

DOCKET NO: FBT-CV21-6106795-S

SALLY KELLOGG

V.

SAFAVIEH GROUP, LLC C/O MOSHEN

YARAGHI

OFFICE OF THE CLERK
SUPERIOR COURT

2024 APR 29 P: 2: 39

JUDICIAL DISTRICT
OF BRIDGEPORT

SUPERIOR COURT

J.D. OF BRIDGEPORT

AT BRIDGEPORT

APRIL 29, 2024

MEMORANDUM OF DECISION

FACTS

The following facts as set forth in the defendant's motion to enforce settlement are not disputed:

This case involved a claim of age discrimination. The matter was first heard on the merits at the Connecticut Commission on Human Rights and Opportunities. Plaintiff requested a Release of Jurisdiction and filed this civil suit after the CHRO issued its draft findings: "[a]fter reviewing all of the evidence in the Commission's file, the investigator concludes that there is no reasonable cause for believing that a discriminatory practice has been or is being committed as alleged in the complaint." (Emphasis in CHRO Report.) Once at the Superior Court, a pretrial was scheduled for August 9, 2023. As of the August 9, 2023 pretrial, the trial date was November 7, 2023.

Judge Saadi conducted a pretrial conference via Teams on August 9, 2023 beginning at 10:30 a.m. The Court recommended a settlement figure and undersigned defense counsel, after making inquiry, confirmed that Defendant would accept the Judge's settlement recommendation.

*Sent to RTD
to [unclear] 1st Asst Clerk*

During the conference, counsel and Court discussed terms of a written settlement agreement, standard with employment claims, which would include allocation of the settlement payment between wages paid with an IRS W-2 form and distress damages issued with an IRS 1099 form. While undersigned defense counsel indicated that the settlement payment is typically split 50% back pay and 50% wages, the defendant agreed to an allocation of 1/3 back pay and 2/3 distress.

During the Pretrial Conference, plaintiff was not immediately available, so counsel was instructed to report back if there as a settlement. Later that same morning, by email at 11:20 a.m., plaintiff's counsel advised Judge Saadi that the "Kellogg case has been settled." Plaintiff's counsel wrote, in its entirety:

I am pleased to report that the Kellogg case has been settled. Attorney Corbett is preparing the paperwork as we agreed and that should be ready for signing either today or tomorrow. Upon release of the funds, this action will be withdrawn. Judge Saadi, many thanks for working magic on this!"

On August 14, 2023, undersigned counsel sent the Release and Settlement Agreement to plaintiff's counsel. The Settlement Agreement had a payment allocation of 1/3 back pay and 2.3 distress damages. Counsel for plaintiff responded "[T]his looks good. I'll forward it to Sally and ask her to sign it asap."

On August 14, 2023 at 3:37 p.m., plaintiff counsel wrote back,

Sally says she does not want any back pay and does not want a W-2. I know that this is not usual, but she is adamant. Can this be arranged.

Counsel for defendant responded later on August 14, 2023 at 6:35 p.m.,

John, this was the deal negotiated with the Judge, can you work your magic to get her to sign off? I typically do 50% - 50% between W2 and 1099, but I thought I could justify the change to 33% - 67% here. I would prefer not to have to revisit this with the Judge.

Plan B is that I supposed I could go back to client on this, but I would need you to propose some indemnification language or some protection.

Thus, despite the deal reached, the undersigned defense counsel expressed a willingness to accommodate the requested change.

On August 16, 2023, counsel for the plaintiff responded,

I told Sally that we already have a dismissal date if we didn't complete the settlement papers. She has not responded. Maybe we should just let it die a natural death. Alternatively, you could file a motion to enforce which I would be hard pressed to oppose.

DISCUSSION

“A settlement agreement, or accord, is a contract among the parties.” *Ackerman v. Sobol Family Partnership, LLP*, 298 Conn. 495 532, 4 A.3d 288 (2010). “A trial court has the inherent power to enforce summarily a settlement agreement as a matter of law when the terms of the agreement are clear and unambiguous. . . . Agreements that end lawsuits are contracts, sometimes enforceable in a subsequent suit, but in many situations enforceable by entry of a judgment in the original suit. A court’s authority to enforce a settlement by entry of judgment in the underlying action is especially clear where the settlement is reported to the court during the course of a trial or other significant courtroom proceedings.” (Citations omitted; internal quotation marks omitted.) *Audubon Parking Associates Ltd. Partnership v. Barclay & Stubbs, Inc.*, 225 Conn. 804, 811, 626 A.2d 729 (1993) (Audubon). “Summary enforcement is not only essential to the efficient use of judicial resources, but also preserves the integrity of settlement as a meaningful way to resolve legal disputes. When parties agree to settle a case, they are effectively contracting for the right to avoid a trial.” (Emphasis omitted.) *Id.*, 812.

