

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 09-15425

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| FILED U.S. COURT OF APPEALS ELEVENTH CIRCUIT NOVEMBER 17, 2010 JOHN LEY CLERK |
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D. C. Docket No. 07-00533-CV-CAP-1

BLUE CROSS AND BLUE SHIELD ASSOCIATION,

Plaintiff-Appellant,

versus

WILLIAM JOSEPH COX,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

(November 17, 2010)

Before BARKETT, MARTIN and HILL, Circuit Judges.

PER CURIAM:

Appellant Blue Cross and Blue Shield Association (“BCBSA”) asks this Court, in accordance with the settlement agreement of the parties, to vacate the

September 23, 2009 Summary Judgment entered in favor of Appellee William Joseph Cox. Because of the exceptional circumstances of this case,¹ we VACATE the Judgment pursuant to 28 U.S.C. § 2106. See U.S. Bancorp Mortg. Co. v. Bonner Mall P'ship, 513 U.S. 18, 29 (1994). Thus, we DISMISS the appeal as moot, pursuant to the parties' settlement agreement.

¹ Unexpected developments make it unlikely that full counseling would be available to the court if litigation continues in this case. The possible preclusive effect if the case remains is undesirable under these circumstances.