United States District Court
Northern District of California

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

JINGHARNG GENE LUO, et al.,

Plaintiffs,

v.

AMGUARD INSURANCE COMPANY,

Defendant.

Case No. 25-cv-07565-WHO

ORDER ON MOTION TO ENFORCE SETTLEMENT

Re: Dkt. Nos. 20, 21, 22, 23

Plaintiffs Jingharng Gene Luo and Ksai Liang, trustees of the Luo and Liang Family Trust dated January 25, 2015 (the "Trustees"), sued AmGUARD Insurance Company ("AmGUARD") regarding two insurance claims for damages at their commercial apartment building. After arriving at a settlement agreement through mediation, the Trustees now move to enforce the agreement, seeking immediate payment of the agreed amount to their attorneys. AmGUARD argues that the payment to which it agreed in the settlement agreement is bound by the terms of the insurance policy, which requires payouts for a claim for loss or damage to be split between policyholders and the "loss payee"—here, the Trustees' mortgage lender. The terms of payment in the settlement agreement are explicit and the loss payable clause in the insurance policy does not govern them. The Trustees' motion is GRANTED.

BACKGROUND

This case arises out of two insurance claims for tenant vandalism and a fire at the Trustees' apartment building in Hayward, California. *See* Complaint ("Compl.") [Dkt. No. 1-1] ¶¶ 10–16. The Trustees alleged that AmGUARD was liable for breach of contract and breach of the covenant of good faith and fair dealing. *Id.* ¶¶ 25, 30, 36, 40–41. In mediation on March 5, 2026, the parties reached a settlement agreement. Declaration of Brian M. Sanders in Support of

AmGUARD's Opposition to Plaintiff's Motion to Enforce Settlement ("Sanders Decl.") [Dkt. No. 22-1] Ex. B at 1–2. The terms included payment of $100,000 to Trustees through their attorney's office within thirty days, as well as an acknowledgement that "the allocation of the Settlement Payment is at the Trustees' sole discretion." *Id.*

On April 15, 2026, I dismissed the parties' case with the condition that the case would be restored should settlement not be finalized within thirty days. Order Conditionally Dismissing Case ("Order Dismiss") [Dkt. No. 17]. The Trustees certified that issues arose implementing the settlement on April 23, so I reopened the case on April 24, 2026. Order Reopening Case ("Order Reopen") [Dkt. No. 19]. The Trustees then filed their motion to enforce the settlement agreement. Memorandum of Points and Authorities in Support of Plaintiffs' Motion to Enforce Settlement Agreement ("Mot.") [Dkt. No. 20-1]. AmGUARD filed an opposition and the Trustees replied. AmGUARD's Opposition to Plaintiff's Motion to Enforce Settlement ("Oppo.") [Dkt. No. 21]; Plaintiffs' Reply in Support of Motion to Enforce Settlement Agreement ("Repl.") [Dkt. No. 23]. I then heard oral argument.

LEGAL STANDARD

"It is well settled that a district court has the equitable power to enforce summarily an agreement to settle a case pending before it." *Callie v. Near*, 829 F.2d 888, 890 (9th Cir. 1987). A district court has jurisdiction to enforce a settlement agreement where, as here, the dismissal order provided that the case may be reopened should the settlement not occur. *See Flanagan v. Arnaiz*, 143 F.3d 540, 544 (9th Cir. 1988) (citing *Kokkomen v. Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 381 (1994)).

The moving party bears the burden of showing the parties formed a legally enforceable settlement agreement. *Madani v. Cnty. of Santa Clara*, No. 16-cv-07026-LHK, 2019 WL 402362, at *6 (N.D. Cal. Jan. 31, 2019) (citation omitted) (Koh, J.). "In order to enforce the settlement agreement, the Court must determine it is complete, *i.e.*, the parties agreed to all material terms." *BGC Inc. v. Robinson*, No. 22-cv-01582-JSW, 20223 WL 4769978, at *2 (N.D. Cal. July 3, 2023) (citation omitted) (White, J.). "In addition, the Court must conclude the parties actually agreed to the terms or authorized counsel to settle the matter." *Id.* (citing *Botefur v. City of Eagle Point*, 7

F.3d 152, 156 (9th Cir. 1993)).

