

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A20-1510**

Danielle DePietto,
Appellant,

vs.

Sarah Schrantz,
Respondent,

Patrick Whelan,
Respondent,

Muddy Waters, LLC,
Defendant.

**Filed August 9, 2021
Affirmed
Larkin, Judge**

Hennepin County District Court
File No. 27-CV-16-8426

Danielle DePietto, Shorewood, Wisconsin (pro se appellant)

Richard C. Landon, Kristin M. Stock, Lathrop GPM LLP, Minneapolis, Minnesota (for respondents)

Muddy Waters, LLC, Minneapolis, Minnesota (defendant)

Considered and decided by Reyes, Presiding Judge; Larkin, Judge; and Bjorkman,
Judge.

NONPRECEDENTIAL OPINION

LARKIN, Judge

Appellant challenges the district court's enforcement of the terms of a settlement agreement that she entered into with respondents, her former business partners. We affirm.

FACTS

Appellant Danielle DePietto and respondents Sarah Schrantz and Patrick Whelan were equal owners of Muddy Waters, LLC, a Minneapolis bar and restaurant. Conflicts arose concerning the operation of the business. In 2016, DePietto filed suit against respondents and Muddy Waters.

At a hearing in 2018, the parties resolved the case with a settlement agreement and placed the terms of the agreement on the record orally. The parties agreed to sell the business and divide the proceeds. They also agreed to submit two issues to the district court for binding decisions: whether DePietto was entitled to compensation for payments made by Muddy Waters for respondents' legal fees and whether DePietto was entitled to compensation for payments made by Muddy Waters for respondents' health insurance.

After DePietto's attorney summarized the agreement on the record, counsel for respondents stated, "with respect to the second layer of the settlement which is the legal fees and health insurance issues, after decision on that," any money owed "will come from the proceeds of the shares" that respondents "will receive from the sale of Muddy Waters." DePietto did not object to that aspect of the settlement. The parties agreed that the district court would issue a binding order addressing the two unresolved issues and that its determination would not be appealable. The district court placed DePietto under oath, and

she stated that she had voluntarily entered into the settlement agreement and that she understood its terms.

The district court ruled that DePietto was entitled to compensation for the legal fees paid by Muddy Waters for the benefit of respondents but that she was not entitled to compensation for the health-insurance payments. The court reasoned that the payments for legal fees constituted “disbursements paid to all shareholders except DePietto” and that DePietto was “entitled to an equal distribution.” The court determined that DePietto was entitled to \$25,734.66 in compensation. The court’s order stated that the money “shall be paid to [DePietto] out of the shares due [respondents] from the sale of Muddy Waters.”

The parties were unable to sell Muddy Waters, and the business ultimately closed. In June 2020, DePietto moved for entry of judgment against respondents, arguing that they were obligated to pay her \$25,734.66 under the court’s earlier order. The district court determined that because DePietto agreed to receive any court-ordered compensation from the Muddy Waters sales proceeds and Muddy Waters had not sold, DePietto was not entitled to a “judgment jointly and severally” against respondents. The district court denied DePietto’s motion and dismissed the matter with prejudice. DePietto appeals.

DECISION

Generally, “[s]ettlement of claims is encouraged as a matter of public policy.” *Voicestream Minneapolis, Inc. v. RPC Props., Inc.*, 743 N.W.2d 267, 271 (Minn. 2008). This court reviews the interpretation of a settlement agreement de novo. *Curtis v. Altria Grp., Inc.*, 813 N.W.2d 891, 898 (Minn. 2012). “A settlement agreement is a contract,” and we “examine[] the language of the agreement to determine the intent of the parties.”

Id. at 901. When a settlement agreement is unambiguous, we “give effect to the [agreement’s] plain and ordinary meaning.” *In re Crablex, Inc.*, 762 N.W.2d 247, 255 (Minn. App. 2009), *review denied* (Minn. Apr. 29, 2009).

I.

DePietto contends that the district court erred by failing to require the parties to reduce their settlement agreement to writing, arguing that the lack of a writing allowed respondents “to disregard their obligations of the settlement.” DePietto does not offer legal argument or legal authority supporting her assignment of error. An unsupported assignment of error based on mere assertion will not be considered on appeal unless prejudicial error is obvious. *Balder v. Haley*, 399 N.W.2d 77, 80 (Minn. 1987).

Generally, a settlement agreement need not be in writing and will be enforced if the elements of a valid contract are present: a definite offer, acceptance, and a meeting of the minds regarding the essential terms. *Jallen v. Agre*, 119 N.W.2d 739, 742-43 (Minn. 1963). Given the record created at the settlement hearing, we do not discern obvious error meriting further consideration of DePietto’s argument that the district court erred by failing to require the parties to reduce their settlement agreement to writing.

II.

DePietto contends that respondents’ failure to pay the \$25,734.66 in “restitution” violates the settlement agreement and that nothing in that agreement or the district court’s order indicated that the payment “was contingent upon a sale of the business.”

As a threshold matter, respondents contend that DePietto waived her right to challenge the district court’s determination regarding compensation for the legal fees.

Generally, a party may waive the right to appeal. For example, in *Ruzic v. City of Eden Prairie*, this court upheld a party's waiver of a statutory right to appeal a property assessment. 479 N.W.2d 417, 418-20 (Minn. App. 1991). However, the extent of an appeal waiver is dependent on the language of that waiver, and some appeal waivers leave "many types of claims unwaived." *Garza v. Idaho*, 139 S. Ct. 738, 744 (2019).

DePietto waived the right to appeal the district court's decision regarding whether she was entitled to compensation. DePietto raises a different issue in this appeal: whether she can obtain the resulting court-ordered compensation even though the business was not sold. Because that issue is distinguishable, it is properly before us.

When the terms of the settlement agreement were placed on the record at the settlement hearing, respondents' counsel clearly stated that if the district court determined that DePietto was entitled to compensation, the compensation would come from the proceeds from the sale of Muddy Waters. DePietto contends that she did not agree to that term, but the record refutes her assertion. DePietto was present at the hearing and did not object to respondents' statement that any compensation would be paid from the business-sale proceeds. And DePietto informed the district court that her participation in the settlement was voluntary and that she understood the settlement terms. In fact, her memorandum and proposed order to the district court regarding the two disputed issues requested an order directing that the money owed to her be paid with the proceeds from the sale of Muddy Waters.

"When the relevant facts are undisputed, the existence of mutual assent is a legal question that we review de novo." *SCI Minn. Funeral Servs., Inc. v. Washburn-McReavy*

Funeral Corp., 779 N.W.2d 865, 873 (Minn. App. 2010), *aff'd*, 795 N.W.2d 855 (Minn. 2011). Whether mutual assent exists is tested under an objective standard. *Cederstrand v. Lutheran Bhd.*, 117 N.W.2d 213, 221 (Minn. 1962). A manifestation of mutual assent may be inferred wholly from the conduct of the parties. *Hy-Vee Food Stores, Inc. v. Minn. Dep't of Health*, 705 N.W.2d 181, 186 (Minn. 2005). Here, the record establishes that DePietto agreed that any compensation to which she was entitled would be paid from the sale of Muddy Waters. Thus, the district court did not err by enforcing that unambiguous settlement term and denying DePietto's request for an alternative source of compensation.

Affirmed.