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**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1765**

In re: the Trust Agreement of Eugene L. Johnson u/t/a dated December 22, 2008
In re: the Eugene L. Johnson Irrevocable Trust B.

**Filed June 11, 2018
Affirmed
Jesson, Judge**

Hennepin County District Court
File Nos. 27-TR-CV-12-73, 27-TR-CV-16-30

Bradley C. Johnson, Chanhassen, Minnesota (pro se appellant)

James F. Baldwin, Cindy J. Ackerman, Moss & Barnett A Professional Association,
Minneapolis, Minnesota (for respondents Donna Mae Johnson, Peggy J. Bleskacek,
Rodney D. Johnson, and James G. Johnson)

Considered and decided by Peterson, Presiding Judge; Kirk, Judge; and Jesson,
Judge.

UNPUBLISHED OPINION

JESSON, Judge

In this trust dispute, respondents filed a petition to remove appellant Bradley Johnson as a co-trustee on the grounds that he was uncooperative, acted against the interest of the trust, and harassed the other co-trustees. The district court ordered the parties to engage in mediation, and they reached an agreement where Bradley would resign as co-trustee in return for a payment of money. After the district court approved the settlement, Bradley filed a petition to void it on numerous grounds, ranging from duress to allegations

that the district court and respondents were conspiring to further criminal activity. The district court denied the petition and directed the parties to comply with the mediated settlement agreement. We affirm.

FACTS

Respondent Donna Mae Johnson and Eugene L. Johnson were married and had four children: respondents Peggy Bleskacek, Rodney Johnson, James Johnson, and appellant Bradley Johnson.¹ During their marriage, Donna Mae and Eugene established a revocable trust, where Eugene was the lone trustee and Donna Mae and the children were the beneficiaries. Eugene appointed the children as successor trustees. In May 2011, Eugene passed away.

Following his death, the family and trust have been troubled with interfamily litigation. In 2012, Bradley filed a petition for instructions on trust property interests, arguing the trust had a property interest in a parcel of land that respondents argued belong solely to Donna Mae. Following a determination that the trust did not have an interest in the property, the parties appealed to this court arguing over attorney fees.² And in separate actions, judgments were entered in favor of the Estate of Eugene Johnson against Bradley for approximately \$786,000, and in favor of Donna Mae against Bradley for approximately \$221,000.³

¹ While Karol M. Johnson signed the notice of appeal to this court, she was not a party in the district court proceedings and is not a party on appeal.

² For more background on the trust and the prior appeal, see *In re Tr. Agreement of Johnson*, No. A14-2110, 2015 WL 4715341 (Minn. App. Aug. 10, 2015).

³ Both of these judgments were the result of breach-of-contract claims.

Following these disputes, respondents filed a petition seeking to remove Bradley as a co-trustee. The petition alleged that Bradley “embarked upon a pattern of behavior to impede the administration of the Trust and harass [respondents], their professional advisors and financial institutions holding trust assets.” The petition detailed Bradley’s failure to cooperate with respondents in regards to the administration of the trust, in addition to communications Bradley had with the trust’s financial institution where he demanded money and accused it of fraud. In response, Bradley filed a petition for attorney fees he incurred while serving as a trustee. This amounted to approximately \$1,000,000. Bradley also consistently accused the referee in probate court of bias and committing crimes and unsuccessfully attempted to have the referee recused. Subsequently, the district court ordered the parties to engage in mediation.

In March 2017, the parties engaged in mediation. The parties reached—and signed—a settlement agreement. The parties were all advised to seek legal advice before signing it. The agreement stated it was binding, and all “parties agree[d] to mutually release each other, their agents, officers, and employees in full satisfaction of any and all claims, counter-claims, and cross claims, known or unknown, that they may have against each other.” Respondents agreed to pay Bradley \$800,000 and forebear the breach-of-contract judgments.⁴ In return, Bradley agreed to resign as co-trustee and to dismiss all objections to respondent’s petition to remove him as co-trustee. Bradley also agreed to

⁴ Bradley had the alternative option to receive \$700,000 and have the breach-of-contract judgments assigned to him, but he selected the other option.

