

Dated: March 05, 2026
The following is ORDERED:



A handwritten signature in black ink, appearing to read "M. Ruthie Hagan".

M. Ruthie Hagan
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

In re:
Tonny Durell Payton,
Debtor.

Case No. 25-21549
Chapter 13

**OPINION AND ORDER GRANTING MOVANT’S MOTION TO ENFORCE
SETTLEMENT AGREEMENT**

This matter came before the Court on the Motion to Enforce Settlement Agreement (“Motion”) filed by Jamal Afana and Auto Surgeon, LLC (collectively “Movant”) [DE 47] seeking entry of an order enforcing a settlement agreement announced at a hearing in this Court on August 27, 2025, and Tonny Durell Payton’s Response in Opposition thereto. [DE 55] Movant also filed a Memorandum of Law in Support of the Motion [DE 56], and a final hearing was held on January

14, 2026, where, upon reviewing the relevant supporting documentation, hearing arguments of counsel, and testimony of witnesses, the Court took the matter under advisement.

JURISDICTION

This is a core proceeding under 28 U.S.C. § 157(b)(2)(A), (B), (C) and (K). Accordingly, the Court has both the statutory and constitutional authority to hear and determine these proceedings subject to the statutory appellate provisions of 28 U.S.C. § 158(a)(1) and Part VIII (“Bankruptcy Appeals”) of the Federal Rules of Bankruptcy Procedure. This decision constitutes the Court's findings of fact and conclusions of law under FED. R. CIV. P. 52, made applicable to this contested matter by FED. R. BANKR. P. 9014 and 7052. Regardless of whether specifically referred to in this decision, the Court has examined the submitted materials, considered statements of counsel, considered all of the evidence, and reviewed the entire record of the case. Based upon that review, and for the following reasons, the Court hereby determines that Movant’s Motion is granted.

DISCUSSION OF BACKGROUND FACTS AND PROCEDURAL HISTORY OF THE CASE

Based on the record before it, the Court finds the pertinent facts as follows. Debtor filed his Chapter 13 Voluntary Petition on March 25, 2025. [DE 1] Prior to the commencement of this case, on February 14, 2023, Debtor took his 2002 GMC Yukon (“Vehicle”) to Movant to diagnose a problem he had been experiencing with the vehicle. [DE 55 and 56] A dispute arose as to what repairs and payments were agreed to be made. [DE 55 and 56] This dispute led Debtor to file two lawsuits against Movant in General Sessions Court for Shelby County: one for monetary damages and the other for the return of the vehicle. [DE 56] These cases both resulted in verdicts in favor of Debtor and were appealed by Movant to Shelby County Circuit Court: #CT-4052-24 and #CT-

4274-24 (collectively “State Court Cases”). [DE 47, 55 and 56] These cases are now pending before that court and subject to trial de novo. [DE 56]

Debtor filed a Motion for Turnover of Tangible Personal Property on April 30, 2025. [DE 20] A hearing on that Motion, and Creditor-Movant’s Response, [DE 26] was heard by this Court on May 21, 2025, and an Order Granting Motion for Turnover of Tangible Property was entered on May 27, 2025. [DE 29] Movant subsequently filed a proof of claim on May 29, 2025 in the amount of \$5,893.51 for vehicle repairs and a garage keeper’s lien under Tenn. Code Ann. § 66-19-103. [Claim No. 7-1] Debtor filed an Objection to Claim No. 7 the next day, May 30, 2025, asserting that the Court should disallow the claim in full. [DE 33] The Court held a hearing on the objection to claim on August 27, 2025.

At the hearing, Debtor was the only person to testify; however, his testimony was not completed because the parties sought to pause the hearing to engage in settlement discussions.¹ The Court recessed the hearing to permit negotiations, and counsel conferred in chambers. Following those discussions, and communicating with their respective clients, counsel represented to the Court that the parties had reached an agreement resolving the Objection to claim and the two related State Court Cases. [DE 47, 55 and 56] At the hearing, both parties characterized this representation as an announcement to the Court that a settlement had been reached. [DE 47, 55 and 56] The material terms disclosed to the Court in chambers were that Movant would withdraw Claim No. 7, and Debtor would dismiss the State Court Cases with prejudice (“Settlement Agreement”). [DE 47] Following counsels’ representation that a settlement had been reached, the Court did not resume the evidentiary hearing on the Objection to claim and marked the contested matter as settled.

