**IN THE SUPERIOR COURT OF THE VIRGIN ISLANDS**
**DIVISION OF ST. THOMAS AND ST. JOHN**
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| **DEBORAH L. CASTOLENIA,** Plaintiff, | ) CIVIL NO. ST-13-CV-243 |
| v. | ) ACTION FOR DAMAGES |
| **DAVID CRAFA and LOW RATES OF ST. CROIX, INC., d/b/a THRIFTY CAR RENTAL,** Defendants. | ) JURY TRIAL DEMANDED |

## MEMORANDUM OPINION

**THIS MATTER** is before the Court on the Defendant's Motion to Enforce Settlement.[1] Defendant David Crafa ("Crafa") argues that the parties entered into a valid settlement agreement. Plaintiff Deborah Castolenia ("Castolenia") argues that there was never an enforceable agreement because there was no meeting of the minds and because her attorney did not have the authority to settle the matter. Castolenia also argues that even if there was an agreement, the agreement is voidable because Crafa misrepresented his insurance policies. After reviewing the record and the law, the Court finds that the settlement agreement is valid and enforceable. The Court will grant Defendant David Crafa's Motion and enforce the settlement agreement.

## FACTS

Castolenia is a resident of St. Thomas. Crafa is a resident of New York. On November 25, 2011, Crafa rented a 2001 Toyota Yaris from Thrifty Car Rental (Thrifty).[2] On November 26, 2011, Crafa was descending a rounded corner on Casey Hill.[3] The Plaintiff was traveling up Casey Hill.[4] The Defendant allegedly swerved into the wrong lane of traffic and into the path of the Plaintiff, colliding head-on with the Plaintiff's vehicle.[5] As a result of the accident, Crafa was cited for negligence in violation of section 495A of Title 20.[6]

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[1] Mark Guglielmi, Esquire, of Feuerstein & Smith, LLP, represents Plaintiff Deborah Castolenia. Thomas Kraeger, Esquire, of Sanford, Amerling & Associates, represents Defendant David Crafa. Wilfredo Geigel, Esquire, represents Defendant Low Rates of St. Croix.
[2] Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement 1.
[3] Compl. ¶ 11.
[4] *Id.* ¶ 15.
[5] Compl. ¶ 16; Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement 1.
[6] Compl. ¶ 17.

The Plaintiff brings claims of negligence against Crafa, negligent entrustment against Thrifty, and negligence against Thrifty as owner of the vehicle that allowed the vehicle to be operated by a third person (arguing Thrifty is liable for the tortious act of its lessee).

Crafa alleges that at all relevant times he was insured by GEICO with liability limits of $50,000 per person and $100,000 per incident.[7] On June 14, 2012, the Plaintiff's counsel, Attorney Guglielmi, wrote to GEICO asking what the policy limits were and whether any other policies were applicable.[8] On September 10, 2012, Mr. Patat for GEICO responded with an unsigned, undated verification of coverage indicating the limits above.[9] On October 1, 2012, Cindy Bale of GEICO notified the Plaintiff's firm that the file had been transferred to her.[10]

On December 5, 2012, Attorney Guglielmi sent Ms. Bale a settlement package and demand for the policy limit of $50,000.[11] The demand noted that the Plaintiff's injuries exceeded GEICO's primary policy. The demand also copiedCastolenia.[12] The offer was open for twenty (20) days.[13] On December 14, 2013, nine (9) days after the date of the demand, Ms. Bale sent Attorney Guglielmi a check for $50,000 and a form release.[14] The release included Christopher Castolenia as well as Deborah Castolenia. The correspondence accompanying the check and release instructed the Plaintiff to hold the check in escrow until the release is signed and returned.[15] Additionally, the correspondence notes that the release includes any and all derivative claims and liens. It goes on to explain that the Plaintiff is responsible for satisfying any other outstanding liens, and that GEICO cannot settle without all liens being satisfied.[16]

On December 27, 2012, Attorney Guglielmi sent GEICO a letter returning the check and noting that Christopher Castolenia was not married to the Plaintiff and that he should be removed from the settlement draft.[17] On January 9, 2013, the check was reissued by GEICO, payable to Deborah Castolenia only, and sent to Plaintiff's counsel.[18] On March 13, 2013, Attorney Guglielmi wrote to Ms. Bale of GEICO and indicated that he was returning the settlement check because Ms. Castolenia's injuries are in excess of the policy limits.[19]

