STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF:	)	
	)	
Jimmy Paredes,	)	
	)	
Complainant,	)	CHARGE NO(S): **2022CF1743**
	)	EEOC NO(S): **21BA20897**
and	)	ALS NO(S): **24-0231**
	)	
Asplundh Tree Expert, LLC,	)	
	)	
Respondent.	)	

NOTICE

You are hereby notified that the Illinois Human Rights Commission has not received timely exceptions to the Recommended Order and Decision in the above-named case. Accordingly, pursuant to Section 8A-103(A) and/or 8B-103(A) of the Illinois Human Rights Act and Section 5300.910 of the Commission's Procedural Rules, that Recommended Order and Decision has now become the Order and Decision of the Commission.

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

Entered this January 09, 2025

Tracey Fleming
EXECUTIVE DIRECTOR

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

IN THE MATTER OF: JIMMY PAREDES, Complainant, v. ASPLUNDH TREE EXPERT, LLC, Respondent.	IDHR Charge No.: 2022-CF-1743 EEOC No.: 21-BA-20897 ALS Case No.: 24-0231 Chief Administrative Law Judge Brian Weinthal

RECOMMENDED ORDER AND DECISION

On September 4, 2024, Respondent Asplundh Tree Expert, LLC ("Respondent") filed a motion to dismiss this case, arguing that Complainant Jimmy Paredes ("Complainant") previously executed two interrelated settlement agreements that released all claims and causes of action that Complainant now seeks to assert against Respondent. *See* Respondent's Mot. to Dismiss Complainant's Compl. ("Mot.") (filed Sept. 4, 2024). Although Complainant was twice requested to file a written opposition to Respondent's motion to dismiss, he declined to do so, opting instead to offer only oral objections to Respondent's dispositive motion at a virtual status hearing that was conducted on October 29, 2024. Even according the maximum possible weight to Complainant's oral objections, I find that Respondent has presented overwhelming evidence demonstrating that Complainant agreed to compromise and surrender any claims arising under the Illinois Human Rights Act before the present lawsuit was ever filed. For this reason, Respondent's motion to dismiss is GRANTED, and this case is DISMISSED WITH PREJUDICE.

CONTENTIONS OF THE PARTIES

Respondent is a landscaping company that operates out of Romeoville, Illinois. *See* Mot., Ex. 5 at 2 (entered April 30, 2024). On February 12, 2009, Respondent hired Complainant as a "Tree Climber." *See* Charge No. 2022-CF-1743 at 2 (perfected Dec. 6, 2022) (attached to the complaint). From January of 2020 through December of 2021, Complainant claims he was harassed and subjected to a hostile working environment by a supervisor of Respondent based on Complainant's sexual orientation (homosexual). *See id*. Complainant further alleges that after complaining about the hostile working environment to which he was purportedly subjected, the same supervisor retaliated against him by cutting his pay, making disparaging remarks, and boasting that Respondent had the "best lawyers" to defend against Complainant's allegations of harassment. *See id*. at 3.

PROCEDURAL HISTORY

On December 21, 2021, Complainant filed a charge of civil rights violations before the United States Equal Employment Opportunity Commission ("EEOC"), which was later perfected on February 13, 2022. As soon as it was submitted to the EEOC, Complainant's charge was automatically cross-filed with the Illinois Department of Human Rights ("IDHR") and assigned Charge No. 2022-CF-1743. This charge (*i.e.*, IDHR Charge No. 2022-CF-1743) is the underlying charge supporting the complaint in the instant case. In June of 2022, the parties agreed to participate in the EEOC's alternative dispute resolution program, which provides mediation services to litigants in an effort to resolve charges prior to investigation.

