

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

JAMES H. RUGGLES and)	Appeal from the Circuit Court
THOMAS G. MILLER,)	of Lake County.
)	
Plaintiffs-Appellants/Cross-Appellees,)	
)	
v.)	No. 07—L—993
)	
LAKE BARRINGTON SHORES)	
CONDOMINIUM THREE)	
HOMEOWNERS ASSOCIATION,)	
JOHN WILKINSON, and JAMES BOYD,)	Honorable
)	Mitchell L. Hoffman,
Defendants-Appellees/)	Judge, Presiding.
Cross-Appellants.)	

JUSTICE HUTCHINSON delivered the judgment of the court.
Justices McLaren and Birkett concurred in the judgment.

ORDER

Held: The trial court did not abuse its discretion in enforcing a settlement agreement where the evidence adduced established that the parties' attorneys entered in to an oral settlement agreement. The trial court did not abuse its discretion in considering the evidence where all evidence presented was admissible. The trial court did not abuse its discretion in failing to hold an evidentiary hearing on a motion to enforce settlement where no questions of fact regarding the settlement existed. The trial court did not err in failing to require the parties to execute a release of all claims and did not abuse its discretion in failing to enter an order barring all claims between the parties where the evidence adduced did not establish that the parties had a meeting of the minds in regard to a mutual release of all claims.

Plaintiffs, James H. Ruggles and Thomas G. Miller, appeal the trial court's order granting defendants', Lake Barrington Shores Condominium Three Homeowners Association (the Association), John Wilkinson, and James Boyd, motion to enforce a settlement agreement. Plaintiffs contend that (1) the trial court abused its discretion in finding a binding and enforceable settlement agreement between the parties; (2) the trial court abused its discretion in considering certain evidence presented by defendants and; (3) the trial court abused its discretion in failing to hold an evidentiary hearing. Defendants cross-appeal, contending that (1) the trial court erred in not requiring plaintiffs to execute a release of all claims and (2) that the trial court abused its discretion in failing to enter an order barring all claims between the parties. We affirm.

On December 17, 2007, plaintiffs filed a complaint against defendants alleging that defendants Wilkinson and Boyd breached their fiduciary duty as board members of the Association. For the next two years, litigation ensued. During this time, plaintiffs were represented by four different attorneys and amended their complaint on four separate occasions. On July 20, 2009, the parties advised the trial court of their agreement to conduct a settlement meeting. The trial court entered an order setting the case for a status conference to be held on September 15, 2009, regarding the result of the settlement meeting. Following the settlement meeting, the parties agreed to conduct a subsequent settlement meeting and the trial court entered an order setting the matter for a second status conference to be held on November 13, 2009. On September 29, 2009, however, the parties purportedly reached a settlement agreement. On October 29, 2009, defendants filed a motion to enforce the settlement agreement purportedly entered into between the parties.

In its motion, defendants argued that the parties reached a settlement agreement on September 29, 2009, after defendants accepted plaintiffs' offer. Specifically, defendants' motion

alleged the following facts. On September 29, 2009, plaintiffs' counsel contacted defendants' counsel by telephone and offered, on behalf of his clients, to settle the matter for \$28,000. During that conversation, defendants' counsel specifically inquired as to whether plaintiffs' counsel had the authority of both plaintiffs to make the proposed offer. Plaintiffs' counsel indicated that he had the authority and defendants' counsel requested that plaintiffs' counsel reduce the offer to writing. On September 29, 2009, at 1:38 p.m., defendants' counsel received the following correspondence from plaintiffs' counsel:

“This letter is to confirm that my clients Mr. Ruggles and Mr. Miller will agree to settle the pending lawsuit for \$28,000 in total. I spoke with them yesterday and they agreed to this. Let me know as soon as possible.”