## STANDARD FOR ENFORCING SETTLEMENT AGREEMENT

A trial court may take one of three possible actions to decide a motion to enforce a settlement agreement: (1) hold an evidentiary hearing on the motion to determine disputed facts

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[7] Mot. to Enforce Settlement Ex. 2.
[8] Mot. to Enforce Settlement Ex. 1; Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement Ex. 1.
[9] Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement Ex. 2.
[10] Mot. to Enforce Settlement Ex. 3.
[11] *Id.* Ex. 4.
[12] *Id.* Ex. 4, at 6.
[13] Mot. to Enforce Settlement Ex. 4; Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement Ex. 3.
[14] Mot. to Enforce Settlement Ex. 4; Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement Ex. 3, 5.
[15] Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement Ex 4.
[16] *Id.*
[17] Mot. to Enforce Settlement Ex. 7; Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement Ex. 8.
[18] Mot. to Enforce Settlement Ex. 8; Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement Ex. 9.
[19] Mot. to Enforce Settlement Ex. 9; Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement Ex. 10.

and then enter judgment after taking evidence to prove the agreement and any defenses that the nonmoving party may proffer; (2) dispose of the motion on the pleadings; or (3) treat the motion as akin to one for summary judgment.[20] After reviewing the filings of both parties, the Court finds that it is appropriate to dispose of the motion on the pleadings.

"An agreement to settle a lawsuit, voluntarily entered into, is binding upon the parties, whether or not made in the presence of the court, and even in the absence of a writing."[21] "Settlement agreements are encouraged as a matter of public policy because they promote the amicable resolution of disputes and lighten the increasing load of litigation faced by courts."[22] A trial court has the authority to enforce, on motion, a settlement agreement entered into by litigants while litigation is pending.[23] In general, a trial court may not summarily enforce a settlement agreement if material facts are in dispute as to the validity or terms of the agreement.[24] On the other hand, a court cannot summarily deny enforcement of a settlement agreement simply because material facts are in dispute; the task is to resolve the dispute.[25]

## DISCUSSION

### I. The parties entered into a valid settlement agreement.

Once a settlement is reached, the court can enforce the agreement if all material terms have been agreed upon by the parties.[26] A valid settlement agreement is enforceable like any other binding contract.[27] The creation of a valid contract requires "a bargain in which there is a manifestation of mutual assent to the exchange and a consideration."[28] Consideration requires a performance or a return promise that has been bargained for.[29] Where there is no mutual assent, or no meeting of the minds, there is no contract.[30] As the normal law of contracts applies to settlement agreements, "A reply to [a settlement] offer which purports to accept it but is conditional on the offeror's assent to terms additional to or different from those offered is not an acceptance but is a counter-offer."[31]

Defendant Crafa argues that a valid settlement agreement was reached because the parties agreed on all material terms. Crafa contends that the Plaintiff has presented no evidence that any

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[20] 15A C.J.S. Compromise & Settlement § 77 (West 2012).

[21] *Green v. John H. Lewis & Co.*, 436 F.2d 389, 390 (3d Cir. 1970); *see also Beazer East, Inc. v. Mead Corp.*, 412 F.3d 429, 436 (3d Cir. 2005).

[22] *D.R. ex rel. M.R. v. East Brunswick Bd. of Educ.*, 109 F.3d 896, 901 (3d Cir. 1997).

[23] *See Berger v. Grace Line, Inc.*, 343 F. Supp. 755, 756 (E.D. Pa. 1971); *Kelly v. Greer*, 365 F.2d 669 (3rd Cir. 1966) *cert. den.* 385 U.S. 1035 (1967).

[24] *See Bandera v. City of Quincy*, 344 F.3d 47, 52 (1st Cir. 2003).

[25] *Id.*

[26] *Pennsbury Village Assocs., LLC v. McIntyre*, 11 A.3d 906 (Pa. 2011).

[27] *Tsintolas Realty Co. v. Mendez*, 984 A.2d 181 (D.C. 2009).

[28] *Univ. of the V.I. v. Petersen-Springer*, 232 F. Supp. 2d 462, 469 (D.V.I. App. Div. 2002); RESTATEMENT (SECOND) OF CONTRACTS § 17 (1981).

