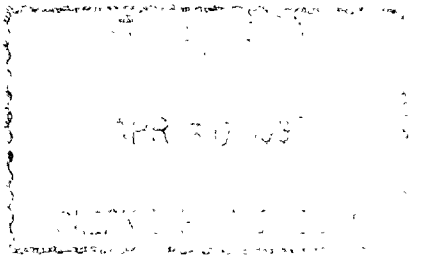
IN THE COURT OF APPEALS OF IOWA

No. 6-468 / 95-1532



MANAGEMENT SERVICES, INC., and HUMBOLDT NORTH CARE CENTER,
Plaintiffs-Appellants,

vs.

HELEN GROOM,
Defendant-Appellee.

Appeal from the Iowa District Court for Polk County, Donna L. Paulsen, Judge.

Management Services, Inc., and Humboldt North Care Center (hereinafter plaintiffs) appeal the district court's ruling denying their petition requesting specific performance. **AFFIRMED.**

Michael L. Mock and Steven M. Augspurger of Bradshaw, Fowler, Proctor & Fairgrave, P.C., Des Moines, for appellants.

Harry W. Dahl, Jr., Des Moines, for appellee.

Heard by Huitink, P.J., and Streit and Vogel, JJ.

STREIT, J.

Management Services, Inc., and Humboldt North Care Center (hereinafter Care Center) appeal the district court's ruling denying their petition requesting specific performance of an oral argreement to settle a workers' compensation claim. Care Center argues the parties had agreed to settle Helen Groom's claim when they had agreed on the essential terms of the settlement and the district court erred in finding otherwise and in denying their request for specific performance of the settlement agreement.

Groom was an employee of the Humboldt North Care Center when she sustained a back injury while lifting a patient. Care Center paid Groom's medical expenses and weekly disability benefits.

In November 1993, Mike Spellman, a claims representative for Management Services, Inc., telephoned Groom and offered her $8000 for full and final settlement of her workers' compensation claim. Spellman directed Groom to put her answer in writing. Groom complied.

Groom received the settlement papers but was dissatisfied with some of the terms and refused to sign. Instead, Groom retained an attorney and filed a petition for arbitration of her workers' compensation claim. Care Center then filed a petition requesting the court to order Groom to specifically perform the oral agreement to settle the claim.

The district court denied the Care Center's' petition. It found there had been no meeting of the minds during the oral negotiation of the settlement agreement, therefore, no valid contract was formed and specific performance was not an appropriate remedy. Care Center appeals.

Our scope of review of an action for specific performance is de novo. *Gildea v. Kapenis*, 402 N.W.2d 457, 459 (Iowa App.1987). In equity cases, especially when considering the credibility of witnesses, we give weight to the fact findings of the trial court, but we are not bound by them. *Id.* A party to an agreement to settle a workers' compensation claim may seek specific performance of the settlement.[1]

> The plaintiff's burden in a suit for specific performance is to prove by clear, satisfactory, and convincing evidence the terms of the contract declared upon in his or her pleadings. Specific performance of a contract is not a remedy which is available as a matter of right. Rather, its availability rests in the sound discretion of the court. When the terms of an agreement are definitely fixed so that nothing remains except to reduce them to writing, an oral contract will be upheld unless the parties intended not to be bound until the agreement was reduced to writing. In order to be binding, the settlement must be complete in itself and certain. An agreement to agree at some point in the future is

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[1] Iowa Code section 85.35 in pertinent part provides: "The parties to a contested case . . . may enter into a settlement of any claim arising under this chapter . . . providing for final disposition of the claim . . . . The settlement shall be in writing and submitted to the industrial commissioner for approval." In *Dillon v. City of Davenport*, 366 N.W.2d 918, 926 (Iowa 1985), the Supreme Court rejected the employer's contention that an oral settlement agreement must be in writing and signed by the parties before it becomes binding on the parties. The court further rejected the employer's claim that approval by the Industrial Commissioner is a condition precedent to a trial court's ordering specific performance of an oral agreement to settle. The court concluded that the decree which enforces the oral agreement requires the parties to execute their agreement so it may be tendered to the Commissioner for approval. *Id.*

> not binding. Whether preliminary negotiations actually ripened into an oral contract depends on the intention of the parties as gleaned from the facts of the case.

H & W Motor Exp. v. Christ, 516 N.W.2d 912, 913-914 (Iowa App. 1994) (citations omitted).

The district court found workers' compensation law was very complex. Groom was not represented by an attorney and was unsure what an equitable settlement of the case would be. The parties did not discuss at any duration or with specific detail Groom's rights to future medical care and the ramifications of waiving her rights. The settlement documents detailed these matters with sufficient clarity and Groom decided not to accept them after review. The court determined, since it was unclear whether Groom understood the terms of the settlement agreement, no valid contract could be formed.

We look to the intent of the parties at the time of the agreement to determine whether a contract was entered into. *See LaFontaine v. Developers & Builders, Inc.*, 261 Iowa 1177, 1182-83, 156 N.W.2d 651, 655 (1968).

> The parties are entitled to the benefit of that interpretation of their evidence, and of all reasonable inferences most favorable to their case, in an effort to prove the real intent of the parties to an agreement, and if reasonable minds may differ as to the conclusions to be drawn from that evidence, a question of fact exists. 'The existence of a contract, 'meeting of the minds,' intention to assume an obligation, the understanding, is to be determined not alone from words used, but in the situation, acts, and conduct of the parties, and from their situation

> and the attending circumstances, and by the inferences which mankind would ordinarily and reasonably draw therefrom.' (Authorities cited).'

Holden v. Construction Machinery Co., 202 N.W.2d 348, 361, (Iowa 1972) (citing *LaFontaine,* 261 Iowa at 1182-83, 156 N.W.2d at 655 (1968)).

On November 30, 1993, Care Center spoke with Groom about the settlement. The claim activity log stated Groom "had concerns about [the] settlement, but [she] decided to accept [the] $8,000 offer." The claims representative for Management Services requested Groom write a note to that effect. In Groom's letter of November 30th, she wrote "it certainly isn't over as far as the continued epidsodes I have. It makes me feel so insecure. But if you feel this is a fair and equitable amount then I'll take your word for it." It is evident from the letter Groom lacked sophistication as to the settlement process, the relationship of the parties, or the various types of settlements that can occur.

Care Center has not sufficiently shown the parties here had entered into an oral contract. While representatives of Care Center may have believed an oral agreement had been reached in November, it is clear that Groom did not fully understand the effect of settlement nor intend to settle.

We conclude there was no oral contract as a result of the November 30, 1993, phone conversation. Therefore, specific performance would be inappropriate. We affirm the decision of the district court.

AFFIRMED.