Upon receiving plaintiffs' September 29, 2009, correspondence, defendants' counsel contacted his clients and received their authority to accept the offer. After defendants' counsel received authority to accept the offer, defendants' counsel called plaintiffs' counsel to communicate defendants' acceptance. Defendants' counsel subsequently faxed a written correspondence to plaintiffs' attorney which plaintiffs' counsel received on September 29, 2009, at 3:39 p.m. The fax provided:

“This letter will confirm our discussion today wherein we agreed to settle this matter for \$28,000 in exchange for a release of all claims that have been brought or that could have been brought within the above-referenced litigation. Should you have any questions or wish to discuss this matter any further, please contact me.”

On October 7, 2009, plaintiffs' counsel contacted defendants' counsel regarding the status of the written settlement agreement. Defendants' counsel informed plaintiffs' counsel that the written settlement documents would be sent later that week. Defendants' counsel sent a letter to plaintiffs' counsel documenting this conversation the following day. Plaintiffs' counsel again

confirmed that he had the authority to accept the offer and instructed defendants' counsel that the settlement funds should be made payable exclusively to plaintiff Miller. On October 9, 2009, defendants provided plaintiffs with a copy of a "Release of All Claims and Settlement Agreement." On October 14, 2009, plaintiffs' counsel contacted defendants and advised that his clients had changed their minds concerning the settlement. Plaintiffs' counsel requested until October 26, 2009, to discuss the matter with his clients and defendants agreed to allow plaintiffs' counsel this amount of time. On October 26, 2009, plaintiffs' counsel advised defendants' counsel that his clients refused to move forward with the settlement. Plaintiffs' counsel further advised defendants' counsel that plaintiffs had filed a motion to set a trial date.

On November 19, 2009, plaintiffs filed a response to defendants' motion to enforce settlement agreement. In the response, plaintiffs argued that any allegations regarding a settlement agreement were inadmissible evidence, and that the affidavit and allegations made by defendants' counsel was inadmissible hearsay. In the response, plaintiffs admitted that their attorney indicated to defendants' counsel that he "had the authority of both plaintiffs to make the proposed offer" and further admitted that "on September 29, 2009, at 1:38 p.m., defendants received a written settlement offer from plaintiffs." Plaintiffs further admitted that there were communications and correspondences between the parties but denied that the writings memorialized an agreement. Plaintiffs' response stated that plaintiffs' counsel told defendants' counsel that there were issues that would hold back settlement, such as a full release and an issue regarding plaintiff, Ruggles's driveway. Plaintiffs' response further stated that defendants never agreed to the settlement agreement, and thus, there was no mutual assent.

Attached to the response, plaintiffs included an affidavit by plaintiff Ruggles stating that Ruggles' settlement of the case was contingent upon the execution of a mutually acceptable

settlement agreement, the repair of his driveway, a full release, and that he has “rejected settlement of this matter.” Plaintiffs also attached an affidavit by plaintiffs’ attorney, which stated that he informed defendants’ counsel on October 8, 2009, that plaintiffs wanted a full release from defendants and that plaintiff Ruggles wanted his driveway fixed.

On December 8, 2009, the trial court held a hearing on defendants’ motion to enforce settlement agreement. At the hearing, the parties’ attorneys agreed that the only disputes regarding the September 29, 2009, communications were whether a mutual release was part of the agreement and whether the agreement was contingent upon written documentation. Plaintiffs’ counsel further argued that there was a disagreement, after-the-fact, between himself and his clients as to whether he had the authority to settle the case. After hearing argument from both sides, the trial court found that plaintiffs failed to raise an issue as to whether plaintiffs’ counsel had the authority to make the proposed offer. Specifically, the trial court found that plaintiff Ruggles’ affidavit was “filled with conclusory statements that did not establish a question of fact.” The trial court further held:

“I find that there was a conversation based on the oral representations at bar and based on the briefs to settle the case for \$28,000 and that there would be mutual releases. Now, if the parties can’t agree to mutual releases, I don’t think I have the authority and I don’t think its necessary for me to order one side to sign the releases; but I will find that the case has been settled for \$28,000. So the case will be dismissed. The settlement agreement will be enforced.”

