

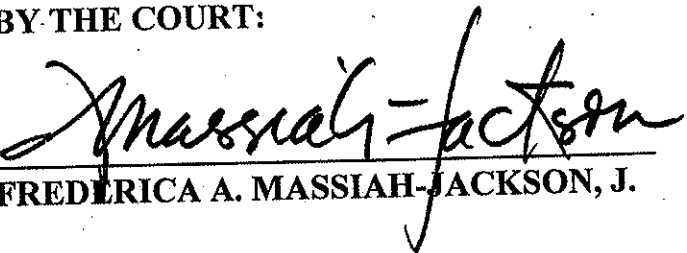
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

NIVERTITI GEATH a/k/a NIKKI EWICH	:	
Plaintiff	:	
	:	JULY TERM, 2017
vs.	:	
	:	NO. 1461
COMCAST OF	:	
PENNSYLVANIA/MARYLAND, LLC	:	
Defendant	:	

ORDER

And Now, this ^{9th}10th day of December, 2018, after considering the Petition to Enforce Settlement filed by Defendant Comcast of Pennsylvania, Plaintiff's Response thereto, and, after an Evidentiary Hearing held on November 21, 2018, and, for the reasons set forth in the Findings of Fact and Conclusions of Law filed this date, it is hereby **ORDERED** that the Defendant's Petition is **GRANTED**.

BY THE COURT:


FREDERICA A. MASSIAH-JACKSON, J.

DOCKETED

DEC 10 2018

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	:	NO. 1461
COMCAST OF	:	
PENNSYLVANIA/MARYLAND, LLC	:	
Defendant	:	

FINDINGS OF FACT and CONCLUSIONS OF LAW
in SUPPORT OF ORDER ENFORCING SETTLEMENT

MASSIAH-JACKSON, J.

DOCKETED

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FINDINGS OF FACT

1. In 2015, Ms. Nivertiti Geaith had Comcast install TV and internet cables at her home.
2. Ms. Geaith stated that the cable above the bedroom door “got loose . . . and it caught on [her] neck” November 21, 2018, N.T. 28.
3. As she was choking and tried to remove the cable, she tripped and fell. N.T. 28-29.
4. Her face hit a marble table and also a Total Gym equipment in her room.
5. Ms. Geaith felt several teeth had been knocked out. N.T. 30.
6. Ms. Geaith did not go to a hospital emergency room for evaluation or treatment. N.T. 31-32.
7. Since 2015, Ms. Geaith testified that she has been examined by a dentist who provided an estimate of \$45,000.00 for dental restoration. See, Exhibit “A”, attached.
8. Ms. Geaith commenced this litigation against Comcast in July, 2017.
9. Counsel conducted pre-trial discovery. The case was placed in the September, 2018 Trial Pool.
10. Both counsel engaged in negotiations to try to resolve the matter without trial. N.T. 3-12.
11. Attorney McIntosh, counsel for Plaintiff, spoke to his client several times about the negotiations. N.T. 9-11, 13-15.

12. On September 28, 2018, counsel for Comcast, Attorney Cholden, offered \$120,000.00 to settle. N.T. 5, 11.
13. Attorney McIntosh spoke to Ms. Geaith at approximately 12:45 p.m. and she said "yes". N.T. 11.
14. Shortly thereafter, on September 28, 2018, the two attorneys reached an oral agreement to settle this case for \$120,000.00 which they later confirmed in writing by e-mail.
15. That afternoon on September 28, 2018, at 5:20 p.m. Attorney McIntosh sent a confirming e-mail to his client with information about the closing paperwork.
16. Between 5:24 and 6:09 p.m., Plaintiff-Geaith exchanged a series of e-mails with Attorney McIntosh rescinding her earlier agreement. See Exhibit "B", attached (2 pages).
17. On November 21, 2018, this Court held an evidentiary hearing pursuant to Defendant's Petition to Enforce Settlement.
18. Plaintiff-Geaith read her statement and also provided additional details about her situation. See Exhibit "C", attached (2 pages).
19. After hearing and observing the testimony and presentations of Ms. Geaith, Attorney McIntosh and Attorney Cholden, this Court finds and concludes that Ms. Geaith did authorize her attorney to settle the case for \$120,000.00 when she spoke to him on the telephone at 12:45 p.m. on September 28, 2018.