[29] *Nicholas v. Wyndham International., Inc.*, Civil No. 2001-147, 2007 WL 4811566, at *2 (D.V.I. November 20, 2007) (unpublished) (citing RESTATEMENT (SECOND) OF CONTRACTS § 17).

[30] *Id.* (citing *James v. Fitzpatrick*, Civ. No. 885-1989, 1990 V.I. LEXIS 22, at *4 (Terr. Ct. Oct. 30, 1990)).

[31] RESTATEMENT (SECOND) OF CONTRACTS § 59.

material facts are disputed. Furthermore, Crafa argues that the correspondence between the parties clearly demonstrates that the Plaintiff's demand for the policy limits was made, and that demand was accepted when GEICO sent Plaintiff's counsel the check for the policy limit and the release.

Crafa argues that the Motion to Enforce Settlement should be disposed of on the pleadings because there is no evidence that the terms or validity of the settlement agreement are in dispute. Crafa cites *Allen v. St. Luce* for this proposition.[32] Crafa continues that the correspondence demonstrates a bargain in which there is a manifestation of mutual assent and consideration. Castolenia counters that Crafa's reliance on *Allen* is misplaced because the facts of the present case differ significantly from the facts in *Allen.* Castolenia points out that *Allen* involved an executed release which was returned to that defendant. In the present case, Castolenia never signed the release.

Castolenia does not dispute that settlement agreements are enforceable when all material terms are agreed upon. However, Castolenia argues that release's inclusion of language requiring that Castolenia satisfy all liens, bills, and assignments amounts to a new material term of the settlement to which Castolenia has not agreed. Castolenia states that the addition of terms not included in the original offer makes the general release a counter-offer, and terminates Crafa's power to accept the original offer.[33]

Castolenia claims she did not sign the release because agreeing to release any derivative claims and liens was contrary to the terms of the demand letter. She states that, if she agreed to the release, over $25,000 in liens, bills, and assignments would have to be paid from the settlement amount. Castolenia also emphasizes that she is precluded from accepting these additional terms because Guardian Insurance served her with a Subrogation Lien. The lien explained that Guardian intends to pursue its right of subrogation against Crafa and his insurance carrier for Guardian's medical pay contribution, and states that Castolenia "must preserve and protect [Guardian's] right of subrogation against any claim . . . against the negligent party and that [Castolenia] not take any action that would prejudice [Guardian's] right of recovery against [the Defendants]."[34] Castolenia argues that if Guardian did not approve the new terms added by GEICO, Castolenia would be exposed to additional claims by Guardian. Castolenia concludes that, because of this, she does not have the authority to release those claims.

Crafa counters that Castolenia never addressed the subject of liens in the settlement correspondence between the parties. The demand letter makes no mention of the liens and only requires GEICO to act within twenty (20) days; Crafa believes the settlement offer was accepted when GEICO issued the settlement check within the twenty (20) day period. Crafa also points out that the subject of liens was not addressed by Castolenia when her counsel returned the settlement check and requested it be reissued with her as the sole payee. The subject is also not addressed in the letter returning the reissued check and explaining that Castolenia cannot fully

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[32] *Allen v. St. Luce*, Civ. No. ST-09-CV-213 (V.I. Super. Ct. March 19, 2013) (unpublished) (enforcing a settlement agreement where all material terms were agreed upon).
[33] RESTATEMENT (SECOND) OF CONTRACTS § 39 (1981).
[34] Pl's Memo. in Opp. to Def. David Crafa's Mot. to Enforce Settlement Ex. 6.

release Crafa because Castolenia's injuries are in excess of the policy limits. Finally, Crafa provides the affidavit of Ms. Bale, from GEICO, in which she asserts that in cases where GEICO issues a check for the policy limits, it is standard practice for GEICO (and, by implication, in the industry generally) to require the payee satisfy any liens.[35] This is particularly the case when there is limited insurance and the policy limits are reached.[36]

Ms. Bale's affidavit is not persuasive. Although she explains the practices of GEICO, there is no evidence that other insurance companies engage in similar practices, let alone that these practices are an industry standard. This lack of evidence notwithstanding, the Court finds that a self-serving affidavit of this nature is unnecessary. It is well established that "the parties' objective manifestations control in deciding whether they formed a contract by mutual assent."[37] Further, "even assuming the scope of the release is disputed, courts have held that release clauses are not necessarily essential terms of settlement agreements."[38]