I. The EEOC Mediation Succeeds

With the assistance of an EEOC mediator, the parties reached an agreement to settle their dispute on June 3, 2022. To memorialize their mutual intent and willingness to be bound, the parties immediately executed a "Mediation Settlement Agreement," which is a form document provided by the EEOC that is used to confirm the parties assent to the terms under which their disagreement will be resolved. Among the terms enumerated in the Mediation Settlement Agreement between Complainant and Respondent were the following:

- that the submission of the Mediation Settlement Agreement to the EEOC would constitute a request for the closure of both the EEOC charge and the corresponding charge that had been cross-filed with the IDHR (*i.e.*, Charge No. 2022-CF-1743);

- that the Mediation Settlement Agreement would include the EEOC as a party to enable that agency to enforce the terms of the agreement;

- that the Mediation Settlement Agreement was the final and complete statement of the agreement among Complainant, Respondent, and the EEOC;

- that Complainant and Respondent would negotiate and execute a further settlement agreement (apart from the Mediation Settlement Agreement) to which the EEOC would not be a party; and

- that the separate agreement negotiated and executed between Complainant and Respondent would include additional terms of settlement, including the payment to Complainant of valuable consideration in the amount of $27,500.00 (less applicable withholdings) in exchange for Complainant's voluntary release of all claims and causes of action against Respondent.

See Mot., Ex. 2. Complainant and Respondent each signed the Mediation Settlement Agreement on June 3, 2022. *See id*.

II. The Parties Negotiate the Terms of Their Further Settlement Agreement

On the same day they signed the Mediation Settlement Agreement (*i.e.*, June 3, 2022), Complainant and Respondent also executed the further (private) settlement agreement that did not include the EEOC as a party. Like the Mediation Settlement Agreement, the parties' private agreement expressly mentioned the cross-filed charge that was still pending before the IDHR (*i.e.*, Charge No. 2022-CF-1743). In addition, the parties' private agreement contained the following provisions that are relevant to Respondent's request for dismissal:

- that Complainant desired to compromise, settle, and terminate all claims he had asserted or could assert against Respondent, including the civil rights violations that were alleged in the cross-filed charge that was still pending before the IDHR;

- that within five (5) business days of signing the further private agreement, Complainant would voluntarily withdraw and dismiss the cross-filed charge that was still pending before the IDHR;

- that no more than twenty-one (21) days after both parties had signed the further private agreement, Respondent would issue a check for $27,500.00 to Complainant as valuable consideration for his agreement to voluntarily withdraw and dismiss any known or unknown claims or causes of action that could be asserted against Respondent, including the allegations set forth in the cross-filed charge that was still pending before the IDHR;

- that Complainant acknowledged that he had resigned his employment with Respondent as of May 31, 2022; and

- that Complainant acknowledged that he had been advised to consult with an attorney prior to signing the further private agreement.

See Mot., Ex. 1. As noted above, the further private agreement was executed by Complainant and Respondent on June 3, 2022, after which Respondent delivered the required settlement payment to Complainant in accordance with the schedule described above.

The settlement payment was intended to serve as consideration for the general release that appeared in the further private agreement, through which Complainant assented to release:

> [A]ny and all claims, demands, suits, causes of action, liabilities, obligations, debts, losses, agreements, contracts, controversies, damages, costs, attorney's fees, and expenses of any kind or nature, whether express or implied, known or unknown, which exist or may exist as of the date [Complainant] executes this Agreement, including but not limited to the Claims that [Complainant] asserted in [IDHR Charge No. 2022-CF-1743].

Id. However, notwithstanding both the delivery of the settlement payment and his acceptance of the general release language contained in the further private agreement, Complainant subsequently failed to withdraw and dismiss Charge No. 2022-CF-1743 at the IDHR, which Complainant was required to do under the terms of the further private agreement no later than June 10, 2022 (*i.e.*, five business days following his execution of the further private agreement). *See id*.

III. The Investigation of Complainant's Charge Continues Despite Settlement

On December 6, 2022—six months after signing both the Mediation Settlement Agreement and the further private agreement—Complainant perfected Charge No. 2022-CF-1743 at the IDHR, thus indicating that he wanted the agency to proceed with the investigation of his allegations against Respondent under the Illinois Human Rights Act. *See* Charge No. 2022-CF-1743 at 1 (perfected Dec. 6, 2022). As noted above, Charge No. 2022-CF-1743 had been cross-filed with the IDHR at the same time that Complainant's allegations of sexual orientation harassment and retaliation had been submitted to the EEOC. In other words, Charge No. 2022-CF-1743 involved the identical civil rights violations that had been the subject of the global resolution reached at the mediation conducted by the EEOC on June 3, 2022.