20. It was apparent to this Court that during the afternoon of September 28th, Ms. Geaith changed her mind. She decided the amount was too low. At our hearing, Ms. Geaith explained that she believed her three years of pain and suffering were not sufficiently compensated after expenses were paid from the \$120,000.00. N.T. 32-43.

CONCLUSIONS OF LAW

1. When, as here, the client is challenging whether her Attorney was authorized to enter in a settlement agreement, that serves as a waiver of the attorney-client privilege.

Salsman v. Brown, 51 A.3d 829, 894-896 (Pa. Superior Ct. 2012).

2. Ms. Geaith testified and provided the Court with copies of her e-mail exchanges with Attorney McIntosh.

3. Attorney McIntosh's testimony about his communications with his client were proper rebuttal to the challenge to his professional competence. Salsman v. Brown, *supra*, and cases cited therein.

4. Ms. Geaith did consent to her attorney's actions and she cannot claim that she was fraudulently induced to settle the litigation. Muhammad v. Strassburger, 587 A.2d 1346 (Pa. 1991); Piluso v. Cohen, 764 A.2d 549 (Pa. Superior Ct. 2000).

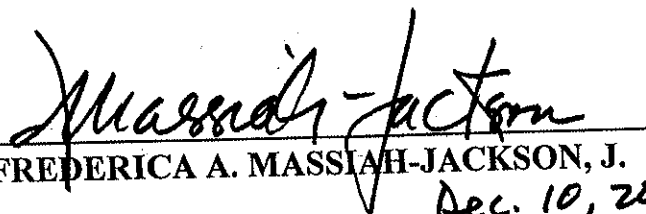
5. Attorney McIntosh was authorized to reach an agreement with counsel for Comcast. Both attorneys expected to reduce it to writing. It is a valid contract. Pulcinello v. Conrail, 784 A.2d 122 (Pa. Superior Ct. 2001) and cases cited at 124.

6. The agreement for \$120,000.00 to settle the litigation is valid and enforceable. e.g. Miller v. Ginsberg, 874 A.2d 93, 99 (Pa. Superior Ct. 2005); Nationwide Insurance v. Moustakidis, 830 A.2d 1288, 1292 (Pa. Superior Ct. 2003); Compu Forms Control, Inc. v. Altus Group, Inc., 574 A.2d 618, 622 (Pa. Superior Ct. 1990).

CONCLUSION

For all of the reason set forth above, the Petition to Enforce Settlement is
GRANTED.

BY THE COURT:



FREDERICA A. MASSIAH-JACKSON, J.
Dec. 10, 2018

Lanap & Implant Center of Pennsylvania

May 1, 2018 **DiGiallorenzo, DMD & Associates**
Expertise Doctors Trust. Experience & Comfort Patients Love.

web: www.pertoimplants.us

Re: Nivertiti Geath

To whom it may concern:

Nivertiti presented on 4-17-18 indicating, "I tripped over a cable at my home. It choked me and I fell on my total gym equipment and hit both sides of my face in 2015. I broke teeth, crowns came out and the roots stayed in. It changed my smile, facial profile and speech. I had a partial made but I cannot wear it." On 4-18-18 we performed a clinical examination, study models and a 3D x-ray was taken.

Diagnosis:

Patient presents with remaining maxillary traumatized loose teeth which are all hopeless and must be removed.

- Endodontic abscess from trauma
- Reported gag reflex when wearing a partial
- Missing teeth
- Sinus proximity
- Cl. 2 malocclusion

Recommended treatment:

An orthopedic reconstruction if required to restore this patient to full form and function under IV sedation.

Total fee - 45,000

Phase 1

- IV sedation - 2,500
- Removal of all remaining teeth
- Sinus grafting and grafting of residual alveolus with stem cell therapy
- Placement of implants
- Placement of temporary set of teeth

Phase 2

Placement of additional implants in the back of the mouth

Phase 3

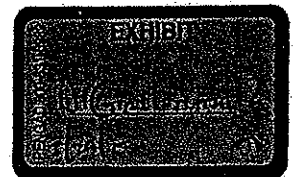
Placement of final custom abutments and teeth (full fixed bridge)

This therapy will take place over 8 months and require 8 visits. The opinions in this report are made within a reasonable degree of medical certainty.