The trial court’s written order granted defendants’ motion to enforce settlement agreement, dismissed plaintiffs’ third-amended complaint with prejudice and ordered defendants to pay plaintiffs \$28,000 in exchange for plaintiffs’ dismissal of their claims. The written order also stated the trial court’s finding that the parties’ settlement agreement did not include the execution of a

written settlement agreement or a mutual release and that the trial court would not require the parties to execute a written settlement agreement or mutual release.

The trial court denied plaintiffs' motion to reconsider and defendants' partial motion to reconsider. Plaintiff Miller cashed the settlement check but later placed it his attorney's trust fund account. Plaintiffs timely appealed. Defendants timely cross-appealed.

Plaintiffs first contend that the trial court erred when it found a binding and enforceable settlement agreement between the parties. In support, plaintiffs argue (1) that any settlement was conditioned on the parties executing a written, signed agreement, which was never done; and (2) that any offer extended by plaintiffs was rejected because defendants's acceptance letter contained additional terms. Defendants' respond that a signed agreement was not a condition precedent and that the trial court correctly found a settlement agreement because the record established an offer to settle by plaintiffs, an acceptance of the offer by defendants, and adequate consideration. We agree with defendants.

The trial court has authority, under certain circumstances, to summarily enforce a settlement agreement entered into by the parties while their suit is pending. *Pritchett v. Asbestos Claims Management Corp.*, 332 Ill. App. 3d 890, 896-97 (2002). Settlement agreements are to be encouraged and given full force and effect. *Green v. Safeco Life Ins. Co.*, 312 Ill. App. 3d 577, 581 (2000). Illinois courts will recognize settlement agreements when the agreement is based upon sufficient consideration and the parties have met on equal terms. *McAllister v. Hayes*, 165 Ill. App. 3d 426, 427 (1988). We will not disturb the trial court's decision enforcing a settlement agreement absent an abuse of discretion. *Lampe v. O'Toole*, 292 Ill. App. 3d 144, 146 (1997).

To state a cause of action to enforce a settlement, the pleading must allege liability of the defendant, the agreement concerning the amount to be paid, and the acceptance of the agreement in

settlement of the original dispute. *McAllister*, 165 Ill. App. 3d at 427. Settlements are binding so long as there is clearly an offer to compromise, acceptance, and a meeting of the minds. *Magee v. Garreau*, 332 Ill. App. 3d 1070, 1076 (2002). Further, counsel must possess authorization to compromise a claim or settle a case. *Lampe*, 292 Ill. App. 3d at 146. Counsel may bind his principal to a settlement agreement provided that he or she has the authority to do so. *Lampe*, 292 Ill. App. 3d at 146.

We determine that the trial court did not abuse its discretion in finding that the parties had entered into a binding and enforceable settlement agreement. In the present matter, plaintiffs' complaint alleged that defendants were liable to plaintiffs due to their breach of fiduciary duties. The arguments presented during the hearing on the motion to enforce the settlement agreement reflected that defendants had agreed to pay plaintiffs \$28,000 in exchange for plaintiffs dismissal of the pending suit. Furthermore, the trial court found that there was no question regarding whether the parties' counsel had the authority to settle the suit, and that plaintiffs' attorney had authority to negotiate a settlement. Therefore, the trial court properly upheld the settlement agreement.

Plaintiffs argue that any settlement was conditioned on the parties executing a written, signed agreement. Whether the parties intended to condition a settlement on the execution of writing is question of fact. *Lampe*, 292 Ill. App. 3d at 147. Here, the trial court found that the parties did not contemplate the execution of a written release or stipulation as a condition precedent to a valid settlement agreement. See *Lampe*, 292 Ill. App. 3d at 147 (Even where the parties contemplate the execution of a written release or stipulation, this writing need not be a condition precedent to a valid settlement). The record supports the trial court's finding. In the present matter, the letters between the parties and the parties' subsequent actions confirm that plaintiffs' counsel offered to settle the case and defendants' counsel accepted the offer. See *McAllister*, 165 Ill. App. 3d at 427. Moreover,

the written correspondences between the parties indicate that there was a meeting of minds with respect to an agreement to settle. See *Garreau*, 332 Ill. App. 3d at 1076. The record is devoid of evidence that the parties intended to make the agreement contingent upon written documentation. See *Lampe*, 292 Ill. App. 3d at 147. Thus, we determine that the parties did not intend to condition the settlement upon an execution of writing.