It appears uncontested from the record and filings that the settlement agreement was supported by consideration on both sides. On whether there was a meeting of the minds on the terms of settlement, the record reflects that the parties' objective manifestation was mutual assent to settlement for the policy limit of $50,000.00. In the demand letter, counsel for Castolenia specifically recognized that Castolenia's damages were in excess of the policy limits.[39] The record reflects that, at the time the demand letter was sent on December 5, 2012, the Plaintiff had already received roughly $14,000.00 of medical treatment.[40] It is evident that Castolenia was aware of the majority of the medical expenses at the time of the demand letter, yet still chose to demand the policy limits as the settlement sum. The issue of liens was never mentioned in the six page demand letter.

Further, Castolenia had a second opportunity to raise the issue of lien payment when her counsel requested that the settlement check be reissued solely in her name. Once again, the issue was not broached. Finally, Castolenia was in possession of the reissued settlement check for over two months before returning it to Crafa, during which time the issue of liens was never raised.[41] When the check was eventually returned, the only reason given was that Castolenia's "injuries are in excess of the policy limits."[42] Finally, the record reflects that the brief in opposition to the present motion was the first time the issue of lien responsibility was raised.

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[35] Reply to Opp. to Mot. to Enforce Settlement Ex. 12, at 1.
[36] *Id.*
[37] *HSM Constr. Servs., Inc. v. MDC Sys. Inc.*, 239 Fed. App'x 748, 751 (3d Cir. 2007).
[38] *Cf. Nicholas v. Wyndham International., Inc.*, Civil No. 2001-147, 2007 WL 4811566, at *4 (D.V.I. November 20, 2007) (unpublished). *See also Good v. Pennsylvania R. Co.,* 384 F.2d 989, 990 (3d Cir. 1967) ("The tender of a release did not reopen the agreement or make its execution a condition to the settlement itself.").
[39] Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement Ex. 3.
[40] *See* Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement Ex. 7. The court calculates the exact amount of Dr. James D. Nelson's medical bills at the time the demand letter was sent as $14,169.00. The total bill from Dr. James D. Nelson is $15,533.00; however, $1,364.00 of that bill is for services performed after the demand letter was sent. *See id.*
[41] Mot. to Enforce Settlement Ex. 8, 9.
[42] Mot. to Enforce Settlement Ex. 9

This evidence shows that the satisfaction of the liens was not a material part of the original meeting of the minds as to settlement. Based on the record before the Court, it is clear that any liens should be, and were meant to be, the responsibility of the Plaintiff because the amount of money being paid in settlement is the maximum amount of the insurance policy and the liens were never made part of the settlement demand. Plaintiff's insurance company is only obligated to pay up to the policy limits.

Castolenia argues that the responsibility of the outstanding liens is a material issue to the agreement and the disagreement on this issue shows that there was no meeting of the minds to form a valid contract. The Court disagrees. Finding no material disputed issues, the Court finds that settlement agreement meets the requirements for an enforceable contract. Having found that the settlement agreement is a properly formed contract, the Court must examine Castolenia's argument that the settlement agreement is invalid because her counsel did not have authority to settle the case.

## II. Plaintiff's counsel had apparently authority to enter into the settlement agreement.

In the Virgin Islands, counsel may enter into a settlement agreement on his client's behalf when he has actual or apparent authority to do so.[43] A settlement may be invalidated when there exists "proof that the attorney had no right to consent to its entry."[44] However, a client is bound by an attorney's actions settling a lawsuit, even without express authority to do so, when there is no reason to believe the attorney was exceeding the scope of his apparent authority.[45] Apparent authority arises from a client's manifestations of counsel's power to affect the legal relationship of the client with third parties.[46]

Crafa argues that Castolenia's counsel had apparent authority to settle the case. Crafa argues that the demand letter was in no way conditioned on the Plaintiff's approval. Crafa also argues that nothing was communicated to him or to GEICO to suggest there was any limitation on Castolenia's counsel's authority to accept payment of the policy limits as demanded. Crafa cites *Glazer v. J.C. Bradford & Co*,[47] and *International Telemeter Corp. v. Teleprompter Corp.*[48] for the proposition that a client is bound by an attorney's actions settling a lawsuit, even without express authority to do so, when there is no reason to believe the attorney was exceeding the scope of his apparent authority. Crafa argues that there is nothing in the present case that would indicate that Castolenia's counsel was exceeding the scope of his authority. Castolenia quotes his retainer with counsel as not allowing counsel to settle without the client's consent;[49]