¹ This Court notes that not only did Debtor fail to complete his testimony and argument, but Movant did not present its case or witness, who was present, at all.

Shortly after the hearing on Debtor's objection to claim, Movant's counsel exchanged documents with Debtor's counsel, including a proposed Consent Order on Objection to Claim that set forth the terms of the Settlement Agreement, a proposed Order Withdrawing Objection to Confirmation, and two proposed consent orders dismissing the two State Court Cases with prejudice. [DE 56, Ex. A] Debtor's counsel returned two of the orders with revisions described in Debtor's Memorandum as "mostly as to form and grammar." [DEs 55; and 56 Ex. A] On October 15, 2025, counsel for the parties conferred regarding the status of the proposed settlement orders. [DE 56, Ex. A] On October 16, 2025, Debtor's counsel informed Movant's counsel that Debtor would not execute the settlement documents and intended to pursue the State Court Cases. [DE 56, Ex. A] Debtor's Memorandum states, "when this attorney contacted Debtor to come into the office to sign the Orders[,] he informed this attorney that he would not sign the settlement agreement because he did not agree to settle the matter." [DE 55] Movant subsequently filed the Motion to Enforce Settlement Agreement presently before the Court on October 27, 2025. [DE 47]

At the January 14, 2026 hearing on the Motion, Debtor testified that after recovering the Vehicle on May 29, 2025, he had the Vehicle towed to an auto dealership for a diagnostic test. *See also* [DE 55] Debtor testified that the diagnostic attributed the Vehicle's continued "jerking" to an injector fault and other related components rather than the transmission.² [DE 55] Debtor stated that the dealership only performed a diagnostic test and oil change, and that the Vehicle is drivable, albeit with intermittent issues.³

On cross examination, Debtor testified that Marcelle Z. Nia ("Ms. Nia") is his counsel in this case and does indeed represent him. Debtor further stated that his counsel "thought she had an

² The parties dispute both the condition of the Vehicle and whether Movant properly repaired it. That dispute is not before the Court. The sole issue is whether parties entered into an enforceable settlement agreement.

³ At the hearing on the objection to claim, Debtor testified that the Vehicle was not drivable.

agreement” at the hearing on the objection to claim and that he was not saying that his counsel was wrong. Debtor then testified that although his counsel discussed the matter with him following the conference in chambers, he claims he never made an agreement at the August 27, 2025 hearing on the objection to claim. In Debtor’s Memorandum in Opposition, he stated he “was willing to settle the matter and walk away after the turnover of the [V]ehicle if the [V]ehicle had been repaired.” [DE 55] Debtor had recovered the Vehicle on May 29, 2025, approximately three months prior to the August 27, 2025 hearing on the objection to claim and the parties’ announcement of the Settlement Agreement.

It is against this factual background that the Court turns to its analysis of the issues presented.

LAW AND ANALYSIS

The issue before the Court is whether the parties entered into an enforceable settlement agreement on August 27, 2025. Movant seeks enforcement of that agreement and an award of attorney’s fees. Debtor contends that no binding agreement was formed.

Enforceability of the Settlement Agreement

A settlement agreement is a type of contract, and therefore its enforceability is determined by principles of contract law. *Bamerilease Cap. Corp. v. Nearburg*, 958 F.2d 150, 152 (6th Cir. 1992) (citing *Hageman v. Signal L.P. Gas, Inc.*, 486 F.2d 479, 487 (6th Cir. 1973)); see *Kokkonen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 371–82 (1994). Accordingly, the determination of whether a settlement agreement is a valid contract is governed by “state substantive law.” *Bamerilease*, 958 F.2d at 152 (quoting *White Farm Equip. Co. v. Kupcho*, 792 F.2d 526, 529 (5th Cir. 1986)); *Kloeber, Jr. v. Montanari (In re Montanari)*, 541 B.R. 420, 425 (Bankr. E.D. Tenn. 2015) (citation omitted); accord *Waddle v. Elrod*, 367 S.W.3d 217, 222 (Tenn. 2012) (citations

omitted) (“A settlement agreement made during the course of litigation is a contract between the parties, and as such, contract law governs disputes concerning the formation, construction, and enforceability of the settlement agreement.”).