Plaintiffs also argue that any offer extended by plaintiffs was rejected because defendants' acceptance letter contained additional terms. The record reflects that, on September 29, 2009, plaintiffs' attorney made an offer to defendants. In their response to defendants' motion to enforce the settlement agreement, plaintiffs admit that their attorney made the settlement offer. This offer was made orally and then memorialized in writings by both parties later that same day. As in *Lampe*, in the present matter, the confirmation of the oral settlement agreement did not materially alter the settlement, although it included a mutual release of all claims. *Id.* Instead, it merely embodied the agreement the parties had already intended. *Id.*

Although plaintiffs argue that the proposed offer was effective only subject to certain contingencies, such as the repair of plaintiff Ruggles' drive way, the record reflects that those purported contingencies were not mentioned to defendants until October 8, 2009, 10 days after the settlement was effective. See *Lampe*, 292 Ill. App. 3d at 148 ("Illinois courts have long recognized that an agreement to settle pending litigation is effective when arrived at unless the parties have subjected its effectiveness to contingencies"). Here, the record reflects that, on September 29, 2009, plaintiffs' counsel made an oral offer to defendants which was confirmed in writing later that same day. Defendants' counsel orally accepted the offer and then confirmed the acceptance in writing. Thus, in the present matter, there was an offer, an acceptance, and adequate consideration. See *K4 Enterprises, Inc. v. Grater, Inc.*, 394 Ill. App. 3d 307, 314 (2009) ("a settlement agreement is in the

nature of contract and is governed by principles of contract law”); also see *Johnson*, 221 Ill. App. 3d at 585 (“the mutual concession of the termination of the litigation is sufficient and valid consideration to support the agreement to end the dispute”). Thus, we determine that the trial court did not abuse its discretion when it found a binding and enforceable settlement agreement.

Plaintiffs next contend that the trial court abused its discretion when it admitted evidence of settlement negotiations because said evidence was inadmissible. Defendants respond that the evidence was admissible to demonstrate inconsistency in plaintiffs’ position. We agree with defendants.

The trial court’s decision regarding the admission of evidence will not be reversed absent an abuse of discretion. *Jones v. DHR Cambridge Homes, Inc.*, 381 Ill. App. 3d 18, 32 (2008). Plaintiffs cite *Khatib v. McDonald*, 87 Ill. App. 3d 1087, 1099 (1980) for the proposition that “evidence as to offers of settlements or negotiations are inadmissible”. Plaintiffs further cite *Plooy v. Paryani*, 275 Ill. App. 3d 1074, 1088 (1995), for the proposition that public policy encourages settlement, and any negotiations and compromises are irrelevant and prejudicial. However, as defendants correctly point out, a review of these authorities reveals that neither stands for the proposition that settlement discussions are inadmissible for the purposes of a hearing on a motion to enforce. Rather, these cases hold that settlement discussions are inadmissible as evidence of an admission of liability at a trial on the merits. Moreover, the Illinois Supreme Court has held that “[a]s a general rule any statement, written or not, made by a party or on its behalf which is inconsistent with his present position may be introduced in evidence against him.” *Nelson v. Union Wire Rope Co.*, 31 Ill. 2d 69, 115 (1964). Thus, we determine that the trial court’s decision to admit the evidence was not an abuse of its discretion.

Here, the evidence pertaining to settlement negotiations demonstrated that plaintiffs' position on the day of the hearing on defendants' motion to enforce was inconsistent with the position taken during the settlement negotiations. For instance, on September 29, 2009, plaintiffs' attorney sent a letter to defendants' attorney stating that "my clients *** will agree to settle this pending lawsuit for \$28,000 in total. I spoke with them yesterday and they agreed to this." This statement is inconsistent with plaintiffs' position during the hearing when they argued that they did not agree to a settlement. The record of the hearing demonstrates that the purpose of the evidence pertaining to settlement negotiations was to demonstrate plaintiffs' inconsistency in position. Thus, we determine that, in the present matter, the trial court did not abuse its discretion in finding that the evidence pertaining to the proposed settlement agreement was admissible.