In response to Complainant's efforts to resume his allegations of civil rights violations under state law, Respondent reflexively alerted the IDHR (and provided proof) that Complainant had settled and released any potential claims or causes of action that could be asserted against Respondent. *See* Mot., Ex. 4. Yet despite confirmation that Complainant had entered two written agreements obligating him to withdraw and dismiss Charge No. 2022-CF-1743, the IDHR apparently failed to grasp the legal significance of this evidence, opting to move forward with its investigation and ultimately finding substantial evidence of a civil rights violation on Complainant's charge of retaliation. *See* Order on Request for Review at 1 (entered April 30, 2024). After a subsequent request for review directed a parallel finding on Complainant's sexual orientation harassment claim, *see id*., Complainant (*pro se*) filed a two-count complaint of civil rights violations before this administrative court on July 30, 2024. The two-count complaint simply adopted and incorporated the text of the underlying charge (Charge No. 2022-CF-1743) as its content.

IV. Respondent Moves to Dismiss on the Basis of Settlement

After the complaint was filed on July 30, 2024, this matter was scheduled for an initial status hearing to be held on October 1, 2024. *See* Notice of Initial H'rg (entered Aug. 1, 2024). On September 4, 2024, Respondent moved to dismiss, arguing that under Section 8-105(C) of the Illinois Human Rights Act, Complainant's execution of two interrelated settlement agreements (and his corresponding release of "any and all" claims) precluded this lawsuit from going forward. Upon receiving Respondent's motion, this administrative court ordered Complainant to file a written opposition to that pleading by September 27, 2024. *See* Order (entered Sept. 4, 2024). When opposing Respondent's motion, Complainant was directed to "identify and discuss the legal rationale under which [he] believes he is exculpated or otherwise emancipated from the contractual obligations he made to resolve and release the claims arising from . . . Charge No. 2022-CF-1743." *Id*. In addition, to avoid wasting time, this administrative court announced that it would hold oral argument on Respondent's motion to dismiss at the initial status hearing on October 1, 2024. *See id*. My intent was to rule preliminarily on Respondent's motion and then enter an order detailing my decision following the conclusion of oral argument.

As indicated earlier in this opinion, Complainant neglected to file a written opposition to Respondent's motion to dismiss by September 27, 2024. To partially justify this lapse at the hearing that was held on October 1, 2024, Complainant explained that he was not fully proficient in English and that he needed a Spanish language translator to meaningfully participate in these proceedings. *See* Order (entered Oct. 1, 2024). In response to this news, I postponed the oral argument hearing on Respondent's motion until October 29, 2024, so that a Spanish language translator could be provided to Complainant at the Commission's expense. At the same time, I indicated that Complainant would have "one final opportunity" to oppose Respondent's motion to dismiss in writing. *See id*. On or before October 25, 2024, Complainant was required to file a written opposition to Respondent's dispositive motion. *See id*. As before, I requested Complainant to "identify and discuss the legal rationale under which [he] believes he is exculpated or otherwise emancipated from the contractual obligations he made to resolve and release the claims arising from . . . Charge No. 2022-CF-1743." *Id*. Yet despite this guidance, Complainant failed to file any opposition to Respondent's motion to dismiss and also ignored this administrative court's emphatic encouragement that he retain an attorney to represent him. *See id*.

V. Complainant Argues Against Dismissal

On October 29, 2024, Complainant appeared at the scheduled hearing and argued through a Commission-provided interpreter that his case should not be dismissed. In support of his position, Complainant maintained that the treatment to which Respondent had subjected him was so egregious that he should not be made to abide by the terms of the settlement to which he had agreed, as the remuneration he had received was not enough to compensate him for the harms he had endured. Complainant could offer no explanation (or justification) for his failure to oppose Respondent's motion to dismiss in writing. Complainant also failed to propose any legal rationale or theory under which he could be excused from the contractual agreement he made to release his claims. Although Complainant suggested he was having "mental problems" when he participated in the EEOC mediation (which he contended were caused by Respondent's harassment), Complainant failed to provide evidence of any particular medical condition and further admitted that signing the settlement agreements had been a "mistake." Notwithstanding this latter admission, Complainant insisted that the consideration he received to settle was insufficient, and that he had also been denied certain unemployment benefits following his resignation (for which Respondent was to blame).

