

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

CYNTHIA ORTA, Administratrix of	:	CIVIL ACTION
the ESTATE OF RICARDO RODRIQUEZ,	:	
Deceased	:	
	:	
v.	:	
	:	NO. 02-1673
CON-WAY TRANSPORTATION, et al.	:	(LEAD CASE)

MEMORANDUM AND ORDER

HUTTON, J.

October 8, 2002

Currently before the Court is Defendant's Motion to Enforce Settlement (Docket No. 14, 02-CV-0082), and Plaintiff's response (Docket No. 5, 02-CV-1673).

I. BACKGROUND

Plaintiff, Cynthia Orta, acting as Administratrix of the Estate of Ricardo Rodriguez, initiated a civil action in this Court, alleging that Plaintiff's decedent was driving a vehicle which struck and rode under a tractor trailer driven by Defendant, Glen Harding. Discovery revealed that Mr. Rodriguez had both heroin and methadone in his system while he was operating the vehicle.

Plaintiff alleges that Mr. Harding was performing an illegal U-Turn in the dark hours of morning. Defendants contend that the accident resulted from a combination of decedent's intoxication, the fact that he allegedly failed to observe the clear distance rule, and Mr. Rodriguez's failure to maintain a proper lookout.

On July 2, 2002, a mediation was held before Thomas Rutter, Esq. It is undisputed that Cynthia Orta gave her attorney actual authority to settle the case, and that after a full day of negotiations, a settlement was reached, in which Defendant agreed to pay \$450,000 in exchange for Plaintiff executing a general release and taking steps to effectuate settlement. The Mediator held a meeting at the end of negotiations at which Cynthia Orta and both lawyers were present, where he confirmed that a settlement had been reached. There was no objection from Ms. Orta.

Plaintiff's counsel prepared and mailed a Petition for Approval of the Wrongful Death and Survivor Action to Cynthia Orta. Ms. Orta admits that, upon consultation with her brother, she told her lawyer that she did not want to sign the documents to be submitted to this Court.

II. LEGAL STANDARD

A voluntary settlement agreement may be binding upon the parties, irrespective of whether it was made in the presence of the court. Green v. Lewis & Co., 436 F.2d 389, 390 (3d Cir. 1970); see also D.R. v. East Brunswick Bd. of Educ., 109 F.3d 896, 901 (3d Cir. 1997) (holding that a settlement agreement is binding despite the fact that it resulted from mediation instead of litigation). Moreover, a settlement agreement does not need to be reduced to writing to be enforceable. See Green, 436 F.2d at 390 (citing Main Line Theatres, Inc. v. Paramount, 298 F.2d 801, 804 (3d Cir.

1962); see also Good v. The Pennsylvania Railroad Co., 384 F.2d 989, 990 (3d Cir. 1967) (holding that a settlement agreement, entered into by duly authorized counsel, was "valid and binding despite the absence of any writing or formality") (emphasis added).

Settlement agreements are interpreted as binding contracts. See Columbia Gas Systems, Inc. v. Enterprise Energy Corp., 50 F.3d 233, 238 (3d Cir. 1995). Settlement agreements, therefore, are construed according to the traditional principles of contract construction. See Id.; see also Pennwalt Corp., 676 F.2d at 79. Pennsylvania recognizes and enforces oral agreements. See Frank v. The Nostalgia Network, No. CIV. A. 96-2921, 1997 WL 44845 * 2 (E.D. Pa. Jan. 30, 1997); see also Pennwalt Corp. v. Plough, 676 F.2d 77, 80 (3d. Cir. 1982) (holding that voluntary settlement agreements are "specifically enforceable and broadly interpreted"). The fact that the parties intend to formalize their oral agreement with a writing does not negate the binding nature of the original agreement. See Kazanjian v. New England Petroleum Corp., 332 Pa. Super. 1, 7, 480 A.2d 1153, 1157 (Pa. Super. Ct. 1984); see also Woodbridge v. Hall, 366 Pa. 46, 76 A.2d 205 (1950) (holding that an oral settlement agreement was binding and enforceable, despite the fact that the parties were not able to reduce the agreement to writing after three attempts).

When parties, through their respective counsel, assent to the terms of the oral agreement, and writing is not a condition of the

agreement, the oral settlement agreement is binding. See Bush v. International Business Machines Corp., CIV. A. No. 88-6264, 1998 WL 133644 * 1 (E.D. Pa. Nov. 1, 1989). Generally, "an attorney must have express authority to settle a cause of action of the client." Id. (quoting Rothman v. Fillette, 503 Pa. 259, 469 A.2d 543, 545 (1983)).

There is a strong judicial policy in favor of the voluntary settlement of lawsuits. See Pennwalt Corp., 676 F.2d at 79. Permitting parties to void settlement agreements on a whim, because the agreement becomes unpalatable or the parties become greedier, "would work a significant deterrence contrary to the federal policy of encouraging settlement agreements." D.R., 109 F.3d at 901.

III. DISCUSSION

The oral settlement agreement in the instant case is binding and enforceable. There is no dispute that both attorneys had the express authority to settle the case. In fact, Plaintiff was present at negotiations, thereby enabling her to reject settlement if she was unsatisfied. The negotiations took place under a mediator's supervision. He held a post-negotiation meeting to ensure that the parties understood what occurred during settlement. Ms. Orta was present at this meeting and did not object. A formalized writing was not a condition of the settlement. Additionally, Plaintiff's counsel drew up documents to be submitted to the Court for the purpose of enforcing settlement. All of these

undisputed facts indicate that the parties assented to the oral settlement, thus rendering it binding and enforceable.

Ms. Orta changed her mind after speaking with her brother. However, merely because Ms. Orta suddenly decided she did not like the terms of the oral agreement, does not lessen the binding nature of that agreement. Considering the strong judicial policy in favor of enforcing settlement agreements, Defendant's Motion to Enforce Settlement is granted.

An appropriate order follows.

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O R D E R

AND NOW this 8TH day of October, 2002, upon consideration of Defendant's Motion to Enforce Settlement (Docket No. 14, 02-CV-0082), and Plaintiff's response (Docket No. 5, 02-CV-1673), IT IS HEREBY ORDERED that Defendant's Motion is **GRANTED**.

BY THE COURT:

HERBERT J. HUTTON, J.