[43] *Sanghavi Jewels, Inc. v. Shalhout*, CIV. 2011-30, 2012 WL 4462046 (D.V.I. Sept. 27, 2012); *see Edwards v. Born, Inc.*, 792 F.2d 387, 389–90 (3d Cir. 1986).
[44] *Surety Insurance Co. of California v. Williams*, 729 F.2d 581, 582–83 (8th Cir. 1984) (internal quotations omitted).
[45] *See Glazer v. J.C. Bradford & Co.*, 616 F.2d 167 (5th Cir. 1980); *International Telemeter Corp. v. Teleprompter Corp.*, 592 F.2d 49 (2d Cir. 1979).
[46] RESTATEMENT (SECOND) OF AGENCY § 8 (1958).
[47] 616 F.2d 167 (5th Cir. 1980).
[48] 592 F.2d 49 (2d Cir. 1979).
[49] Pl.'s Memo in Opp. to Def. David Crafa's Mot. to Enforce Settlement 13.

however, a copy of the retainer is not provided. Even if accurately quoted, the language in the retainer does not eliminate the possibility that counsel was given the client's consent to settle the case.

There is no evidence as to whether counsel was given express authority to settle the case, and therefore the law on apparent authority controls. The Court finds that counsel for Castolenia had apparent authority to settle the matter. The Court agrees with Crafa that the record is devoid of evidence suggesting that counsel for Castolenia went beyond the scope of his authority at any point during the pendency of this case. Further, the settlement demand indicates that a copy went to Castolenia, giving Crafa the impression that there was authority to settle for the terms of the demand. Because there is no evidence of any limitation on Castolenia's counsel's authority, and because Virgin Islands law allows counsel to enter into a settlement agreement when counsel has apparent authority, the Court finds that counsel for Castolenia entered into an effective settlement agreement. Having found that counsel had authority to settle the case, the Court must inquire as to Castolenia's final argument, that the settlement agreement is voidable because Crafa misrepresented the available insurance.

### III. The settlement agreement is not voidable for misrepresentation because the misrepresentation was neither fraudulent nor material.

A contract may be voidable on the basis of misrepresentation, whether it is fraudulent or innocent.[50] For the contract to be voidable, the party must show that: (1) there was a misrepresentation, (2) that the misrepresentation was fraudulent or material, (3) that the misrepresentation induced the recipient to enter the contract, and (4) that the recipient's reliance on the misrepresentation was reasonable.[51] The Plaintiff has the burden of proof to establish the fraud by clear and convincing evidence.[52]

A misrepresentation is "an assertion that is not in accordance with the facts."[53] Assuming there was a misrepresentation, the misrepresentation must be material or fraudulent. A misrepresentation is material if it likely would have induced a reasonable person to enter into the contract, and a misrepresentation is fraudulent if the person making it knew or believed that his assertion was false at the time he made it.[54] Finally, the misrepresentation must induce the party's assent to the contract. "A misrepresentation induces a party's manifestation of assent if it substantially contributes to his decision to manifest his assent."[55]

Castolenia argues that the settlement agreement should not be enforced because the demand letter was premised on the fact that Castolenia had no other insurance policies. Castolenia argues that information on an umbrella insurance policy was withheld, and without

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[50] RESTATEMENT (SECOND) OF CONTRACTS § 164.
[51] *Id.*
[52] *Colon v. Gremer Dev. Co.*, CIV. 499/1989, 1993 WL 13751621 at *2 (V.I. Terr. Ct. Mar. 11, 1993).
[53] RESTATEMENT (SECOND) OF CONTRACTS § 159.
[54] *Redick v. Kraft, Inc.*, 745 F. Supp. 296 (E.D. Pa.1990).
[55] RESTATEMENT (SECOND) OF CONTRACTS, § 167.

this information Castolenia was caused to demand a lesser amount based on the policy limit, despite Castolenia's injuries being in excess of that limit.