In the end, with no evidence of fraud, duress, mistake, or verifiable mental incapacity impacting Complainant, I granted Respondent's motion to dismiss and entered an order indicating that this matter would be dismissed with prejudice. *See* Order (entered Oct. 29, 2024). My order advised that either party could subsequently file exceptions under 56 Ill. Admin. Code § 5300.920 upon the entry of a recommended order and decision that provided the rationale for my decision. *See id*. This order provides the underlying reasoning for my dismissal of this lawsuit, as expounded upon in the discussion sections that follow.

LEGAL STANDARD

The Illinois Human Rights Act provides that "[a] settlement of any complaint and its underlying charge . . . may be effectuated at any time upon agreement of the parties, with or without the Commission's approval, and shall act as a full and final resolution of the matter." 775 ILCS 5/8-105(A)(2). At the same time, reflective of the idea that this administrative court is not empowered to resolve disputes that arise regarding the binding effect of so-called 'private' settlements (*i.e.*, settlements that have not been tendered to the Illinois Human Rights Commission for approval), the Human Rights Act directs that this administrative court "shall dismiss a complaint and the underlying charge or charges" where the assigned administrative law judge is "satisfied" that "the respondent has eliminated the effects of the civil rights violation charged and taken steps to prevent repetition of the violation." *See* 775 ILCS 5/8-105(C)(1).

In rare circumstances, Section 8-105(C) of the Human Rights Act has been used to dismiss cases in which a complainant has unreasonably refused to accept an offer of settlement that exceeds the total value of all damages that he or she could potentially recover as the result of the respondent's conduct. *See, e.g.*, *In the Matter of McCants v. Walgreens*, ALS No. 19-0284, 2021 ILHUM LEXIS 67, at *10 (August 18, 2021). More commonly, though, the statutory language in 775 ILCS 5/8-105(C) is employed to dismiss matters in which this administrative court finds that a settlement was reached between the parties to a pending case. *See, e.g.*, *Howard v. Proviso Twp. High Schools Dist. 209*, ALS No. 14-0148, 2022 ILHUM LEXIS 240 (Sept.4, 2022). The rationale for the dismissal of such actions is the idea that the complainant's decision to enter a settlement is the best available indicator that the civil rights violations asserted in the complaint have been redressed to the complainant's satisfaction. As such, where this administrative court determines that a valid settlement was voluntarily entered by the parties, dismissal with prejudice is the appropriate remedy under 775 ILCS 5/8-105(C). *See In the Matter of Lasley v. Combined Ins. Co. of Am.*, ALS No. 10777, 2005 ILHUM LEXIS 42, at *7 (July 5, 2005).

DISCUSSION AND FINDINGS

Respondent has moved to dismiss this case and the underlying administrative charge with prejudice based on the parties' execution of two settlement agreements entered in the wake of the mediation that was conducted by the EEOC on June 3, 2022. *See* Mot. at 1-3. Because I find there is overwhelming evidence showing that both parties affirmatively agreed to a valid and binding resolution of their disputes on that date—and because Complainant has failed to introduce evidence undermining this conclusion—I find that Complainant has failed to present any viable defense to the formation of a contractual obligation to settle this matter under the terms that were offered by Respondent and (twice) acceded to by Complainant in writing on June 3, 2022. Accordingly, pursuant to Section 8-105(C), I find that Complainant's voluntary acceptance of the settlement terms proposed by Respondent eliminates the effects of the civil rights violations charged in this matter, which in turn requires me to grant Respondent's motion to dismiss this case with prejudice.

