

NOT DESIGNATED FOR PUBLICATION

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2011 CA 2077

TONY CHANEY

VERSUS

NEW ORLEANS PRIVATE PATROL AKA LOUISIANA
PRIVATE PATROL AND LOUIS S. GURVICH, JR. OWNER

Judgment rendered June 8, 2012.

Appealed from the
19th Judicial District Court
in and for the Parish of East Baton Rouge, Louisiana
Trial Court No. 601,571
Honorable William A. Morvant, Judge



TONY CHANEY
BATON ROUGE, LA

JOHN W. WATERS, JR.
NEW ORLEANS, LA

PLAINTIFF-APPELLANT
PRO SE

ATTORNEY FOR
DEFENDANTS-APPELLEES
NEW ORLEANS PRIVATE
PATROL A/K/A LOUISIANA
PRIVATE PATROL AND LOUIS
S. GURVICH, JR. OWNER

BEFORE: PETTIGREW, McCLENDON, AND WELCH, JJ.

PETTIGREW, J.

In this case, plaintiff, Tony Chaney, filed suit against his former employer, New Orleans Private Patrol and Louis S. Gurvich, Jr. (collectively "NOPP"), alleging that NOPP breached La. R.S. 23:631 by failing to pay him within three days after his last day of work and that NOPP improperly withheld \$30.00 from his final paycheck. He also made a claim for penalties, costs, and attorney fees. Although Chaney eventually conceded that he did not have a valid claim under La. R.S. 23:631, the parties disagreed about Chaney's claim arising from the \$30.00 that NOPP withheld from his paycheck.

According to the record, the parties reached a settlement whereby on June 22, 2011, NOPP offered to pay Chaney \$30.00 and pay \$383.38 in court costs incurred to date in exchange for full and final settlement of all the claims asserted by Chaney in his petition. On June 24, 2011, Chaney accepted the offer in writing. However, once presented with the Motion to Dismiss and Release Agreement, Chaney refused to comply, responding in a July 7, 2011 letter "that the amount of the suit is \$412.82" and that the "19th Judicial District Court has refused to consider dismissing this matter until payment is rendered." Then, on July 13, 2011, Chaney filed a motion for default judgment against NOPP, without any notice to NOPP. After learning of the default proceedings, NOPP immediately filed an answer to protect its rights. Thereafter, on August 2, 2011, NOPP filed a Motion To Enforce Settlement And For Sanctions. Chaney subsequently filed a motion to amend his petition, seeking certification of class status for all employees adversely affected by the alleged illegal employment practices of NOPP.

These matters proceeded to hearing on September 12, 2011, at which time evidence was introduced and the motion to enforce settlement was argued by the parties. Referencing La. Civ. Code arts. 3071 and 3072, the trial court found as follows:

I've got a June 22, 2011, offer to settle, setting forth the terms of the settlement. June 24, Mr. Chaney responds in writing: I agree to the stipulated terms. As of that point, you've got a valid compromise and settlement reached by the parties to settle the matter for \$30 plus court costs. The Court is going to grant the motion to enforce the settlement. The settlement will be resolved under the terms agreed to by the parties, the \$30 plus court costs as of the date of settlement. I am not going to make the defendant responsible for the costs of filing the motion to enforce the settlement. I'm likewise going to decline your request for sanctions

against Mr. Chaney. I don't think that his action rises to the level of either 863 or any other sanctionable offense. But I will order that this matter be compromised, settled pursuant to the terms of the agreement, and that the matter will be dismissed with prejudice. Having done that, the Court is going to deny any motion to amend because it is now moot based on the fact that this matter has been terminated by settlement agreement.

A judgment in accordance with the trial court's findings was signed on September 29, 2011. This appeal by Chaney followed. The sole issue for our review is whether the trial court erred in enforcing the settlement agreement between the parties.¹

In reviewing the judgment of the trial court, we apply the manifest error standard of review. The trial court made a factual determination that a contract existed between the parties when the court ruled on the motion to enforce settlement agreement. Thus, we apply the manifest error or clearly wrong standard. **Howard v. Louisiana Citizens Property Ins. Corp.**, 2010-1302, pp. 2-3 (La. App. 4 Cir. 4/27/11), 65 So.3d 697, 699.

Appellate courts review findings of fact made by the trial court judge using the manifestly erroneous or clearly wrong standard of review. **Rosell v. ESCO**, 549 So.2d 840, 844 (La. 1989). "[W]here there is conflict in the testimony, reasonable evaluations of credibility and reasonable inferences of fact should not be disturbed upon review, even though the appellate court may feel that its own evaluations and inferences are as reasonable." *Id.* "Where there are two permissible views of the evidence, the [fact finder's] choice between them cannot be manifestly erroneous or clearly wrong." *Id.*

Louisiana Civil Code article 3071 provides: "A compromise is a contract whereby the parties, through concessions made by one or more of them, settle a dispute or an uncertainty concerning an obligation or other legal relationship." Louisiana Civil Code article 3072 provides: "A compromise shall be made in writing or recited in open court, in which case the recitation shall be susceptible of being transcribed from the record of the proceedings." Louisiana Civil Code article 3082 provides: "A compromise may be

¹ On appeal, Chaney also argues the merits of class certification. As Chaney's motion to amend his petition was denied by the trial court, and because we find no error by the trial court in its judgment granting the motion to enforce the settlement between the parties and dismissing, with prejudice, Chaney's claims against NOPP, we need not reach the issue of class certification in the instant appeal.

rescinded for error, fraud, and other grounds for the annulment of contracts. Nevertheless, a compromise cannot be rescinded on grounds of error of law or lesion."

According to the cited civil code articles and jurisprudence, for a settlement agreement to be valid and enforceable, it must either be recited in open court and capable of being transcribed from the record of the proceeding or be in writing and signed by the parties or their agents. *See Sullivan v. Sullivan*, 95-2122, p. 4 (La. 4/8/96), 671 So.2d 315, 317-318. Not only does the party seeking to nullify a settlement agreement bear the burden of proof but the law strongly favors compromise agreements between parties. Courts will not invalidate such settlements absent a strong showing that they violate good morals or the public interest because of error, bad faith, or fraud. *City of Baton Rouge v. Douglas*, 2007-1153, p. 5 (La. App. 1 Cir. 2/8/08), 984 So.2d 746, 749, writ denied, 2008-0939 (La. 6/20/08), 983 So.2d 1284.

Applying the law to the facts of this case, we conclude that the agreement between the parties was a valid compromise, which, as correctly pointed out by the trial court, was put in writing by the parties. There is absolutely no evidence of bad faith, fraud, error, or duress on the part of any of the parties, the attorneys, or the trial court. We conclude that the record does not demonstrate that the trial court was manifestly erroneous in granting NOPP's motion to enforce settlement. Thus, we affirm the trial court's September 29, 2011 judgment and issue this memorandum opinion in accordance with Uniform Rules--Courts of Appeal, Rule 2-16.1B. All costs associated with this appeal are assessed against plaintiff-appellant, Tony Chaney.

AFFIRMED.