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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA

Maria Goodloe,

Plaintiff,

vs.

Hector Gomez, et al.,

Defendants.

No. CV-14-08067-PCT-PGR

ORDER

This diversity-based removed personal injury action stems from a motor vehicle accident in Arizona between a van driven by plaintiff Maria Goodloe, a Nevada citizen, and a tractor-trailer driven by defendant Hector Gomez and owned by defendant Vasquez Trucking, Inc., both California citizens. The parties filed a Notice of Settlement (Doc. 35) on December 22, 2014. On February 11, 2015, the plaintiff's counsel of record in this action, Bernstein & Poisson, LLC, a Las Vegas, Nevada law firm, filed a Motion to Enforce Fee Agreement and Finalize Settlement (Doc. 37). That motion stated in relevant part that the plaintiff had signed a general settlement release discharging the defendants from liability in consideration of a payment of \$500,000 from the defendants, that the defendants had sent the settlement check to the plaintiff's counsel, but that the settlement monies had not yet

1 been disbursed by the plaintiff's counsel because the plaintiff was contesting with  
2 her counsel how much of the settlement fund should be paid to her and how much  
3 should be paid to her counsel as attorneys' fees and costs. On February 23, 2015,  
4 the parties filed a Joint Report Regarding Status of Settlement (Doc. 39), wherein  
5 they stated that the settlement sum had been paid by the defendants and the plaintiff  
6 had executed a settlement release but that a stipulation for dismissal with prejudice  
7 had not yet been filed solely due to the settlement distribution dispute between the  
8 plaintiff and her counsel. On March 4, 2015, the plaintiff, through an Arizona  
9 attorney, filed her opposition to her counsel's motion wherein she argued that the  
10 portion of her counsel's motion seeking to finalize the settlement agreement with the  
11 defendants was moot because she had signed and finalized the settlement  
12 agreement; she further argued that the Court had no diversity jurisdiction to resolve  
13 that portion of the her counsel's motion seeking to enforce its contingency fee  
14 agreement with her, or if did, that it should deny the motion either because she and  
15 her counsel had already agreed that a Nevada state court in Las Vegas would  
16 resolve their fee dispute or because her counsel's contingency fee agreement was  
17 unconscionable. On March 6, 2015, the plaintiff's counsel filed an emergency  
18 motion seeking a two-week extension in which to file a reply in support of its motion  
19 because it needed time to acquire documents and witness declarations and prepare  
20 case logs to counter the plaintiff's argument regarding the extent of its representation  
21 of her.

22       Having reviewed the record, the Court finds that it is undisputed that the  
23 plaintiff and the defendants reached an enforceable settlement agreement whereby  
24 this action would be dismissed with prejudice upon the payment of \$500,000 by the  
25 defendants, which payment has been made by the defendants. While there is a  
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1 pending fee dispute between the plaintiff and her counsel regarding the distribution  
2 of the settlement monies, that does not change the fact that this action has been  
3 completely settled as between the plaintiff and the defendants. For that reason, the  
4 Court concludes that this action should be terminated with prejudice. The remaining  
5 fee dispute between the plaintiff and her counsel is not one that is properly resolved  
6 by this Court, and the Court makes no ruling as to the merits of that dispute.

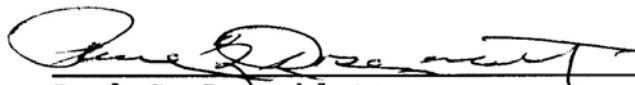
7 Therefore,

8 IT IS ORDERED that Bernstein & Poisson's Request for Extension of Time to  
9 File Reply to Maria Goodloe's Response to Bernstein & Poisson's Motion to Enforce  
10 Fee Agreement and Finalize Settlement (Doc. 42) is denied as moot.<sup>1</sup>

11 IT IS FURTHER ORDERED that Bernstein & Poisson's Motion to Enforce Fee  
12 Agreement (part of Doc. 37) is denied without prejudice.

13 IT IS FURTHER ORDERED that Bernstein & Poisson's Motion to Finalize  
14 Settlement (part of Doc. 37) is granted to the extent that this action is dismissed in  
15 its entirety with prejudice by reason of the parties' settlement.

16 DATED this 10<sup>th</sup> day of March, 2015.

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19 Paul G. Rosenblatt  
United States District Judge

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24 The Court notes that the plaintiff's counsel's reliance on Rule 8011 of  
25 the Ninth Circuit's Bankruptcy Appellate Panel as the basis for its "emergency"  
26 motion for an extension of time was improper since the BAP's rules have no  
applicability to this action.