Sincerely,



Dr. David DiGiallorenzo





nivertiti geaith <gnivertiti@gmail.com>

Settlement

nivertiti geaith <gnivertiti@gmail.com>
 To: Scott McIntosh <scott@lmtlegal.com>

Fri, Sep 28, 2018 at 5:52 PM

Scott,

From the start you were pressuring me to take what they want and I keep telling you no. I am not legally obligated to take it when I never signed anything and you told me you would call and ask me if I am ok with it. I am not settling I am going to trial and you are not cancelling my trial. If you can't do what I wish and don't have the confidence in yourself as a lawyer to fight for my case then quit with dignity I will find another lawyer. I need a response today. I do not need anytime to think about it.

On Fri, Sep 28, 2018 at 5:41 PM Scott McIntosh <scott@lmtlegal.com> wrote:

Nikki,

You clearly gave me authority to settle the case for \$120,000. Based on our conversation, I called the attorney for Comcast and told him you would settle the case for \$120,000. He called me back and agreed to settle the case for \$120,000. It was clearly explained to you that this could happen. At this point I think you are legally bound to this agreement. Think about it over the weekend and we will talk on Monday.

Thanks,
 Scott

From: nivertiti geaith <gnivertiti@gmail.com>
Sent: Friday, September 28, 2018 5:24 PM
To: Scott McIntosh <scott@lmtlegal.com>
Subject: Re: Settlement

Scott,

I was just about to email you, I did not say to take it I meant to see what they say and you were to ask me first before you make any decision. I am not taking it and no don't notify the court I am going to trial.

On Fri, Sep 28, 2018 at 5:20 PM Scott McIntosh <scott@lmtlegal.com> wrote:

Nikki,

Just confirming our conversation earlier this afternoon. You gave me authority to settle the case for \$120,000. Congratulations, opposing counsel just called me and said they would settle for \$120,000. They are going to prepare the paperwork and I will notify the court.

Thanks and I'm so glad we got such a great result for you!
 Scott

Scott McIntosh

Lewis McIntosh & Teare, _____

372 N. Lewis Road

Exhibit "B"
(2 pages)



nivertiti geaith <gnivertiti@gmail.com>

Settlement

Fri, Sep 28, 2018 at 6:09 PM

nivertiti geaith <gnivertiti@gmail.com>
To: Scott McIntosh <scott@lmtlegal.com>

I did not give you authority I said see what they say and call me so I can say yes or no. Are you going to tell them that I do not agree and that we are still going to trial. I need an answer today because I am waiting on a call from another lawyer because I do not know what else to do. And I need to know that the trial is not cancelled. I am sick to my stomach that you are my lawyer and you would manipulate my words when I told you to not make any decisions unless you call me and I think about it.

[Quoted text hidden]

Dear Honorable Judge Frederica Massiah Jackson,
11/20/2018

Date:

I am Nivertiti Geaith the plaintiff in the case vs Comcast. I am writing you this statement because I am afraid I would not have enough time to tell you everything during the hearing. I first want to thank you for taking the time to hear the matter and your consideration. Due to Comcast Negligence it has caused me to lose all my top teeth, bone loss, and now the bottom teeth are becoming loss and all the teeth will need to come out and I will need several surgeries to even get maybe somewhere close to how my teeth use to be. They say it is just teeth but it is not I have gone through humiliation, embarrassment, pain, etc. They cannot put a price tag on the fact that I could not go and see my father who was a professor dying of cancer that I did not see in 18 years. From what Comcast did I have hardly left my home I isolate myself, I use to love going places, being active, socializing I cannot do none of it. For me to get my teeth fixed it will cost a minimum of 45,000 and I will never get the smile I had back. I also have severe bone loss from how long I have had to wait from when the incident occurred in 2015 and will require surgeries for bone treatment and grafting. What has made this worse is that I am a single mother alone in this country and all I have is an 81 year old woman that I have known for about 20 years. This is not just about teeth this is about Comcast being held responsible and accountable for their actions and what they did. Also for them to never do this to someone else. If my bill is one day late they turn it off and do not care and to them it is not ok for me to ask for what I deserve after what they put me through. I never had agreed to the settlement of 120,000. My attorney did pressure me a bit to settle and I did make it clear that my demand and what I would be willing to settle was for a minimum of 250,000. I did

tell my attorney that I would consider 120,000 and they pay the dentist the 45,000 and Comcast service free for the years I suffered I told him I would consider it and nothing binding or an official settlement until I thought about it. The current agreement they want signed does not even have any mention of this. My request to this court and what I have been asking for is that I have a trial with a jury to make a decision in this case I hope I can be given that. I appreciate your time and consideration and I will respect whatever decision you make.

Respectfully,

Nivertiti Geath

3221 Spring RD

Carlisle PA 17013