I. Proof of Agreement

In Illinois, settlement agreements are governed by contract law. *James v. Lifeline Mobile Medics*, 341 Ill. App. 3d 451, 455, 792 N.E.2d 461 (4th Dist. 2003). Such agreements can be either oral or written, and are enforceable where there is an offer, an acceptance, and a meeting-of-the-minds regarding the terms of the agreement. *See Cnty. Line Nurseries & Landscaping, Inc. v. Glencoe Park Dist.*, 2015 IL App (1st) 143776, ¶ 33, 46 N.E.3d 925 (citing *Johnson v. Hermanson*, 221 Ill. App. 3d 582, 584, 582 N.E.2d 265 (5th Dist. 1991)); *see also Condition v. Codal, Inc.*, No. 2019-L-005407, 2020 Ill. Cir. LEXIS 6729, at *6 (June 17, 2020). A "meeting-of-the-minds" occurs when the parties' conduct objectively manifests their intention to be bound by the terms of the settlement, even if one or more of the parties did not subjectively intend to be bound. *See Urban Sites of Chicago, LLC v. Crown Castle USA*, 2012 IL App (1st) 111880, ¶ 51, 979 N.E.2d 480. Additionally, the essential terms of a contract must be definite and certain for the contract to be enforceable. *See Midland Hotel Corp. v. Reuben H. Donnelley Corp.*, 118 Ill. 2d 306, 314, 515 N.E.2d 61 (1987) (citation omitted). Contract terms are sufficiently "definite and certain" to be enforceable where the finder of fact is able "to ascertain what the parties have agreed to do." *See id*. (quotation omitted).

As indicated above, this administrative court is not a court of general jurisdiction and thus does not have the power under the Human Rights Act to order a party to comply with the terms of a private settlement agreement. Instead, under 775 ILCS 5/8-105(C), the only question for me to decide is whether the parties arrived at a binding agreement to settle their case. If I determine that a valid settlement exists, the prosecution of this matter ends, as the Human Rights Acts provides that dismissal with prejudice is the mandated relief where the alleged civil rights violations contained in the complaint have been redressed. *See Howard*, 2022 ILHUM LEXIS 240 at *42 (citation omitted). Typically, the decision to enter a settlement with the respondent is the best indicator that the unlawful conduct asserted by the complainant has been remedied to his or her satisfaction. *See id*.

Here, I have little difficulty concluding that the parties reached a valid agreement to settle their dispute on June 3, 2022. Following the mediation that was conducted by the EEOC, Complainant executed the Mediation Settlement Agreement, which expressly provided for the resolution of the civil rights violations asserted in Charge No. 2022-CF-1743 (which was still pending before the IDHR, but which asserted the same allegations of harassment and retaliation that were contained in the charge that was originally filed with the EEOC). *See* Mot., Ex. 2. The Mediation Settlement Agreement also confirmed that the parties would negotiate and enter a further private agreement, which would direct a settlement payment of $27,500.00 in back wages to Complainant as valuable consideration for the voluntary release of all claims and causes of action against Respondent. *See id*. Complainant willingly affixed his signature to the Mediation Settlement Agreement on June 3, 2022. *See id*.

On the same date (*i.e.*, June 3, 2022), the parties also executed their further private settlement agreement, which (like the Mediation Settlement Agreement) explicitly referenced the cross-filed charge that was still pending before the IDHR (*i.e.*, Charge No. 2022-CF-1743). *See* Mot., Ex. 1. The further private agreement confirmed that the settlement reached between the parties was a 'global' resolution that required Complainant to voluntarily withdraw and dismiss Charge No. 2022-CF-1743 at the IDHR within five (5) business days of signing the private agreement. *See id*. Within twenty-one (21) days of both parties executing the further private agreement, Respondent was required to issue a check for $27,500.00 in back wages to Complainant, *see id*., which was delivered in a timely manner (and which Complainant has not made any effort to return despite orally arguing that no settlement exists in this matter).

The foregoing facts all point to an agreement, the material terms of which are unquestionably "definite and certain" enough to be capable of enforcement (as they are memorialized in signed instruments confirming the express contractual obligations assumed by both parties). Complainant was even advised to consult with an attorney before the signing the private agreement (although he apparently declined to do so). Under such circumstances, I find that both parties manifested an objective intent to be bound by the two interrelated settlement agreements they signed. In addition, I find that the consideration that was tendered by Respondent was delivered in exchange for Complainant's agreement to be bound by the general release language that required him to relinquish any and all existing claims and causes of action that could be asserted against Respondent. As such, with an offer, an acceptance, and a meeting of the minds, I am persuaded that the parties entered into a valid and binding contractual agreement to globally resolve their differences following the mediation that was conducted by the EEOC on June 3, 2022.

