding. (App. 17-23). (“Pursuant to

the high-low agreement, the parties agreed to settle the matter for \$100,000.00 should the jury award damages below that amount or return a defense verdict.”); (App. 44, ¶ 2). (“Prior to the jury returning its verdict, the parties, through counsel, entered into a high-low settlement agreement. Pursuant to this agreement, Plaintiffs agreed to a minimum recovery of \$100,000.00 and maximum recovery of \$1,000,000.00.”). The parties’ prior dispute—whether the settlement agreement allowed the parties to file post-trial motions—is now moot, as this Court has determined Plaintiffs waived their right to file such motions by taking the first appeal. Plaintiffs concede the agreement has now become enforceable. Consequently, this Court should remand this case to the district court with instructions to enter an order enforcing the parties’ high-low settlement agreement.

D. AS A HIGH-LOW SETTLEMENT RELIES ON A JURY VERDICT, THIS COURT SHOULD RECOGNIZE A TRIAL COURT’S JURISDICTION TO ENFORCE SUCH A SETTLEMENT WHEN THE ENFORCEABILITY AND VALIDITY OF THAT AGREEMENT DEPEND ON THE JURY VERDICT.

Plaintiffs point out that Defendant *did not* claim in the district court that Plaintiffs employed the wrong procedure to bring the issue of enforceability to the attention of the district court by filing a motion to enforce in the wrongful death action or that trial courts *categorically* have no jurisdiction to entertain a motion to

enforce a high-low settlement agreement after jury verdict and judgment have been rendered.⁴ Defendant's sole basis for its motion to dismiss Plaintiffs' motion to enforce was that the Plaintiffs' motion was "moot" based on the Supreme Court's decision in the first appeal. That argument has no validity as explained in the prior brief point. Notwithstanding that Defendant did not claim a motion to enforce a high-low settlement agreement could not be brought in the underlying lawsuit after judgment had been entered, Plaintiffs urge this Court to take this opportunity to clarify the procedure to enforce a high-low settlement agreement and allow a district court entering judgment on the jury's verdict to entertain a motion to enforce.

It is well-established within Iowa that courts should support agreements that have for their object the amicable settlement of doubtful rights by parties. *Messer v. Washington Nat'l Ins. Co.*, 11 N.W.2d 727, 732 (Iowa 1943). It has also long

⁴ Defendant's decision not to challenge the procedural mechanism employed by Plaintiffs to enforce the settlement agreement or the district court's jurisdiction in general to entertain a motion to enforce may be due to the fact that Defendant earlier had filed the same motion under the same circumstances (other than the existence of the decision from the Supreme Court). (App. 63-66); (App. 17-19). Thus, it is informative to note that prior to the first appeal, Defendant sought to enforce the parties' settlement agreement by filing a motion to enforce even though Defendant had not amended its pleadings in the wrongful death action to assert a claim for enforcement and had not filed a separate breach-of-contract action. (App. 17-19). Moreover, Defendant's motion was filed after the district court entered final judgment for Defendant. Likewise, the district court did not find any obstacle to enforcing the parties' settlement notwithstanding the fact that judgment for Defendant had been entered without reference to the high-low settlement agreement. (App 25-29).

been held that voluntary settlements of legal disputes should be encouraged, with the terms of settlements not inordinately scrutinized, in order to obviate the need for further legal proceedings between the settling parties. *Wright v. Scott*, 410 N.W.2d 247, 249 (Iowa 1987) (citing *Bakke v. Bakke*, 47 N.W.2d 813, 817 (Iowa 1951)); *Messer*, 11 N.W.2d at 731-32. Usually, a settlement agreement is a contract entered into by parties in which one party agrees to dismiss the suit. *Reis v. Iowa Dist. Ct.*, 787 N.W.2d 61, 67 (Iowa 2010). Iowa courts interpret and enforce these settlement agreements like any other contract. *Phipps v. Winneshiek County*, 593 N.W.2d 143, 146 (Iowa 1999). Accordingly, absent fraud, misrepresentation, or concealment, a settlement agreement will be enforced. *Id.* In sum, Iowa courts not only have the authority to enforce settlement agreements, but are encouraged to do so. *Wright*, 410 N.W.2d at 250

Prior to a district court enforcing a settlement agreement, there are jurisdictional requirements that must be met. When a case is pending, Iowa courts have the authority to enforce a settlement agreement. *Gilbride v. Trunnelle*, 620 N.W.2d 244, 249 (Iowa 2000) (citing *Wright*, 410 N.W.2d at 250; *Wende v. Orv. Rocker Ford Lincoln Mercury, Inc.*, 530 N.W.2d 92, 94 (Iowa Ct. App. 1995)). A district court may summarily enforce a settlement agreement on motion by one of the parties when a party amends his or her pleadings to assert settlement as an additional claim in the original lawsuit. *Gilbride*, 620 N.W.2d at 249 (citing *Wende*,

530 N.W.2d at 94). However, when an underlying case has been dismissed, and the settlement agreement was never entered by the court, the district court lacks jurisdiction to enforce the settlement agreement unless a separate action for breach of contract is filed. *Reis*, 787 N.W.2d at 67 (citing *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 381 (1994) (holding there was no basis to enforce a settlement agreement after the case had been dismissed without entering or referencing the settlement agreement)). In this case, had proper objection been made, the district court would arguably lack jurisdiction to enforce the settlement agreement unless a separate action for breach of contract were filed. *Id.* at 68. Plaintiffs suggest that these general principles should be re-examined in the context of high-low settlement agreements.