Plaintiffs also argue that the evidence taken from defendants' attorneys' affidavits was inadmissible hearsay. This argument is without merit, as this evidence falls within an exception to the hearsay rule, namely that statements made by party opponents are admissible. *CFC Investment, L.L. C. v. McLean*, 387 Ill. App. 3d 520, 529 (2008). Furthermore, a statement is admissible if the statement is offered against a party and is a statement by the party's agent concerning a matter within the scope of employment, made during the existence of the relationship. *See* ILCS Evid. Rule 801(d)(2)(D) (West 2008). Here, the statements offered in the affidavit were made by defendants' attorney while acting as an agent for defendants within the scope of his employment as defendants' attorney. Thus, the trial court did not abuse its discretion in overruling plaintiff's objection and admitting the evidence. We, therefore determine that the evidence pertaining to the defense attorney's affidavits was admissible.

Plaintiffs' third contention is that the trial court abused its discretion in failing to hold an evidentiary hearing as to whether there was an enforceable settlement agreement and the terms of

any such agreement. In support, plaintiffs argue that (1) the trial court should have stricken defendants' motion to enforce the settlement agreement because it is not listed as a type of motion set forth in the Illinois Code of Civil Procedure; (2) the trial court should have held an evidentiary hearing as to whether plaintiffs' counsel had the authority to settle the case; (3) the trial court should not have held that plaintiffs' September 29, 2009, letter constituted a definite offer, and (4) the trial court should have held an evidentiary hearing to determine whether there was an enforceable settlement agreement and, if so, what were its terms. Defendants respond that each of plaintiffs' contentions is without merit. As to all arguments, we agree with defendants.

Plaintiffs first argue that the trial court should have stricken defendants' motion to enforce the settlement agreement because it is not listed as a type of motion set forth in the Illinois Code of Civil Procedure." Plaintiffs own brief points out that "a motion to enforce a settlement agreement can be a motion unto itself, albeit one not expressly authorized by the code of Civil Procedure." *City of Chicago v. Ramirez*, 366 Ill. App. 3d 935, 946 (2006). Plaintiffs argue that we should not follow *Ramirez* because, "to allow the movant to present a motion which is not supported either by a provision of the Illinois Code of Civil Procedure or Illinois Supreme Court Rules puts the party responding to the motion at a distinct disadvantage." According to plaintiffs, this leaves the responding party unaware of its burden and the appropriate standard of proof. Thus, plaintiffs assert that we should determine that there is no such motion as a motion to enforce settlement agreement. We decline to do so. Instead, we elect to follow the precedent set forth in *Ramirez*.

Plaintiffs' second argument is that the trial court should have held an evidentiary hearing as to whether plaintiffs' counsel had the authority to settle the case. Specifically, plaintiffs argue that a question of fact existed as to whether plaintiffs' attorney had the authority to settle. Plaintiffs cite *Kazale v. Flowers*, 185 Ill. App. 3d 224, 228 (1989), for the proposition that when an attorney makes

an agreement to settle, the client will not be bound by such agreement, without proof of authority in the attorney to bind the client and that the burden of proof rests on the party alleging authority to that fact.

Here, the trial court found that the evidence adduced by plaintiffs was insufficient to raise an issue as to whether plaintiffs' attorney had the authority to make the proposed offer. Although plaintiff Ruggles filed an affidavit along with plaintiffs' response to the motion to enforce settlement agreement, nothing in Ruggles's affidavit presented affirmative evidence that his attorney did not have the authority to make a settlement offer. Thus, because plaintiffs did not raise a question of fact regarding whether plaintiffs' attorney had authority to settle, the trial court did not abuse its discretion in failing to hold an evidentiary hearing on the matter.