Crafa begins his reply brief by arguing that Castolenia's assertion that "other" insurance was available is incorrect. Crafa notes that the email Castolenia points to as evidence of the other policy specifically notes that the umbrella insurance policy Crafa purchased was purchased on October 20, 2012 and effective October 20, 2012 to October 20, 2013.[56] This is nearly eleven months after the underlying accident, which occurred on November 26, 2011. Crafa argues that this insurance was therefore unavailable to satisfy claims from an accident that occurred before the insurance was purchased, and the full amount of insurance available was accurately communicated to Castolenia before counsel for Castolenia sent the December 5, 2012 demand letter.

The umbrella policy, the existence of which Castolenia claims was fraudulently withheld, was not actually purchased until after the accident. However, the failure to disclose the policy meets the bare minimum definition of a misrepresentation, as it appears clear that the policy was in effect at the time that Crafa's counsel declared Crafa had no other policies. Despite this, the Court finds that Castolenia's argument regarding the failure to disclose the umbrella policy is still without merit.

Insurance is commonly defined as "a contract to pay a sum of money upon the happening of a particular event or contingency . . . , [or] indemnity for loss in respect of a specified subject by specified perils."[57] "The word 'indemnity' is defined as security or protection against hurt or loss or damage, and, in simple legal terms, indemnity can be said to secure against *future* loss or damage."[58] "Insurance policies are . . . aleatory in the sense that they depend upon some contingent event."[59] Crafa's Amended Declarations sheet shows that the umbrella policy covers a specific time period—October 20, 2012 to October 20, 2013[60]—and because the policy is effective after a specific time it is an "occurrence" policy. "In the 'occurrence' policy, the peril insured is the 'occurrence' itself. Once the occurrence takes place, coverage attaches even though the claim may not be made for some time thereafter."[61] In other words, insurance of the kind at issue in this case applies to occurrences after the insurance has been purchased and not before.

The Court finds that the disclosure of this policy is not material because knowledge (or lack thereof) of the inapplicable umbrella policy would not have changed the Plaintiff's settlement calculus. Because the misrepresentation was not material, it must be fraudulent for Castolenia to succeed on this argument. Viewing the facts in the light most reasonable to Castolenia, one could argue that the misrepresentation was fraudulent because Crafa knew about the umbrella policy and did not supplement the insurance disclosure sheet when the umbrella

[56] Reply to Opp. to Mot. to Enforce Settlement 1, Ex. 11.
[57] 1 Couch on Ins. § 1:6 (West 2013).
[58] 1 Couch on Ins. § 1:7 (emphasis added) (citations and internal quotations omitted).
[59] *Id.* § 1:10.
[60] Reply to Opp. to Mot. to Enforce Settlement Ex. 11.
[61] *Zuckerman v. National Union Fire Ins. Co.*, 495 A.2d 395, 398 (N.J. 1985).

policy became effective. But, even assuming for the sake of argument that the misrepresentation was fraudulent, Castolenia must then show that the fraudulent misrepresentation induced her assent to the settlement agreement. The issue again becomes the umbrella policy's relevance to the settlement. For the same reasons explained above, the Court cannot discern how disclosing the inapplicable policy would have changed Castolenia's assent to the settlement. As stated above, the umbrella policy is not applicable because it was purchased after the accident and after Castolenia's attorney made the request to GEICO for information on any other applicable policies. Even making assumptions favorable to Castolenia on the first two elements, the Court cannot find in favor of Castolenia on this third element. Therefore, Castolenia's argument that the settlement agreement is voidable for misrepresentation is not persuasive.

## CONCLUSION

The Court finds that the parties mutually assented to settlement for the policy limit of $50,000.00. Counsel for Castolenia had, at minimum, apparent authority to settle the matter. Further, the alleged dispute over liens resulting from medical bills is not a material term to the settlement and does not prevent the Court from enforcing the settlement. Finally, the argument that settlement is invalid because Crafa withheld information about available insurance is without merit because even if this information was knowingly withheld, the withholding of the information could not have induced Castolenia into settlement. For the reasons stated above, the Court will grant Crafa's Motion to Enforce Settlement.

DATED: January 15, 2014

Denise M. Francois
**DENISE M. FRANCOIS**
Judge of the Superior Court
of the Virgin Islands

**ATTEST:**

**ESTRELLA H. GEORGE**
Acting Clerk of the Court

**BY:** [signature]
**LORI BOYNES-TYSON**
Court Clerk Supervisor 1 / 16 / 2014