“completely waive of any of [his] rights or interests of any kind now or in the future with respect to” the trust.

The following day, a hearing was held before the district court where the parties informed the court of the settlement agreement.⁵ Respondents’ attorney explained that they were “seeking approval of the agreement by the court in lieu of any other proceedings.” The court confirmed with the parties that the reached agreement was a global settlement of all issues relating to the trust. The district court then had this exchange with Bradley:

THE COURT: So, [Bradley], you have signed this mediated settlement agreement, correct?

[BRADLEY]: Yes.

THE COURT: And you are also asking that the court approve it?

[BRADLEY]: Yes.

There was some confusion over an edit to one of the items in the agreement, and the district court went off the record to make a correction. When the parties went back on record, this exchange occurred:

THE COURT: All right. [Bradley], you do approve of those corrections?

[BRADLEY]: Yes.

THE COURT: And anything else you wanted to tell me about your proposed order?

[COUNSEL FOR RESPONDENTS]: You know, other than that issue about the slight modification, I believe the rest of it is consistent with the mediated settlement.

⁵ A summary judgment hearing was originally scheduled for that day.

THE COURT: [Bradley], do you believe the proposed order is consistent with the mediated settlement?

[BRADLEY]: Yes. There's a couple of things that have to be taken care of but they are in there so it's consistent with that.

The district court then issued an order approving the settlement agreement.

But the next month, Bradley filed a petition to void or correct the order approving the settlement agreement. The petition stated:

The reasons for this Petition are acts by the Petitioners, their attorneys, the Courts, and the Mediator of Fraud, Criminal Conduct, Misrepresentation of Material Facts, Dishonesty, Collusion with the Mediator, Collusion with the Court to deny [Bradley] and [his children] an honest, fair and equitable settlement.

The petition accused the mediator of being biased against Bradley and of conspiring with respondents to commit crimes. The petition also stated Bradley did not have an opportunity to consult with an attorney before signing the agreement, he was forced to proceed pro se during the mediation, the settlement agreement was incomplete, he did not agree to some of the terms in the agreement, he did not agree with the corrections made to the agreement at the district court hearing, and the trust is being used to further criminal activity.

Following the petition, respondents filed a motion to compel settlement, which was subsequently granted. The district court found all of the parties entered into the agreement voluntarily and there was "no evidence of error, mistake, fraud, or other reason to void or correct the Court's Order Approving Mediated Settlement Agreement."

This appeal follows.

DECISION

Bradley contends that, because of a multitude of reasons, the district court abused its discretion by granting the motion to compel settlement and declining to vacate the settlement agreement. Settlement agreements are favored by law, and are enforced “absent fraud or collusion, mistake, or such an improvident agreement that it ought not to stand in equity and good conscience.” *Jallen v. Agre*, 264 Minn. 369, 373, 119 N.W.2d 739, 742-43 (1963). We review a district court’s refusal to vacate a settlement for an abuse of discretion. *Johnson v. St. Paul Ins. Co.*, 305 N.W.2d 571, 573 (Minn. 1981). We first address whether the parties reached a binding settlement agreement and we then address Bradley’s arguments that the settlement agreement should be vacated.

For a mediated settlement agreement to be binding, the agreement must state: (1) it is binding; (2) the mediator has no duty to protect any of the parties’ interests; (3) the settlement may adversely affect parties’ rights; and (4) the parties should consult legal counsel before signing it if uncertain of their rights. Minn. Stat. § 572.35, subd. 1(1) (2016).⁶

Here the parties engaged in mediation and reached a written settlement agreement. The agreement stated it was binding, that the mediator had no duty to protect any of the parties’ interests, that the settlement agreement may adversely affect the parties, and that the parties should consult with an attorney if they were uncertain of their rights. The agreement complied with the requirements of Minnesota Statutes section 572.35, and as a

⁶ Alternatively, the parties can be advised of these conditions instead of including them in the written settlement agreement. Minn. Stat. § 572.35, subd. 1(2) (2016).

result, was binding. Furthermore, at the hearing seeking approval of the settlement before the district court, the parties stated the settlement agreement was accurate and that it resolved all of the issues related to the parties. The court therefore acted within its discretion in approving the settlement agreement.