II. Lack of Evidence Invalidating the Agreement

Illinois law recognizes several bases on which a party may argue that a contract is unenforceable, including mistake, fraud, or duress. *See Schafer v. Unionbank/ Central*, 2012 IL App (3d) 110008, ¶ 39, 973 N.E.2d 449 (2012). Complainant raised none of these concerns during the oral argument that was held on October 29, 2024. Instead, Complainant focused almost exclusively on the idea that the consideration he received to settle was disproportionate to the harm he had suffered, repeatedly lamenting that the settlement payment did not represent fair compensation for his alleged treatment at the hands of Respondent. As this administrative court attempted to explain during oral argument, Complainant's misgivings regarding the bargain he made do not invalidate the agreement he entered, nor does the relative severity of Respondent's conduct provide a basis upon which Complainant may now argue he is legally exculpated from the contractual commitment he assumed. Complainant is presumed to know the value of his own case. On June 3, 2022, he chose to mediate this dispute with Respondent, after which he willingly signed two related settlement agreements that confirmed his view that $27,500.00 was ample consideration to satisfy any and all of his existing grievances against Respondent. In so agreeing, Complainant was even warned that he should consult with an attorney, although he appears to have ignored this suggestion (as noted above).

When confronted with these challenges during oral argument, Complainant suggested that he was experiencing "mental problems" when he participated in the EEOC mediation, which he claimed were due to the harassment he had experienced from Respondent. But upon my request for further information, Complainant did not provide evidence of any specific medical conditions that were affecting him in 2022. Complainant also declined to submit an affidavit or other documentary proof of incapacity to this administrative court, despite having two chances to file a written opposition to Respondent's motion to dismiss. Consequently, with no evidence before me calling the validity of the parties' negotiations into question—and with Complainant acknowledging to this administrative court during oral argument that it was a "mistake" to sign the two settlement agreements—I find that Complainant has failed to establish that the contract he entered to resolve this dispute is currently unenforceable. Therefore, under Section 8-105(C) of the Human Rights Act, the result is that Respondent's motion to dismiss must be granted, and this case must be dismissed with prejudice.

CONCLUSIONS OF LAW

I make the following conclusions of law based on the evidence submitted in this case and the pleadings before me:

1. This administrative court has jurisdiction over the parties and the subject matter of this dispute.

2. On June 3, 2022, the parties reached a valid and binding agreement to settle any and all existing disputes between them.

3. The parties' agreement to settle this action fulfilled all necessary criteria for contract formation, including an offer, an acceptance, and a meeting of the minds regarding the terms of the parties' agreement.

4. The terms of settlement accepted by the parties were reflected in two interrelated settlement agreements signed by the parties on June 3, 2022 (including the Mediation Settlement Agreement and the further private agreement).

5. By failing to oppose Respondent's motion to dismiss in writing (despite being given two separate opportunities to do so), Complainant has failed to provide any documentary evidence of fraud, duress, mistake, or mental incapacity affecting his ability to mediate this dispute before the EEOC on June 3, 2022.

6. Pursuant to 775 ILCS 5/8-105(C), the settlement negotiated by the parties eliminates the effects of any civil rights violations asserted in the complaint, which Complainant confirmed by signing two different settlement agreements that enumerated the material terms under which the universe of his grievances against Respondent would be resolved.

RECOMMENDATION

For the reasons discussed above, Respondent's motion to dismiss this case based on the existence of a settlement is GRANTED, and I recommend that the Illinois Human Rights Commission affirm the dismissal of this matter and the underlying charge with prejudice pursuant to 775 ILCS 5/8-105(C).

HUMAN RIGHTS COMMISSION

BY:

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BRIAN WEINTHAL
CHIEF ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: November 7, 2024