Under Tennessee law, “courts retain the inherent power to enforce agreements entered into in settlement of litigation pending before them, and this power exists even if the parties’ agreement has not been reduced to writing.” *Edmonson v. Wilson*, No. E2010-02215-COA-R3-CV, 2011 WL 6147014, at *3 (Tenn. Ct. App. Dec. 9, 2011) (citation modified) (quoting *Bennecker v. Fickeissen*, No. E2004-02129-COA-R3-CV, 2005 WL 3017609, at *3 (Tenn. Ct. App. Nov. 10, 2005)); accord *Bostick Foundry Co. v. Lindberg, a Div. of Sola Basic Indus., Inc.*, 797 F.2d 280, 282–83 (6th Cir. 1986) (collecting cases). This inherent power operates within the framework of general contract law. So, while settlement agreements need not be reduced to writing in most circumstances, they remain subject to generally applicable contract principles and evidentiary limitations. *E.g.*, *Waddle*, 367 S.W.3d at 222–23 (acknowledging some settlement agreements may be subject to the Statute of Frauds); *Ledbetter v. Ledbetter*, 163 S.W.3d 681, 685–86 (Tenn. 2005) (acknowledging that settlement agreements generally need not be in writing but declining enforcement of an oral mediation agreement where confidentiality and evidentiary rules governing mediation barred proof of its terms).

Although Tennessee law recognizes that settlements stated in open court in the presence of the parties are binding, the physical presence of the parties is not strictly required for enforceability. *Harvey v. Turner*, No. M2014-00368-COA-R3-CV, 2015 WL 1451702, at *4–5 (Tenn. Ct. App. Mar. 26, 2015) (citing *Env’t Abatement, Inc. v. Astrum R.E. Corp.*, 27 S.W.3d 530, 539–40 (Tenn. Ct. App. 2000)). Enforcement is also not precluded merely because an agreement was reached during a recess and not recited on the record. *See Edmonson*, 2011 WL

6147014, at *3 (citation modified) (“Adoption of a principle that settlement agreements are subject to attack because they were not placed upon the record places in unnecessary jeopardy the very concept of settlement and the process by which settlement of litigation is ordinarily achieved.”); *see Wallace & Wallace, Inc. v. Rosengreen*, No. 688, 1987 WL 5336, at *2 (Tenn. Ct. App. Jan. 16, 1987) (enforcing a settlement agreement where the court was merely informed of the agreement by counsel and the terms were not reduced to writing).

Under Tennessee law, a contract “must result from a meeting of the minds of the parties in mutual assent to the terms, must be based upon a sufficient consideration, free from fraud or undue influence, not against public policy and sufficiently definite to be enforced.” *Staubach Retail Servs.-Southeast, LLC v. H.G. Hill Realty Co.*, 160 S.W.3d 521, 524 (Tenn. 2005) (quoting *Doe v. HCA Health Servs. of Tenn., Inc.*, 46 S.W.3d 191, 196 (Tenn. 2001)). Consideration exists where a party undertakes an obligation it is not otherwise legally required to perform or refrains from exercising a legal right. *In re Brown*, 402 S.W.3d 193, 200 (Tenn. 2013) (citing *Brown Oil Co. v. Johnson*, 689 S.W.2d 149, 151 (Tenn. 1985)).

