

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

LILY ROBBE,)	
)	
Plaintiff,)	
)	
v.)	No. 4:14CV1223 HEA
)	
WEBSTER UNIVERSITY,)	
)	
Defendant.)	

OPINION, MEMORANDUM AND ORDER

This matter is before the Court on cross motions to enforce the parties’ settlement agreement. Each party opposes the other’s motion. The Court conducted a hearing on December 13, 2016. For the following reasons, the Court will grant defendant’s motion and deny plaintiff’s motion.

Background

On July 8, 2014, plaintiff filed a Complaint alleging violations of the Missouri Merchandising Practices Act. The claims arise out of plaintiff’s participation in Defendant’s Master’s Degree Program in the Department of International Relations at Defendant’s campus in Geneva, Switzerland.

Pursuant to this Court’s Order, the parties attended mediation on January 25, 2016. Mediation continued through the morning of January 26, 2016. Both sides were represented by counsel. Both sides agree that the parties engaged in

mediation of the suit, and reached an agreement to resolve all issues in the suit. In her motion to enforce the settlement agreement, plaintiff argues that the term agreement fails to include certain items she claims were part of the settlement.

The parties agreed upon a Term Sheet, which would be formalized in a typewritten settlement agreement. The mediator advised the Court that this action had been settled. The Court vacated the trial setting, denied without prejudice any pending motions, and ordered the parties to file a stipulation for dismissal, a motion for leave to voluntarily dismiss, or a proposed consent judgment.

Plaintiff's counsel has withdrawn and plaintiff is now proceeding pro se. Apparently, plaintiff had a change of heart. Plaintiff states that some of the items which were agreed to are not part of the Term Sheet. Defendant submits the Term Sheet as the parties' agreement because plaintiff continued to attempt to add language in the formal settlement agreement that defendant submitted to her.

Discussion

“The district court has inherent power to enforce a settlement agreement as a matter of law when the terms are unambiguous,’ and in a diversity case, the settlement agreement is construed according to state law. *Barry v. Barry*, 172 F.3d 1011, 1013 (8th Cir. 1999). In Missouri, interpreting a settlement or release agreement is a question of law, and the agreement is ‘interpreted according to the same principles that govern the interpretation of any other type of contract.’ *Parks*

v. MBNA Am. Bank, 204 S.W.3d 305, 311 (Mo. Ct. App. 2006). Courts must ‘ascertain the intention of the parties and . . . give effect to that intention.’ Id. (internal marks omitted).” Harper Enters., Inc. v. Aprilia World Service USA, Inc., 270 F. App’x 458, 460 (8th Cir. 2008). (unpublished per curiam). “Additionally, in Missouri, the party attacking a release or settlement ‘bears the burden of showing that the contract he has made is tainted with invalidity, either by fraud practiced upon him or by a mutual mistake under which both parties acted.’ Cameron v. Norfolk & W. Ry., 891 S.W.2d 495, 499 (Mo. Ct. App. 1994).” Id.

Here, both parties seem to agree that they entered into a valid and enforceable settlement agreement. Plaintiff’s motion to enforce the agreement states some of the terms on which the parties agreed are absent from the Term Sheet.

Plaintiff signed the Term Sheet and she has not alleged any facts that would require the Court to rescind the agreement. She has not proved the agreement was “tainted with invalidity.” Harper Enters., Inc., 270 F. App’x at 600. Nor has she presented any evidence of any fraud or mistake. Her reasons for attempting to back out of the settlement agreement is that she wants to add certain obligations to the settlement of which the parties did not agree.

Based on defendants’ motion and the exhibits thereto (filed under seal), the Court finds the parties entered into a valid settlement agreement under Missouri

law. See *Bath Junkie Branson, LLC v. Bath Junkie, Inc.*, 528 F.3d 556, 561 (8th Cir. 2008). The parties to the agreement were competent, there was legal consideration, mutuality of agreement, and mutuality of obligation. *Id.*

Plaintiff has not met her burden to rescind the Term Sheet and her motion will be denied. The Court will grant defendants' motion to enforce the settlement agreement.

IT IS HEREBY ORDERED that plaintiff's motion to enforce settlement is **DENIED**.

IT IS FURTHER ORDERED that defendants' motion to enforce the settlement agreement is **GRANTED**.

IT IS FURTHER ORDERED that counsel shall file, within thirty (30) days of the date of this order unless an extension is granted, a stipulation for dismissal, a motion for leave to voluntarily dismiss, or a proposed consent judgment. **Failure to comply timely with this order will result in the dismissal of this action with prejudice.**

Dated this 10th day of April, 2017.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE