

**Commonwealth of Massachusetts
Appeals Court**

Case No. 13-P-1726

CHUAN WANG,

vs.

INTERNATIONAL BUSINESS MACHINES CORP.

& another. [FN1]

JUDGES: Kantrowitz, Grainger & Hanlon, JJ.

Entered: October 1, 2014

OPINION

Memorandum and Order Pursuant To Rule 1:28

This Wage Act/wrongful termination matter is again before a court. [FN2] Throughout, the plaintiff, Chuan Wang, has been acting pro se. After the parties reported the matter as settled, a nisi dismissal entered. Wang then asked that the dismissal be vacated, purportedly because the parties never, in fact, settled and he had been "framed" by the defendants. His motion was denied and judgment entered. This appeal ensued.

Very briefly, as described in Wang v. International Bus. Machs. Corp., 76 Mass. App. Ct. 1123, 924 N.E.2d 334 (2010) (Wang I), Wang was "given a temporary placement by [defendant] Artech [apparently a staffing agency] to work for IBM out of his home. In accepting the placement, the plaintiff was required, by IBM, to set up a network at his home that would be compatible with IBM's. While he

was doing this, he received an employment contract from Artech, but refused to sign it because, he claimed, it contained provisions which were objectionable to him. Nevertheless, he continued his efforts to set up the necessary network. Artech later contacted the plaintiff and requested that he sign the employment contract. When he refused, Artech fired him." In Wang I, a judge of the District Court Department had dismissed the plaintiff's action on jurisdictional grounds. The panel here noted that the dismissal should have been without prejudice and remanded for entry of a judgment so specifying.

After the decision in Wang I, Wang refiled this action in the Superior Court against IBM, Artech, and various corporate officers, generally asserting Wage Act violations, State and Federal discrimination claims, and various torts. The defendants moved for summary judgment, which was allowed as to all claims. In Wang v. International Bus. Machs. Corp., 82 Mass. App. Ct. 1108, 1108, 971 N.E.2d 336 (2012) (Wang II), another panel of this court affirmed as to most of the claims but held that genuine disputed issues of material fact precluded summary judgment as to Wang's second (retaliation) and sixth (interference) counts and remanded for further proceedings on those two counts only.

After the second remand, the defendants proposed a settlement to Wang whereby he would receive \$17,500; in return, Wang would dismiss the present action with prejudice and provide broad-form releases. After at least some negotiations, counsel for the defendants sent an electronic mail message (e-

mail) to Wang in which counsel indicated that he was writing "to confirm my understanding that you agree to the settlement terms proposed in the settlement agreement attached to the May 8, 2013 e-mail below. Please confirm that my understanding is correct, and I will contact the clerk's office and let them know that we have reached a settlement and would prefer to not come in today." Wang responded as follows: "Yes, I agree to the settlement terms proposed in the settlement agreement. As to the settlement payment, it should be paid not in term wages that will enti[tle] me for claim unemployment benefit. In other words, it should be paid in term of 1099 instead of W2. I understand that I will be responsible to pay all taxes for the payment." Defendants' counsel then reported the matter as settled and a nisi dismissal entered.

About two weeks thereafter, Wang moved to set aside the nisi dismissal, generally contending that the parties had not, in fact, entered into a settlement agreement, that the parties "refused" to settle, and that defendants' counsel had "caught [him] by a trap" because he did not understand what it meant that "the case shall be reported [as] settled." As Wang alleged: "5. I agreed to Defendant's attorney to consider Defendant's settlement offer. Such a consideration was made in a circumstance that the settlement agreement (proposed by Defendants) expressly includes Section stating 'Wang further acknowledges that he may revoke his acceptance of this Agreement in writing within seven (7) days after he signs it' Said consideration and/or agreement for consideration are thus conditional to such a special circumstance. "6. I was framed by

Defendant's attorney for considering the settlement offer. Defendant's attorney attempted to force me [to] enter the settlement agreement proposed by Defendants." His motion was denied, without substantive comment. A judgment of dismissal entered and this appeal ensued.

The question presented is whether the judge abused her discretion in entering final judgment based upon the settlement as reported by counsel. See *Klimas v. Mitrano*, 17 Mass. App. Ct. 1004, 1004, 459 N.E.2d 1254 (1984). For the most part, Wang here argues that his Wage Act claims should have been allowed to go forward. These were matters that were decided in *Wang II* and, thus, need not concern us.

As to the matter at issue here, Wang argues, as he did below, that he was "trapped" by defendants' counsel because he did not know what "reported settled" meant and that he never agreed to settle the case. Given the materials discussed above, which were before the judge on Wang's motion, it was permissible for the judge to conclude that Wang was suffering from nothing more than morning-after remorse, a malady that would not ordinarily justify setting aside a judgment. See *Grindlinger v. Grindlinger*, 10 Mass. App. Ct. 823, 824, 406 N.E.2d 424 (1980) ("[W]hile the husband had made a morning-after determination that the agreement he had signed was ill-advised and burdensome, this was not a legally sufficient ground for reopening the case").

For these reasons, as well as for substantially those in the brief of the defendants, we affirm.

So ordered.

By the Court (Kantrowitz, Grainger & Hanlon, JJ.),

Entered: October 1, 2014.

FN1. Artech Information Systems, LLC (Artech). On September 30, 2010, the Superior Court dismissed various International Business Machine Corp. (IBM) and Artech corporate officers as individual defendants, which left only IBM and Artech as defendants.

FN2. This case has appeared in the United States District Court for the District of Massachusetts, the United States Court of Appeals for the First Circuit, and the United States District Court for the Southern District of New York.