DISCUSSION

I. SETTLEMENT AGREEMENT

The parties' first dispute concerns the language of the settlement agreement. The agreement states, in relevant part:

> AmGUARD has agreed to pay the Trustees the sum of One Hundred Thousand Dollars and no cents ($100,000.00) ("Settlement Payment"). AmGUARD shall deliver the Settlement Payment, which shall be made payable to "Merlin Law Group, PLLC" via overnight mail to the Trustees' counsel, Rudy Tap, Esq., Merlin Law Group . . . The Parties agree that there is no prevailing party in the Coverage Action and that each Party shall bear its own attorney fees and costs. The Parties agree that allocation of the Settlement Payment is at the Trustees' sole discretion.

Sanders Decl. Ex. A (Settlement Agreement) at 1–2. The plain meaning of the settlement agreement requires any settlement check to be paid solely to the Trustees' attorneys, Merlin Law Group, PLLC. Mot. at 6–7. AmGUARD contends, however, that the "demand that the settlement check be payable only to counsel, or to plaintiffs alone, is not an original term, nor one to which [AmGUARD] ever agreed." Oppo. at 3–4.

The plain language of the agreement notes that "AmGUARD *shall* deliver" its payment to "Merlin Law Group, PLLC," and that the "allocation of the Settlement Payment is at the Trustees' sole discretion." Settlement Agreement at 1–2. AmGUARD's contention belies a reasonable reading of terms above, which specify both the immediate and ultimate recipients of the settlement check. Moreover, emails between AmGUARD and the Trustees reiterate that "[p]ayment of $100,000 shall be made to Plaintiffs within 30 days" and "allocation of settlement funds is at Plaintiffs sole discretion." Declaration of Brian M. Sanders in Support of Defendant AmGUARD Insurance Company's Opposition to Plaintiff's Motion to Enforce Settlement, Exhibit C. Like the settlement agreement itself, these emails show no discussion of additional payees. *Id.* While no explicit term in the settlement agreement states "payment check will be delivered only to counsel," the lack of such term does not suggest that AmGUARD can act freely and make payment to whomever it pleases.

A plain reading of the agreement also confirms the Trustees' view that the "settlement reached at mediation was for a lump-sum, unallocated settlement payment." Mot. at 6. To require

"nonparty mortgagees to be named as co-payees" would therefore "do more than ministerially implement that settlement; it would effectively earmark or control the disposition of the proceeds and impose a payment structure that Plaintiffs never accepted." *Id.*

It is not the court's role to impose new terms on the parties in a contractual agreement. Because a plain reading of the settlement agreement does not support its view, AmGUARD must establish that the terms of the parties' insurance contract somehow constrains the settlement agreement such that the check should be split.

II. INSURANCE POLICY

AmGUARD argues that the Loss Payable Clause in the parties' insurance contract requires it to split the settlement amount with the Trustees' mortgage lender. That provision reads:

> The following is added to the **Loss Payment** Property Loss Condition in **Section I – Property**, as shown in the Declarations or in the Schedule:
> **A. Loss Payable Clause**
> For Covered Property in which both you and a Loss Payee shown in the Schedule or in the Declarations have an insurable interest, we will:
> 1. Adjust losses with you; and
> 2. Pay any claim for loss or damage jointly to you and the Loss Payee, as interests may appear.
> **B. Lender's Loss Payable Clause**
> 1. The Loss Payee shown in the Schedule or in the Declarations is a creditor, including a mortgageholder or trustee . . .

Oppo. at 2–3.

