LegalResearch.com™
Litigation Matters. Compliance Rules.

Legal Research Center, Inc.
310 Fourth Avenue South
Suite 1100
Minneapolis, MN 55415

p: 800-776-9377
f: 612-332-7454
LegalResearch.com
AskUs@LegalResearch.com

April 26, 2013

Michael McGinnis
1234 Newbury Street
Boston, MA 02210

RE: Enforcement of Verbal Settlement Agreement

Dear Mr. McGinnis:

As you requested, we've researched whether a settlement, verbally approved by a Fair Housing Act complainant and reported to the administrative law judge, is enforceable against the complainant, although the written agreement was not signed by the complainant. While no cases specifically matching this fact pattern were located, the law generally calls for the enforcement of voluntary settlement agreements, and general principles of contract law support enforcement of the oral settlement. The following authorities are instructive:

- Metropolitan Housing Dev. Corp. v. Village of Arlington Heights, 616 F.2d 1006 (7th 1980).

  "[U]nder the Fair Housing Act national policy . . . strongly favors settlement where . . . the settlement is fair, adequate, reasonable and appropriate under the particular facts and that there has been valid consent by the concerned parties."

- Quint v. A.E. Staley Mfg. Co., 246 F.3d 11 (1st Cir. 2001).

  "Quint's argument, that when the parties to an agreement contemplate a written document will memorialize a contract, there can be no agreement until the document is executed, is a radical and doomed departure from the principles of contract law. If that were so, for example, no party could ever settle in the court-house by oral agreement. But that is not the law. There are certainly instances in which no oral contract is formed where material terms are not yet agreed upon, and no agreement is reached until there is written agreement embodying those material terms. Here, the material terms were agreed upon, and Quint cannot escape the consequences of her agreement because she spoke but did not write. And Quint's argument that her attorney had authority to bargain but not to settle in the absence of a written agreement is under-cut by the district court's factual findings and by Quint's own verbal assent to the settlement. We add that there was nothing unfair about the bargain reached; some might have urged Quint to take the money and count it a victory."

- In Re Mal de Mar Fisheries, Inc., 884 F. Supp. 635 (D. Mass. 1995).

  Enforcing an oral settlement where it was clear that counsel had actual authority from client to enter into settlement. "[T]he fact that the settlement agreement was not reduced

to writing does not bar its enforcement as the parties reported to the court that the claim was settled."

- O'Rourke v. Jason, Inc., 978 F. Supp. 41 (D. Mass. 1997).

  Absent mistake, "[a]n oral agreement to settle a claim . . . may be enforced as any other contract."

- Eswarappa v. SHED, Inc./Kid's Club, 685 F. Supp. 2d 229 (D. Mass. 2010).

  Oral settlement made at mediation of a Title VII case found enforceable.

Finally, you correctly noted in our conversation that 42 U.S.C. § 3612(e) does not allow HUD to enter into a settlement without the "the consent of the aggrieved person on whose behalf the charge is issued." Conspicuously, this provision does not specify that the consent must be in writing. As a matter of statutory interpretation, there is a strong argument that, had Congress intended such consent to be written, it would have so provided. In fact, it specifically requires written consent in 42 U.S.C. § 3610(d), demonstrating that, when intended, Congress requires written consent in the Fair Housing Act.

Yours truly,

LEGALRESEARCH.COM

Lee D. Trevis
Managing Director, Litigation Solutions