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## "Outlined" Mediation Settlement Agreement Enforced

In *PNC Bank, N.A. v. Springboro Medical Arts*, 2015-Ohio-3386 (Ohio App. Ct. 2015), an Ohio appellate court held that a mediation agreement was binding even though the agreement only "outlined" the settlement terms and recited that the parties later would draft a "formal" settlement agreement.

In *Springboro*, PNC made a loan that went into default and that had been guaranteed by Joshua Wright (Wright). The dispute over Wright's liability was referred to mediation. During the mediation, the parties reached an agreement that was transcribed by the mediator (Mediation Settlement). The Mediation Settlement provided that PNC would release Wright if Wright: (a) paid PNC certain amounts on certain dates; and (b) provided PNC with a "financial statement showing no more than \$160,000 in assets." *Id.* at ¶ 6. The Mediation Settlement also stated that the parties would draft "such additional [formal] documents as are required to give effect to these outlined terms." *Id.* No such formal documents were prepared.

PNC asked the trial court to declare the Mediation Settlement void due to the failure of an "express condition precedent," namely, that Wright's financial statement indicated he had "assets exceeding \$160,000." *Id.* at ¶ 8. In response, Wright filed a motion to enforce the Mediation Settlement and to admit parol evidence showing that the term "assets" referred only to Wright's collectible, non-exempt assets.

The trial court rejected Wright's argument. It found that: (1) the Mediation Settlement was a "fully integrated" and enforceable contract; and (2) the term "assets" was unambiguous, parol evidence was inadmissible, and that "assets" was not confined to Wright's non-exempt assets. The trial court entered judgment in PNC's favor, finding that Wright had not complied with the Mediation Settlement because his financial statement showed that his total "assets" exceeded \$160,000.

The appellate court affirmed the trial court's findings that the Mediation Settlement was a fully integrated and enforceable contract, that "assets" was unambiguous, and that parol evidence was therefore not admissible. In so ruling, it rejected Wright's argument that the Mediation Settlement was not final. "Although the [Mediation Settlement] stated that the parties 'shall draft in formal legal language and form such additional documents as are required ...' this does not mean that additional documents were, in fact, required to create a binding agreement." *Id.* at ¶ 21. Instead, the court held, the "pertinent consideration" is whether the parties formed a clear and definite agreement containing "all the essential terms for a binding contract." *Id.* The court noted that the Mediation Statement contained the essential terms for a binding settlement agreement. It also stated that there was no evidence that the parties "did not intend to be bound by the terms of an agreement until formalized in a written document." *Id.* at ¶ 25. To the contrary, the court observed, "Wright signed the written [Mediation Settlement] and we must conclude that he intended to be bound by the terms as expressed at that time...." *Id.* at ¶ 28.

Turning to the meaning of "assets," the appellate court, like the trial court, gleaned the meaning of the term from a dictionary. It parted ways from the trial court however, because the "trial court considered only Wright's 'total assets' and did not consider the part of the general definition that defines assets as property 'applicable to or subject to the payment of debts.'" *Id.* at ¶ 35. Noting that Ohio law exempted from execution several items on Wright's financial statements, the court held that Wright's assets did not exceed \$160,000, and thus, Wright had not failed to comply with the Mediation Settlement.

*Springboro* should remind practitioners of two basic lessons. First, if one does not want to risk being bound by incomplete settlement agreements—so common in the mediation context—make that abundantly clear; at the very least, one should not sign the "outlined" agreement. Second, parties should take the time to clearly define key settlement terms.

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