Here, the material terms under the Settlement Agreement were that Movant would withdraw Claim No. 7, and Debtor would dismiss the two State Court Cases with prejudice. These terms are sufficiently definite and capable of enforcement by the Court. Each party agreed to relinquish claims it had a legal right to pursue, which constitutes adequate consideration. There is no evidence of fraud, undue influence, or violation of public policy. Accordingly, the only disputed issue is whether the parties mutually assented to those terms.

The Court now turns to whether Debtor’s counsel possessed authority to bind Debtor and whether the parties mutually assented to the Settlement Agreement. Under Tennessee law, an attorney authorized to act on behalf of a client may bind the client by stating consent to a settlement

or otherwise agreeing to its terms. *Harvey*, 2015 WL 1451702, at *4-5 (citing *Env't Abatement*, 27 S.W.3d at 539-40). However, an attorney may only bind a client within the scope of the attorney's authority; an attorney cannot act contrary to the client's express instructions or outside the matters for which they were retained. *In re Ellis*, 822 S.W.2d 602, 607 (Tenn. Ct. App. 1991) (“[T]he existence and scope of a lawyer's authority to represent a client depends on the manner in which a client retains a lawyer in a particular case.”) (citation omitted).⁴ Accordingly, under Tennessee law, when an attorney authorized to represent a client in pending litigation announces a settlement to the court or otherwise conveys the client's assent to definite settlement terms, and the attorney acts within the scope of the attorney's actual or apparent authority, the agreement is binding and enforceable.⁵

Applying these principles to the facts of this case, the Court finds that Debtor's counsel acted within the scope of her authority. In *In re Estate of Ladd v. Marks*, 247 S.W.3d 628, 650 (Tenn. Ct. App. 2007), the record was ambiguous regarding the scope of the attorney's authority; he was retained as a “personal attorney,” but there was no evidence the client had delegated authority to enter into the agreement at issue. The only direct evidence actually suggested he was not authorized to advise or act on issues central to the agreement. *Id.* at 650–51. By contrast here, Debtor's counsel was retained to represent the Debtor in the Chapter 13 proceedings, including negotiation and resolution of claims and objections. During a recess at the August 27, 2025 hearing on the objection to claim, both parties' counsel conferred in chambers regarding settlement, each

⁴ As an agent, an attorney may bind a client when acting within the scope of actual or apparent authority. *Creative Rests., Inc. v. City of Memphis*, 795 S.W.2d 672, 679 (Tenn. Ct. App. 1990); *Bells Banking Co. v. Jackson Centre, Inc.*, 938 S.W.2d 421, 424 (Tenn. Ct. App. 1996) (citations omitted).

⁵ “If a contract for settlement is found to be valid, ‘[i]t is a universal rule in American jurisprudence that the courts will enforce settlement agreements.’” *Hensley v. Slattery*, No. E2023-01768-COA-R3-CV, 2025 WL 2803795, at *4 (Tenn. Ct. App. Oct. 2, 2025) (quoting *Wallace & Wallace*, 1987 WL 5336, at *2).

excusing themselves from chambers to speak to their respective clients, and thereafter represented to the Court that an agreement had been reached. Thus, the Court did not resume the evidentiary hearing on the objection to claim and marked the contested matter as settled on the Court's docket. Debtor testified that he recalled discussing the settlement with his counsel during the recess, though he maintained that he never made an agreement. Debtor also testified that Ms. Nia represented him, that she "thought she had an agreement" at the hearing, and that he was not claiming his counsel was wrong. Unlike in *Ladd*, the scope of Debtor's counsel's authority here was clear, and the Debtor did not restrict or revoke it. Accordingly, the Court finds that Debtor's counsel possessed actual authority to enter into the Settlement Agreement and to represent to the Court that a settlement had been reached.