Plaintiffs' third argument is that the trial court should not have found that plaintiffs' September 29, 2009, letter constituted a definite offer. Specifically, plaintiffs assert that the September 29, 2009, letter from plaintiffs to defendants was not definite or certain enough to be enforceable. See *Ramirez*, 366 Ill. App. 3d at 946 ("Like any other contract, the essential terms of the settlement agreement must be definite and certain to be enforceable"). Defendants respond that the September 29, 2009, letter was a confirmation of the oral settlement offer made by plaintiffs earlier that same day. Here, the September 29, 2009, letter constituted a confirmation of the original offer.

The September 29, 2009, letter in its entirety stated:

"This letter is to serve to confirm that my clients Mr. Ruggles and Mr. Miller will agree to settle the pending lawsuit for \$28,000 in total. I spoke with them yesterday and they agreed to this. Let me know as soon as possible."

The trial court never specifically found that plaintiffs' September 29, 2009, letter constituted a definite offer. The trial court found that "there was a conversation based on the oral representations at bar and based on the briefs to settle the case for \$28,000." Plaintiffs' September 29, 2009, letter, by its language, demonstrates that it was a confirmation of an oral settlement agreement. As the trial court did not find that the September 29, 2009, letter, alone, constituted a definite offer, we determine that plaintiffs' argument lacks merit.

Plaintiffs' fourth argument is that the trial court should have held an evidentiary hearing to determine what were the terms of the agreement. In support, plaintiffs assert that questions of fact pertaining to the agreement existed, warranting an evidentiary hearing. Specifically, plaintiffs assert that the affidavits raised a question of fact; whether the parties intended to condition a settlement on the execution of a writing was a question of fact; whether there was a meeting of the minds between the parties was a question of fact; and the actual formation and terms of the settlement agreement raised a question of fact. Defendants respond that plaintiffs failed to assert a factual basis to demonstrate the need for an evidentiary hearing. We agree with defendants.

Whether the parties intended to condition a settlement on the execution of a writing is a question of fact. *Lampe*, 292 Ill. App. 3d at 144. A settlement agreement requires a meeting of the minds between the parties. *Ramirez*, 366 Ill. App. 3d at 946. An evidentiary hearing regarding the formation and terms of a settlement agreement may be appropriate when there are disputed issues on that point and additional evidence or testimony is required to satisfactorily resolve the issue. *Ramirez*, 366 Ill. App. 3d at 946. Where there is no dispute as to the facts essential to a purported settlement agreement, the existence of a settlement agreement is a question of law. *Ogle*, 273 Ill. App. 3d at 319-20.

Here, the trial court found that plaintiff Ruggles' affidavit was filled with conclusory statements that did not establish a question of fact. A reading of the Ruggles' affidavit confirms the trial court's finding, as the affidavit offers no evidence, but simply states that Ruggles' settlement of the case was contingent upon the execution of a mutually acceptable settlement agreement, the repair of his driveway, a full release, and that he has "rejected settlement of this matter." Thus, we determine that plaintiffs did not establish a question of fact warranting an evidentiary hearing.

Moreover, plaintiffs' assertion that the trial court should have held an evidentiary hearing to determine whether the parties intended to condition a settlement on the execution of a writing lacks merit. Although both parties admit that they intended to execute written documentation of the settlement, the trial court found that the parties did not intend to make the settlement conditional on the executions of its terms in writing. Furthermore, the record is devoid of any evidence that the parties intended the settlement to be conditioned upon that writing.

The record and the letters between the parties demonstrate that, on September 29, 2009, there was a meeting of the minds between the parties regarding the settlement and its terms. It is immaterial that a month subsequent to the parties' settlement agreement, both parties wished to modify separate contract terms. *Kinkel v. Cingular Wireless LLC*, 223 Ill. 2d. 1, 15 (2006) ("One party to a contract may not unilaterally modify a contract term."). Although plaintiffs cite *Ramirez* for the proposition that "an evidentiary hearing regarding the formation and terms of a settlement agreement may be appropriate where there are disputed issues and additional evidence or testimony is required to satisfactorily resolve the issue," we note that this language is permissive rather than mandatory. *Ramirez*, 366 Ill. App. 3d at 946. Furthermore, the *Ramirez* court also indicated that an evidentiary hearing is only necessary when a question of fact exists. *Ramirez*, 366 Ill. App. 3d at

946. Here, the trial court correctly found that no issue of fact warranting an evidentiary hearing existed.

We conclude that the trial court did not abuse its discretion when it found the existence of an enforceable settlement agreement. The trial court did not abuse its discretion in admitting the evidence it did or in determining that an evidentiary hearing was not necessary. Thus, we affirm the trial court's determinations as they pertain to plaintiffs' appeal and move on to defendants' cross appeal.