But Bradley contends that the settlement agreement should be vacated because of several defenses to contract enforcement: duress, fraud, and criminal activity. Bradley argues that he reached the settlement agreement under duress, because he was only at mediation because he was pursuing, as damages, legal fees that he believed were rightfully his. We disagree. A party cannot claim the fact that they are seeking damages as grounds for duress during mediation, as this would necessarily void most settlement agreements. Furthermore, Bradley fails to explain how this would fit Minnesota's definition of duress. *See St. Louis Park Inv. Co. v. R.L. Johnson Inv. Co.*, 411 N.W.2d 288, 291 (Minn. App. 1987) (stating duress requires coercion by means of physical force or unlawful threats that destroy one's free will), *review denied* (Minn. Oct. 30, 1987). Nor does Bradley's conclusory allegation that the agreement should be void because the mediation process was fraudulent provide a contract defense. His argument in this regard contains no legal arguments nor legal authorities, and we deem it waived. *See Fannie Mae v. Heather Apartments Ltd. P'ship*, 811 N.W.2d 596, 600 n.2 (Minn. 2012). Because there are no valid contract defenses, the district court did not abuse its discretion by declining to vacate the settlement agreement.

Bradley further argues that the settlement agreement should be invalidated because he was not represented during the mediation and because he was not given an opportunity

to consult with an attorney before signing the agreement. This is contradicted by the record. The settlement agreement stated that if he had any uncertainties about his rights, he should consult with an attorney before signing the settlement agreement. Despite this, Bradley signed the agreement and attested to agreeing with it at a hearing. The district court therefore did not abuse its discretion by declining to vacate the settlement agreement due to Bradley's lack of legal representation.

In addition, Bradley contends that the settlement agreement should be invalidated because the hearing—where the parties sought approval of the agreement—was scheduled to be solely about summary judgment arguments. We are not persuaded that this should stand in the way of the agreement being enforced. While the hearing was not scheduled for purposes of approving a settlement agreement, this was understandable as the parties reached the agreement only a day before the hearing. Despite this change of purpose, Bradley stated that he sought approval of the settlement agreement at the hearing. And Bradley fails to cite to any legal authorities suggesting that a hearing must explicitly be scheduled for the purpose of approving a settlement agreement for it to satisfy that purpose.⁷ This argument therefore does not establish that the district court abused its discretion by declining to vacate the settlement agreement.

Finally, Bradley sets forth several arguments that are either unsupported by the record, or are unsupported by any legal reasoning or legal authorities. Bradley contends

⁷ Additionally, this argument does not appear in Bradley's petition to void the settlement agreement at the district court level, and therefore is forfeited. *See Thiele v. Stich*, 42 N.W.2d 580, 582 (Minn. 1988) (stating that appellate courts do not address issues raised for the first time on appeal).

that the mediator and district court were biased against him. There is nothing in the record to indicate this. Similarly, he argues that the settlement agreement presented to the court was incomplete. But the record shows that he signed the agreement and stated at the hearing that the settlement agreement was consistent with the proposed order. Bradley also contends that the district court lacked jurisdiction to preside over the case because it failed to timely send a notice of judicial assignment. However, Bradley fails to explain how this potential deficiency would rise to a jurisdictional issue, nor does he provide any legal authorities to support his argument. Because none of these arguments are supported, the district court did not abuse its discretion by declining to vacate the settlement agreement.

Affirmed.