



OFFICE OF THE CLERK
WISCONSIN COURT OF APPEALS

110 EAST MAIN STREET, SUITE 215
P.O. BOX 1688
MADISON, WISCONSIN 53701-1688

Telephone (608) 266-1880
TTY: (800) 947-3529
Facsimile (608) 267-0640
Web Site: www.wicourts.gov

^DISTRICT II/IV

December 9, 2013

To:

Hon. J. Mac Davis
Circuit Court Judge
Waukesha County Courthouse
515 W. Moreland Blvd.
Waukesha, WI 53188

Kathleen A. Madden
Clerk of Circuit Court
Waukesha County Courthouse
515 W. Moreland Blvd.
Waukesha, WI 53188

Christopher P. Riordan
von Briesen & Roper S.C.
411 E Wisconsin Ave # 1000
Milwaukee, WI 53202-4427

Patryk Silver
Borgelt, Powell, Peterson & Frauen, S.C.
131 W. Wilson St., Ste. 600
Madison, WI 53703

You are hereby notified that the Court has entered the following opinion and order:

2012AP1519

WaterStone Bank, SSB v. American Family Mutual Insurance
Company (L.C. # 2010CV4851)

Before Blanchard, P.J., Higginbotham and Kloppenburg, JJ.

WaterStone Bank appeals an order granting declaratory relief to defendant American Family Mutual Insurance Company and dismissing the Bank's complaint. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).¹ We affirm.

American Family moved for summary affirmance on the ground that this case is controlled by our published decision in *Waterstone Bank, SSB v. American Family Mut. Ins. Co.*, 2013 WI App 60, 348 Wis. 2d 213, 832 N.W.2d 152. The Wisconsin Supreme Court denied

¹ All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

review of that decision on November 26, 2013. In response to the motion, WaterStone Bank asserts that our published decision is erroneous and contrary to established case law. The Bank asks us to certify the issue to the supreme court or adhere to the published case but explain why it was wrongly decided.

The Bank appears to concede that we are bound by the published decision. *See Cook v. Cook*, 208 Wis. 2d 166, 189-90, 560 N.W.2d 246 (1997). Furthermore, with the supreme court having now rejected the Bank's petition for supreme court review of that decision, we see no need to consider whether to certify this appeal or criticize the published opinion. Therefore, we summarily affirm.

IT IS ORDERED that the order appealed from is summarily affirmed under WIS. STAT. RULE 809.21.

Diane M. Fremgen
Clerk of Court of Appeals