Defendants contend that the trial court erred in not requiring plaintiffs to execute a release of all claims and abused its discretion when it failed to enter an order barring all claims between the parties. Plaintiffs respond that there was no enforceable settlement agreement and that the record indicates that no agreement to release all claims existed. We determine that the trial court did not err in failing to require a release of all claims and did not abuse its discretion in failing to enter an order barring all claims between the parties..

Under Illinois law, settlement agreements are construed under principles of contract law. *Gallagher v. Lenart*, 367 Ill. App. 3d 293, 301 (2003). The interpretation of a contract is a question of law. *Gallagher*, 367 Ill. App. 3d at 301. "The primary objective when construing a contract is to determine and give effect to the intention of the parties at the time they entered into the contract." *Id.* The interpretation of a contact is reviewed *de novo*. *Id.*

Here, the trial court heard all the evidence and found that the parties had not agreed to a release of all claims. The record reflects that, although defendants may have wanted to include a release of all claims, there was no evidence that plaintiffs' attorney included such language in the September 29, 2009, settlement offer that defendants accepted. The record reflects that the parties' attorneys spoke to one another several times on the day of the settlement, but there was never any

indication that there was any discussion regarding a release of all claims. The written offer did not include a release of all claims. Although defendants' written response did include language regarding a release of all claims, plaintiffs argue that these additional terms were unilateral. The record is devoid of any evidence that there was a meeting of the minds regarding a release of all claims. See *Gallagher*, 367 Ill. App. 3d at 301 (holding that the primary objective when construing a contract is to determine and give effect to the intention of the parties at the time they entered into the contract).

Defendants argue that the trial court abused its discretion in not requiring a release of all claims. In support, they cite *Wilson v. Wilson*, 46 F. 3d 660 (1995), for the proposition that when the evidence presented to the trial court demonstrates that the parties agreed to include a release of all claims in a settlement agreement, the trial court does not abuse its discretion when it enforces a release of all claims. The *Wilson* facts, however, are distinguishable from the facts of the present case. In *Wilson*, both parties acknowledged the existence of an oral settlement agreement including a release of all claims, in open court, without objection. Sometime after the date of this acknowledgment, the defendants had doubts about the settlement agreement and filed an emergency motion to strike the plaintiff's motion to enforce the parties' settlement agreement. *Wilson*, 46 F. 3d at 663. In its motion, defendants, seeking to nullify any oral settlement agreement in its entirety, argued that there was no meeting of the minds in regards to the exchange of mutual releases. *Wilson*, 46 F. 3d at 663. The trial court rejected the defendants' argument and found that, as both parties had previously acknowledged the terms of the agreement in open court, including a release of all claims, there was an enforceable agreement to settle which included a mutual release of all claims. *Wilson*, 46 F. 3d at 663. Unlike the present case, in *Wilson*, both parties acknowledged the existence of a mutual release of all claims in open court. See *Wilson*, 46 F. 3d at 663.

Here, plaintiffs argue that the parties never agreed to a release of all claims and the record is devoid of contrary evidence. The arguments of the parties and the evidence presented at the hearing demonstrate that there was never a meeting of minds regarding a release of all claims. The trial court correctly found the parties agreement did not include a release of all claims. Thus, we determine that the trial court did not abuse its discretion when it failed to enter an order barring all claims between the parties.

We conclude that the trial court did not err when it determined that the parties' agreement did not include a release of all claims. The trial court did not abuse its discretion when it declined to enter an order barring all claims between the parties.

For the forgoing reasons, we affirm the judgment of the circuit court of Lake County.

Affirmed.