

**Casiano v City of New York**

2025 NY Slip Op 33867(U)

September 30, 2025

Supreme Court, New York County

Docket Number: Index No. 154516/2019

Judge: Carol Sharpe

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This opinion is uncorrected and not selected for official publication.

SUPREME COURT OF THE STATE OF NEW YORK
NEW YORK COUNTY

PRESENT: HON. CAROL SHARPE PART 52M

Justice

-----X

INDEX NO. 154516/2019

ANTHONY CASIANO,

MOTION DATE 02/13/2025

Plaintiff,

MOTION SEQ. NO. 003

- v -

THE CITY OF NEW YORK, THE NEW YORK CITY POLICE DEPARTMENT, SGT. FREDY CRUZ, POLICE OFFICER EDDY GUTIERREZ, POLICE OFFICER EMMANUEL VALERIO, JOHN DOES,

DECISION + ORDER ON MOTION

Defendant.

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The following e-filed documents, listed by NYSCEF document number (Motion 003) 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54

were read on this motion to/for ENFORCE/EXEC JUDGMENT OR ORDER

Upon the foregoing documents, the motion for enforcement of the settlement is granted.

Defendants, The City of New York, Sgt. Fredy Cruz, Police Officer Eddy Gutierrez, and Police Officer Emmanuel Valerio ("Defendants"), filed a motion seeking to enforce a settlement agreement between the parties pursuant to CPLR 2104; to compel self-represented plaintiff to execute a General Release, a Stipulation of Discontinuance, and any and all other applicable documents required for closure of the subject settlement; and to determine if any charging lien may be due to outgoing counsel and directing payment of such lien, if any, pursuant to Judiciary Law § 475. Plaintiff filed opposition.

Plaintiff, then represented by counsel, commenced this personal injury action by filing a summons on May 1, 2019, and a complaint on May 6, 2019, in which he alleged that on May 1, 2016, near the northeast corner of West 175th Street and Audubon Avenue, he was beaten by Police Officer Eddy Gutierrez and Police Officer Emmanuel Valerio and chased into the East River where he was almost drowned. Plaintiff alleges that he was subsequently arrested without probable cause and maliciously prosecuted by the Defendants.

On April 19, 2024, former plaintiff counsel, Ellie Silverman, Esq., of Shulman & Hill, PLLC (“Shulman”), filed the first of two motions to be relieved as counsel on the grounds that the client and attorney no longer had a meeting of the minds. (NYSCEF Doc. #18, ¶ 6). In a letter to the Court filed on May 20, 2024, (NYSCEF Doc. #24), plaintiff’s counsel withdrew that motion stating that Mr. Casiano was comfortable moving forward with her representation. After negotiating with the Defendants to settle the case for \$15,000.00, Shulman, by Rachel Black, Esq., filed a second motion on September 12, 2024 (NYSCEF No. 26), seeking to be relieved as counsel on the grounds that the relationship with plaintiff has deteriorated and the firm can no longer safely represent him. The OSC was granted on November 21, 2024, Shulman was relieved as counsel, and proceedings were stayed for 60 days to allow plaintiff time to obtain new counsel or proceed as a self-represented plaintiff. Plaintiff chose to proceed as a self-represented person.

Defendants now seek to enforce the settlement agreement on the grounds that the settlement was reached in the interest of early resolution, and that plaintiff cannot unilaterally void the binding settlement agreement merely because he may have changed his mind. In support of the motion, Defendants provided among other things, a text message and a subsequent email exchange on September 4, 2024, at 11:48am, between Defendants’ counsel and plaintiff’s former counsel, Rachel Black, Esq., in which Ms. Black confirmed that the case was settled for \$15,000.00.

In opposition to the motion, plaintiff provided emails between himself and Ms. Black, regarding potential witnesses, discussions she had with plaintiff’s father, and her inability to continue representing plaintiff following settlement of the case. Although plaintiff submitted incomplete email exchanges between him and Ms. Black (certain emails from him to Ms. Black were omitted), the emails established that on September 4, 2024, at 3:39pm Ms. Black informed him that she accepted the offer of \$15,000.00 because he told her he would accept that amount, and that she would be seeking to be relieved because he accused her of lying and being complicit in the conspiracy to deny him justice. He

responded to her email at 7:25pm expressing the pain he suffered and his dissatisfaction with her representation.

CPLR 2104 provides that “[a]n agreement between parties or their attorneys relating to any matter in an action, other than one made between counsel in open court, is not binding upon a party unless it is in a writing subscribed by him or his attorney or reduced to the form of an order and entered. With respect to stipulations of settlement and notwithstanding the form of the stipulation of settlement, the terms of such stipulation shall be filed by the defendant with the county clerk.”