Mutual assent is determined by the parties' objective manifestations, not their unexpressed subjective intent. *See Staubach*, 160 S.W.3d at 524. In assessing whether mutual assent has occurred, courts consider not only the words in the contract, but also "the situation, acts, . . . the conduct of the parties, and the attendant circumstances." *Grace v. Grace*, No. W2016-00650-COA-R3-CV, 2016 WL 6958887, at *3 (Tenn. Ct. App. Nov. 29, 2016) (quoting *McMahan v. McMahan*, No. E2004-03032-COA-R3-CV, 2005 WL 3287475, at *5 (Tenn. Ct. App. Dec. 5, 2005)). To the extent Debtor testified that no agreement was reached, the Court does not credit that testimony in light of Debtor's own statements acknowledging counsel's authority and reflecting his participation in the settlement process. In his Memorandum, Debtor asserts that he was "willing to settle the matter and walk away after the turnover of the [V]ehicle if the [V]ehicle had been repaired," and that although he paid for repairs, "no repairs were completed." [DE 55] Nevertheless, Debtor recovered the Vehicle on May 29, 2025—approximately three months before the August 27, 2025 hearing on the objection to claim. Thus, the condition of the Vehicle, and any

dissatisfaction regarding the repairs, were therefore known to Debtor at the time counsel represented that a settlement had been reached. Indeed, at the August 27, 2025 hearing, Debtor testified to his dissatisfaction of the condition of the Vehicle before the hearing was recessed and settlement negotiations took place. At the hearing on the Motion at bar, Debtor again testified that within a few days of recovering the Vehicle from Creditor on May 29, 2025, he discovered multiple issues with it and suspected Creditor never fixed the transmission. The record does not support the conclusion that Debtor's repudiation was based on newly discovered facts arising after the settlement was announced.

The attendant circumstances surrounding the announcement further support the existence of mutual assent. Although Debtor now asserts he was not willing to settle due to the condition of his Vehicle, the hearing was recessed for settlement negotiations and counsel represented to the Court that a settlement had been reached. The hearing was not completed, Debtor did not resume his testimony, and Movant did not present its witness. These circumstances and manifestations are inconsistent with the absence of an agreement. Accordingly, the Court finds that a meeting of the minds occurred, the parties mutually assented to the material terms of the Settlement Agreement, and the agreement is binding and enforceable.

REQUEST FOR ATTORNEY'S FEES

Movant also requests an award of attorney's fees incurred in filing and prosecuting the Motion to Enforce. Tennessee follows the American rule, under which "a party in a civil action may recover attorney fees only if: (1) a contractual or statutory provision creates a right to recover attorney fees; or (2) some other recognized exception to the American rule applies, allowing for recovery of such fees in a particular case." *Cracker Barrel Old Country Store, Inc. v. Epperson*, 284 S.W.3d 303, 308 (Tenn. 2009) (citations omitted). Movant has not pointed to any statutory or

contractual provision providing for an award of attorney's fees in this case, and the Settlement Agreement contains no fee-shifting provision. The Court finds no basis to depart from the American Rule. Accordingly, Movant's request for attorney's fees is denied.

CONCLUSION

Based on the facts presented and for the reasons stated above, the Court finds that the parties entered into a valid and enforceable Settlement Agreement on August 27, 2025. Accordingly, Movant's Motion to Enforce Settlement Agreement is **GRANTED**. Debtor shall execute all documents necessary to effectuate the Settlement Agreement within fourteen (14) days of entry of this Order.

Movant's request for attorney's fees is **DENIED**.

IT IS SO ORDERED.

The Bankruptcy Court Clerk shall serve a copy of this Opinion and Order on the following interested parties:

Tonny Durell Payton
1794 Eldridge Avenue
Memphis, TN 38108

Marcelle Z. Nia, Esq.
McElroy & Associates
200 Jefferson Ave., Suite 125
Memphis, TN 38103

Joseph D. Fox, Esq.
200 Jefferson Ave., Suite 125
Memphis, TN 38103

Steven N. Douglass, Esq.
40 S. Main Street, Suite 2700
Memphis, TN 38103

Jamal Afana

Auto Surgeon, LLC
4560 Kendall Rd.
Memphis, TN 38122

Jennifer K. Cruseturner, Esq.
Chapter 13 Trustee
5350 Poplar Ave, #500
Memphis, TN 38119

U.S. Trustee
Office of the U.S. Trustee
One Memphis Place
200 Jefferson Ave, Suite 400
Memphis, TN 38103