“[A]pparent authority is that semblance of authority which a principal, through his own acts or inadvertences, causes or allows third persons to believe his agent possesses Consequently, apparent authority is to be determined, not by the agent’s own acts, but by the acts of the agent’s principal The issue of apparent authority is one of fact to be determined based on two criteria First, it must appear from the principal’s conduct that the principal held the agent out as possessing sufficient authority Second, the party dealing with the agent must have, acting in good faith, reasonably believed, under all the circumstances, that the agent had the necessary authority to bind the principal to the agent’s action” *Ackerman v. Sobol*

Family Partnership, LLP, 298 Conn. 495, 508-09, 4 A.3d 288 (20210). “...manifestations of apparent authority must take the form of ‘conduct by a person, observable by others, that expresses meaning.’ 1 Restatement (Third), Agency, supra, at § 1.03, comment (b), p. 56. See *Santos v. Ruiz*, Docket No. CV166063140, 2017 Conn. Super. LEXIS 5003, at *4 (Super. Dec. 6, 2017).

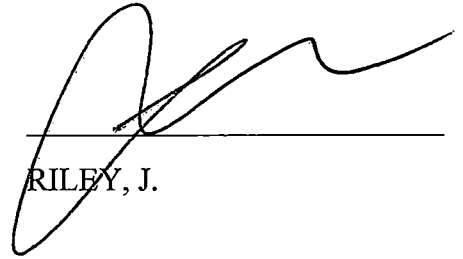
The Connecticut Supreme Court in *Ackerman* summarized the concept of agency and authority to enter into settlements eloquently by stating:

...an attorney with apparent authority may enter into a settlement agreement that is binding on the client. 1 Restatement (Third), Agency § 3.03, comment (b), p. 176 (2006) (“[a]pparent authority [of a lawyer in an attorney-client relationship] to effect a settlement that binds the client is present when, as in transactions of various sorts involving agents who are not lawyers, the opposing party or lawyer reasonably believes that the lawyer has actual authority to effect a settlement and that belief is traceable to manifestations of the client”). Although reviewing courts in Connecticut have acknowledged that “[a]n attorney who is authorized to represent a client in litigation does not automatically have either implied or apparent authority to settle or otherwise to compromise the client’s cause of action”; (emphasis added) *Acheson v. White* 195 Conn. 211, 213 n.4 487 A.2d 197 (1985); they have also repeatedly held that an agent with implied or apparent authority may bind the principal to an enforceable settlement agreement, See *Maharishi School of Vedic Sciences, Inc.* (Connecticut) 605 (holding that attorney had implied actual authority to bind plaintiff to agreement); *Yale University v. Out of the Box, LLC*, 118 Conn. App. 800, 807, 811-12, 985 A.2d 1080 (2010) (holding that trial court “properly determined that the actions and inactions of the plaintiff, the principal, caused or allowed the defendant reasonably to believe that . . . the agent [attorney], had the [apparent] authority to enter into and to bind the plaintiff to the settlement with the defendant”); see also *In re Artha Management, Inc.*, 91 F.3d 326, 329 (2d Cir. 1996) (although decision to settle case rests with client and client does not automatically bestow authority on retained counsel, unique nature of attorney-client relationship and public policy favoring settlements support presumption that “an attorney-of-record who enters into a settlement agreement, purportedly on behalf of a client, had authority to do so”).

In this matter, the plaintiff did not attend the pretrial conference but knew her attorney would appear on her behalf. After a settlement was reached, counsel for the plaintiff was allowed time to further consult with the plaintiff and to report back. Counsel to the plaintiff,

that same day, sent an email to Judge Saadi in which he unambiguously reported that the case was indeed settled.

The Court concludes that counsel to the plaintiff did have apparent authority to resolve the case and the court has the inherent authority to the agreement.



A handwritten signature in black ink, appearing to read 'J. Riley', is written over a horizontal line. The signature is stylized and cursive.

RILEY, J.