“Stipulations of settlement are favored by the courts and not lightly cast aside...Only where there is cause sufficient to invalidate a contract, such as fraud, collusion, mistake or accident, will a party be relieved from the consequences of a stipulation made during litigation (*Matter of Frutiger*, 29 NY2d 143, 149-150).” (*Hallock v State of New York*, 64 NY2d 224, 230, 474 NE2d 1178, 485 NYS2d 510 [1984]). While an attorney has authority to manage the litigation of a case, “without a grant of authority from the client, an attorney cannot compromise or settle a claim.” (*Id.*; *see also, Gibson, Dunn & Crutcher LLP v. Koukis*, 2025 NY Slip Op 01565 at \*\*10 [March 18, 2025]). A settlement agreement can be enforced only if it reflects the complete agreement. “If settlements, once entered, are to be enforced with rigor and without a searching examination into their substance, it becomes all the more important that they be clear, final and the product of mutual accord. These concerns obviously lie at the heart of CPLR 2104, a neutral statute enacted to promote certainty in settlements, which benefits all litigants.” (*Bonnette v. Long Island Coll. Hosp.*, 3 NY3d 281, 286, 785 NYS2d 738, 819 NE2d 206 [2004]).

Email messages can constitute an enforceable stipulation of settlement. “[W]e hold that where, as here, an email message contains all material terms of a settlement and a manifestation of mutual accord, and the party to be charged, or his or her agent, types his or her name under circumstances manifesting an intent that the name be treated as a signature, such an email message may be deemed a subscribed writing within the meaning of CPLR 2104 so as to constitute an enforceable agreement.”

(*Forcelli v Gelco Corp.*, 2013 NY Slip Op 5437, 109 AD3d 244, 972 NYS2d 570 [2d Dept 2013]; *see also, Williamson v Delsener*, AD3d 291, 874 NYS2d 41 [1st Dept 2009]). “Furthermore, a settlement agreement signed by an attorney may bind a client even where it exceeds the attorney’s actual authority, if the attorney had apparent authority to enter into the agreement.” *Servider v City of N.Y.*, 212 AD3d 475, 476, 179 NYS3d 897 [1st Dept 2023]; *see also, Glob. Merch. Cash, Inc. v Tammy Tran Attorneys at Law, LLP*, 234 AD3d 438, 225 NYS3d 71 [1st Dept 2025]). “The material term of the parties’ agreement to settle respondent’s claim being the sum of money that petitioner would pay respondent, respondent’s execution of a general release was essentially a ministerial condition precedent to payment.” (*Matter of Phila. Ins. Indem. Co. v Kendall*, 197 AD3d 75, 81, 151 NYS3d 392 [1st Dept. 2021]). Here, the stipulation satisfies the writing requirement of CPLR 2104, and Ms. Black had been in settlement negotiations with defendants’ counsel and had the apparent authority to settle the case. The partial email exchanges submitted by plaintiff fail to negate counsel’s apparent authority to settle the case. Her emails to him established that he authorized her to accept the offer of \$15,000.00, she accepted the offer, and she conveyed her acceptance to him and to defense counsel.

Defendants’ motion to enforce the settlement agreement and to compel plaintiff to sign the General Release, the Stipulation of Discontinuance, and other applicable closing documents is granted. If outgoing counsel seeks compensation, they shall submit an affirmation with their billable hours. Accordingly, it is hereby:

**ORDERED**, that Defendants’ motion to enforce the settlement agreement between the parties pursuant to CPLR 2104 is granted; it is further

**ORDERED**, that this case is settled for \$15,000.00 pursuant to the settlement agreement; it is further

**ORDERED**, that Defendants shall file and send the closing papers to plaintiff by email, and by regular and certified mail to his last known address, within thirty (30) days of the date of this

Decision and Order, and shall file proof of service within ten (10) days of completion of service; it is further

ORDERED, that consistent with this Decision and Order, Anthony Casiano shall execute the General Release, the Stipulation of Discontinuance, and any and all other applicable documents required to close this case; it is further

ORDERED, that the movant shall serve outgoing counsel and self-represented plaintiff with a copy of this Order within fifteen (15) days of the date of this Decision and Order, and shall file proof of service within ten (10) days of service; it is further

ORDERED, that if the law firm of Shulman & Hill, PLLC, is seeking compensation, they shall file the retainer agreement and their billable hours within forty-five (45) days of the date of this Decision and Order; it is further

ORDERED, that service of this Order upon the Clerk of the Court shall be made in hard-copy format if this action is a hard-copy matter or if it is an e-file case, shall be made in accordance with the procedures set forth in the Protocol on Courthouse and County Clerk Procedures for Electronically Filed Cases (accessible at the "E-filing" page on the court's website).

This constitutes the Decision and Order of the Court.

ENTER:

September 30, 2025  
DATE

  
HON. CAROL SHARPE, J.S.C.  
**HON. CAROL SHARPE**  
**J.S.C.**

CHECK ONE:	<input type="checkbox"/> CASE DISPOSED	<input checked="" type="checkbox"/> NON-FINAL DISPOSITION	<input type="checkbox"/> OTHER
APPLICATION:	<input checked="" type="checkbox"/> GRANTED	<input type="checkbox"/> DENIED	<input type="checkbox"/> GRANTED IN PART
CHECK IF APPROPRIATE:	<input type="checkbox"/> SETTLE ORDER	<input type="checkbox"/> SUBMIT ORDER	<input type="checkbox"/> REFERENCE
	<input type="checkbox"/> INCLUDES TRANSFER/REASSIGN	<input type="checkbox"/> FIDUCIARY APPOINTMENT	