

The Morrison Law Journal
January 2012
Volume VII, Edition 1

The Ties That Bind: Court of Appeal Rules That Stipulation to Settle Executed By Plaintiff Is Binding Against Plaintiff Even Though No Party Defendant Signed the Stipulation

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In a decision which will have impacts in regard to settlements for some time to come, the California Court of Appeal, Fourth Appellate District, ruled in Glenn Provost v. Regents of the University of California (2011) 201 Cal.App.4th 1289 ("Provost") that a Stipulation to Settle, executed as part of a Mediation by the Plaintiff, is binding against the Plaintiff even though the primary defendant (an employer) only had an in-house counsel attorney sign the Stipulation, and individual defendants (who were not paying any money to the Plaintiff) had not signed the Stipulation in any fashion.

The facts of the Provost case are common enough. In that case, the Plaintiff, Glenn Provost, who had been employed by the Regents of the University of California ("Regents") as an anesthesiologist at the University of California Irvine Medical Center, filed a Complaint under the California Whistleblower Protection Act, Government Code § 8547, et seq., against the Regents and two physicians at the Medical Center, Peter Breen and Cindy Anderson. Setting out several causes of action, the Complaint primarily averred that Plaintiff was wrongfully terminated after reporting alleged illegal conduct by the Defendants.

The parties attended Mediation in 2007 and again in 2008. Several days after the last session in April 2008, they resumed the Mediation process which resulted in a Stipulation to Settle the matter ("Stipulated Settlement") calling for the payment of \$475,000 to the Plaintiff and a Dismissal of the Complaint (together with a Dismissal of a Cross-Complaint filed by the Regents). The Stipulated Settlement incorporated a number of processing terms, including that the terms of the Stipulated Settlement were subject to approval by the Regents. The Stipulated Settlement was signed by four people: the Plaintiff, one of his three lawyers, one of the Regents' in-house counsel, Carolyn Yee, and the Defendants' attorney. It is noted that the Regents in-house counsel (Ms. Yee) had attended all the Mediation sessions as the party representative for the Regents. About one week later, the Plaintiff's counsel filed a Notice of Settlement of Entire Case.

Pursuant to the Stipulated Settlement, the Defendants' counsel prepared a Settlement Agreement and Release. Having a change of heart, Plaintiff decided that he did not want to go forward with the settlement and refused to sign the Settlement Agreement and Release. At a Voluntary Settlement Conference before the Court, which occurred in October 2008, and after the Regents had approved the Stipulated Settlement, the Plaintiff advised the Court that he would not sign the Settlement Agreement and Release under any circumstance.

Thereafter, the Regents then filed a Motion to Enforce the Stipulated Settlement under Code of Civil Procedure § 664.6. Plaintiff Provost objected to the Motion arguing that no party other than the Plaintiff had signed the Stipulated Settlement. The Trial Court agreed with Plaintiff Provost. The Regents then filed a Petition for Writ of Mandate arguing that its in-house attorney, as its duly authorized representative, could sign the Stipulated Settlement, and a signature by an officer was not required under Code of Civil Procedure § 664.6 given that its in-house counsel executed the Stipulated Settlement.

The Court of Appeal issued an alternative writ requiring that the denied Motion be vacated and that the Trial Court decide the Motion on "the other issues raised." The Trial Court then granted the Motion, after which a judgment, stating all claims were released, was entered. An appeal then followed from that judgment.

On appeal, the Court of Appeal ruled that, under Code of Civil Procedure § 664.6, the execution of the Stipulated Settlement by the Regents' in-house attorney representative satisfied the statute, distinguishing Levy v. Superior Court (1995) 10 Cal.4th 586 and another decision, Gauss v. G.F. Corp. (2002) 103 Cal.App.4th 1110.

The Court of Appeal also rejected Plaintiff Provost's arguments that the individual Defendants had not signed the Stipulation for Settlement, holding that they were third party beneficiaries of the Stipulated Settlement and were not seeking to enforce the Stipulated Settlement as parties to it.

The Provost decision is important for two reasons. First, it holds that an in-house attorney representative for an organization, such as the Regents, can appear as a party representative and execute a binding Stipulation for Settlement. The Provost decision is also important because it explicitly holds that less than all persons to a Stipulation for Settlement need execute the Stipulation for it to be binding, and that non-signatories, such as the individual doctor Defendants in that case, would actually be construed as third party beneficiaries.

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