While there is limited Iowa case law on high-low settlement agreements, it can be assumed that the general principles discussed above would apply. High-low settlement agreements have nuances, however, that require specific guidelines in regards to enforcement. Unlike traditional settlements that require dismissal of any pending lawsuit as part of the agreed-upon performance, high-low settlement agreements rely on the occurrence of a jury verdict to trigger performance by the parties. Such agreements are conditional:

[the] condition of the agreement is that the jury render a verdict that falls outside the range of the high-low agreement. When a

verdict is rendered outside of the agreed-upon range, the condition is triggered and the “high” or “low” becomes binding upon the parties as a settlement.

Cunha v. Shapiro, 837 N.Y.S.2d 160, 163 (App. Div. 2007). Unlike the traditional settlement agreement that is entered into by parties to avoid trial and the lengthy and costly litigation process, by design, a high-low settlement agreement requires the completion of litigation. It not only necessitates a jury trial, but requires that jury to render a verdict outside of the contract’s stated terms to avoid the agreement being rendered purely academic. *Id.* at 164.

Due to the unique terms of a high-low settlement, the underlying case is no longer pending when the settlement agreement becomes valid and enforceable. The case has reached final judgment and is at an end. Consequently, a party cannot amend his or her pleadings to assert settlement as an additional claim in the original lawsuit. Further, in the absence of judicial notice or an order from the district court directly referencing or entering the high-low settlement agreement, the district court presiding over the trial has no jurisdiction to enforce that settlement agreement. A party then has no choice but to file more litigation in the form of a breach of contract action to enforce a settlement agreement that was entered into, in part, to minimize litigation. The current jurisdictional procedures do not adequately address the nuances that occur when a high-low settlement agreement needs to be enforced.

Plaintiffs suggest that this Court recognize that when parties agree to a high-low settlement, the court in which the eventual verdict is rendered maintains jurisdiction to enforce that agreement in the event one party fails to comply with its terms. Allowing jurisdiction under such circumstances is analogous to the district court's retained jurisdiction recognized by Iowa law when a case is appealed: "Although the filing of a notice of appeal generally deprives the district court of jurisdiction, the court 'retains jurisdiction to proceed as to issues collateral to and not affecting the subject matter of the appeal.'" *Iowa State Bank & Trust Co. v. Michel*, 683 N.W.2d 95, 110 (Iowa 2004), as modified on denial of reh'g (July 9, 2004) (quoting *Landals v. George A. Rolfes Co.*, 454 N.W.2d 891, 897 (Iowa 1990)). Similarly, this Court should allow the district court presiding over the trial to rule on a motion to enforce a high-low settlement agreement, either summarily or after hearing, notwithstanding that a final judgment has been entered.⁵ This procedure preserves scarce judicial resources by avoiding secondary litigation, promotes judicial efficiency and lowers costs to litigants by providing a speedier process for

⁵It appears that Iowa lawyers are filing motions to enforce settlements just as both parties did in this case. An online search revealed two appeals in 2019 where that procedural device was employed in cases involving traditional settlements. *See In re Estate of Newhall*, No. 18-0583, 2019 WL 1057102, at * 2 (Iowa Ct. App., Mar. 6, 2019) (party filed motion to enforce settlement agreement in probate case); *Arch v. White*, No. 18-0827, 2019 WL 2019928, at *2 (Iowa Ct. App., Feb. 20, 2019) (party filed motion to enforce settlement of civil suit for damages arising from car accident).

the parties, and fosters the well-established goal to encourage settlement among parties.

CONCLUSION

Plaintiffs respectfully request that this Court reverse the district court's denial of Plaintiffs' motion to enforce the parties' high-low settlement agreement, and remand this case to the district court with instructions to enter an order granting Plaintiffs' motion and requiring that Defendant pay to Plaintiffs' the agreed upon amount of \$100,000.00 with interest.

REQUEST FOR ORAL ARGUMENT

Plaintiffs-Appellants respectfully request to be heard at oral argument on this appeal.

Respectfully submitted,

Hupy and Abraham, s.c., p.c.

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COST CERTIFICATE

I hereby certify that the cost of producing necessary copies of the foregoing brief, exclusive of stenographic expense, was \$0.00.

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CERTIFICATE OF COMPLIANCE

This brief has been prepared in a proportionally-spaced typeface using Times New Roman in fourteen (14) font and contains four-thousand-six-hundred-and-fifty-seven (4657) words, excluding the parts of the brief exempted by Iowa R. App. P. 6.903(1)(g)(1).

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that this Combined Certificate was electronically filed on the 7th day of February, 2020, with the clerk of the Iowa Supreme Court using the Electronic Documents Management System (EDMS) which will send notification of the filing to:

Patrick L. Woodward
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Davenport, IA 52807

/s/ Thomas W. Kyle

Hupy and Abraham, S.C., P.C.