Under the loss payable clause, any "claim for loss or damage" would be paid jointly to the Trustees and the loss payee, splitting the total adjusted. *Id.* AmGUARD argues that the loss payable clause is a standard form clause intended to "protect the insurer by permitting it to pay the named insured(s)and be free of subsequent claims by others." Oppo. at 5. Given that the parties entered into this agreement prior to the settlement agreement, AmGUARD maintains that the loss payable clause controls. *Id.* at 5–6.

Loss payable clauses generally define "the obligation of the insurer" to the lienholder under the policy. *Ferro v. Citizens Nat'l Tr. & Sav. Bank of Los Angeles*, 44 Cal. 2d 401, 410 (1955); *see also Home Savings of Am., F.S.B. v. Continental Ins. Co.*, 87 Cal. App. 4th 835, 842 (2001) (loss payable clauses "direct[] the insurer to pay the proceeds of the policy to the

lienholder, as its interests may appear, before the insured receives payment on the policy."). But the settlement agreement in question is not a "claim for loss or damage" as identified in the loss payable clause because it settles extra-contractual claims and contains AmGUARD's denial of coverage and liability for both policy claims. Repl. at 3. *Ferro* and *Home Savings* are distinguishable because they involve insurance companies approving and paying out claims under the insurance policy. AmGUARD cannot simultaneously contend that the settlement payment settles a "claim for loss or damage" but also claim that grounds existed to deny the Trustees' claims under the policy in the text of the settlement agreement. If AmGUARD intended that the lienholder should receive a portion of the $100,000 settlement amount, it should have said so in the settlement agreement instead of indicating that the entire amount was payable to the Trustees.

AmGUARD further argues that the "[f]ailure to comply with [a] loss payee provision . . . can expose the insurer to claims by the loss payees so identified for breach of contract and bad faith, and importantly, an insurer that pays the insured without including a properly identified loss payee does not extinguish the loss payee's substantive right to the proceeds." Oppo. at 6–7. AmGUARD cites *Scheidle v. Joergensen*, 10 Cal. App. 3d 139 (1970) and *Woody v. Lytton Sav. & Loan Ass'n*, 229 Cal. App. 2d 641 (1964), to support its position that a joint check to the Trustees and their mortgagees is necessary for it to avoid litigation.

Schiedle and *Woody* are inapposite. *Scheidle* concerns a dispute between joint property owners and their mortgage lender over the proceeds of an approved fire insurance payment, where the insurer issued a check to one owner and the mortgage lender. 10 Cal. App. 3d at 142. *Woody* examines a fire insurance policy payable to a mortgagee "as interest may appear," and the court held that the mortgagee could use the proceeds of the policy payment to settle the debt rather than share it with the mortgagor. 229 Cal. App. 2d at 647–50. Both cases address disputes regarding allocation of adjusted insurance payments between mortgagors and mortgagees. This case is different. It involves a settlement payment after litigation that is not a "claim for loss or damage."

In sum, the "loss payable clause" does not overcome the clear language of the settlement agreement. As the settlement agreement dictates, "AmGUARD shall deliver the Settlement Payment [$100,000], which shall be made payable to "Merlin Law Group, PLLC" via overnight

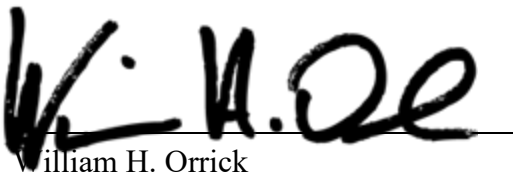
mail to the Trustees' counsel, Rudy Tap, Esq., Merlin Law Group." I ORDER that it do so within seven days of this Order.

CONCLUSION

The Trustees' motion to enforce the settlement agreement is GRANTED. AmGUARD will deliver a check for $100,000 to Trustees' counsel by September 1, 2026.

IT IS SO ORDERED.

Dated: August 25, 2026



William H. Orrick
United States District Judge

United States District Court
Northern District of California