THIRD DIVISION
DOYLE, P. J.,
MARKLE and PADGETT, JJ.

January 27, 2026

In the Court of Appeals of Georgia

A25A1634. TORRES v. PINEDA et al.

MARKLE, Judge.

This appeal requires us to address the amendments to the offer-to-settle statute, OCGA § 9-11-67.1 (2024). After Abriel Torres was injured in an automobile accident with Fredy Pineda, the parties entered into settlement negotiations. When Torres later filed suit, Pineda moved to enforce settlement. The trial court granted Pineda's motion to enforce the settlement and Torres now appeals. He argues the trial court erred by finding that a binding agreement was reached under OCGA § 9-11-67.1 because Pineda's insurance company failed to comply with the requirements of the statute. Because we conclude that the parties, in fact, formed a binding contract, we affirm the trial court's judgment.

> We apply a de novo standard of review to a trial court's order on a motion to enforce a settlement agreement. Because the issues raised are analogous to those in a motion for summary judgment, in order to succeed on a motion to enforce a settlement agreement, a party must show the court that the documents, affidavits, depositions and other evidence in the record reveal that there is no evidence sufficient to create a jury issue on at least one essential element of the appellant's case. Thus, we view the evidence in a light most favorable to the nonmoving party.

Wright v. Nelson, 358 Ga. App. 871, 871-72 (856 SE2d 421) (2021) (quotation marks omitted).

The relevant facts of the accident are not in dispute. In May 2024, Torres was injured when her automobile was struck head-on by a vehicle driven by Pineda. At the time of the accident, Pineda was driving his father's vehicle, and he was insured under a policy issued by State Farm Mutual Automobile Insurance Company.

In July 2024, Torres offered to settle her claim against Pineda pursuant to OCGA § 9-11-67.1 for the policy limit of $25,000 in exchange for a limited liability release against Pineda. As is relevant here, the offer required that, pursuant to OCGA § 9-11-67.1(b)(1)(G), State Farm provide to Torres an oral statement by the assigned claims representative before a court reporter authorized to administer oaths regarding

whether all liability and casualty insurance coverage provided by State Farm to Pineda has been disclosed. Torres further indicated that failure to provide the oral statement under oath would be considered a counteroffer terminating State Farm's power of acceptance. The following month, State Farm responded on behalf of Pineda and accepted all material terms of Torres's offer, specifically indicating it agreed to provide the statement under oath pursuant to OCGA § 9-11-67.1(b)(1)(G).

The record reflects that State Farm subsequently delivered the settlement check and a written statement under oath regarding available insurance to Torres's counsel's office. Torres's counsel later returned the check, contending that no binding settlement agreement was reached because State Farm did not provide the oral statement under oath.

Thereafter, Torres sued Pineda. Pineda moved to enforce the settlement, arguing that State Farm, on his behalf, had timely accepted the material terms of Torres's offer and had complied with OCGA § 9-11-67.1(b)(1)(G) by providing a statement under oath disclosing all applicable liability insurance available. He argued that the statute does not require an oral statement under oath; a bilateral agreement had been reached; and State Farm did not agree to any additional terms. Torres

responded, arguing that OCGA § 9-11-67.1(b)(1)(G) did not preclude Torres from requiring an "in-person statement under oath"; the statement provided was inadequate; and that, because State Farm failed to accept the material terms as specified in the offer, it had rejected the offer. Following a hearing, the trial court granted Pineda's motion, and this appeal followed.

In her sole enumeration of error, Torres argues the trial court erred by finding the parties reached a binding settlement agreement under OCGA § 9-11-67.1 because State Farm failed to accept a material term under OCGA § 9-11-67.1(b)(1)(G) to provide an oral statement under oath regarding disclosure of all insurance coverage. We disagree.

Before reaching the merits of Torres's argument, we first set forth the relevant law. OCGA § 9-11-67.1 (July 2024),[1] as amended, governs offers to settle claims arising from injuries due to automobile accidents. Under the statute, an offer to settle

> (1) Shall contain the following material terms, *which shall be the only material terms*: (A) A date by which such offer must be accepted, . . . ; (B) Amount of monetary payment; (C) The party or parties the claimant or claimants will release if such offer is accepted; (D) For any type of

[1] Because the offer of settlement was made in July 2024, we rely on the current version of OCGA § 9-11-67.1, effective July 2024.

> release, whether the release is full or limited and an itemization of what the claimant or claimants will provide to each releasee; (E) The claims to be released; (F) A date by which payment shall be delivered; . . . and (G) *A requirement that in order to settle the claim the recipient shall provide the offeror a statement, under oath, regarding whether all liability and casualty insurance issued by the recipient that provides coverage or that may provide coverage for the claim at issue has been disclosed to the offeror and a date by which such statement under oath shall be delivered, and such date shall not be less than 40 days from receipt of the offer; provided, however, that the requirement provided in this subparagraph may be waived by the offeror.*

OCGA § 9-11-67.1(b)(1) (emphasis added).

The statute further provides that:

> (c) *Where any offer to settle a tort claim* for personal injury, bodily injury, or death arising from a motor vehicle collision *provides any term outside of the material terms provided in paragraph (1) of subsection (b) of this Code section, such term shall be construed as an immaterial term* that may be mutually agreed to, in writing, by both the offeror and the recipient; provided, *however, that a variance by the recipient from such immaterial term shall not subject the recipient to a civil action arising from an alleged failure by the recipient to accept an offer to settle such tort claim if such recipient otherwise complies with subsection (i) of this Code section.*

OCGA § 9-11-67.1(c) (emphasis added). The statute also states that the offer to settle may be accepted by providing written acceptance of the material terms outlined in

subsection (b)(1) of this Code section in their entirety, and that, although parties may reach a settlement agreement under terms agreeable to both parties, "*no party shall require another party, as a condition of settlement, to waive or modify the application of this Code section or any provision of this Code section*." OCGA § 9-11-67.1(d)-(e). With these principles in mind, we examine Torres's argument.

Here, Torres offered to settle her claim under OCGA § 9-11-67.1 and included the material terms set forth in the statute. OCGA § 9-11-67.1(a), (b)(1). In response, State Farm accepted Torres's offer by agreeing to all material terms. OCGA § 9-11-67.1(d). Contrary to Torres's contention otherwise, the plain language of the statute does not require that the statement under oath regarding insurance coverage be an oral statement made before a court reporter. OCGA § 9-11-67.1(b)(1)(G); *Deal v. Coleman*, 294 Ga. 170, 172-73(1)(a) (751 SE2d 337) (2013) (we presume the General Assembly meant what it said and said what it meant). Rather, the statute only requires that the statement be made under oath and be "delivered" to the offeror. OCGA § 9-11-67.1(b)(1)(G). State Farm did just that when it tendered the settlement check and the statement under oath to Torres's counsel.

Furthermore, the fact that Torres's offer included a requirement that State Farm provide an oral statement under oath does not mean that a binding agreement was not reached when State Farm did not do so. The Code section is clear that the *only material terms* are those set forth in the statute. OCGA § 9-11-67.1(b)(1). And, the plain language of the statute makes it clear that any additional terms are immaterial and variance from an immaterial term does not result in a rejection of the offer. OCGA § 9-11-67.1(c). Thus, State Farm did not agree to any additional terms to settle the claim, and an agreement was reached. OCGA § 9-11-67.1(a), (c), (e).

Moreover, Torres cannot require terms more restrictive than the statutory language allows. See OCGA § 9-11-67.1(b)(1), (c) (the terms in subsection (b)(1) "*shall be the only terms,*" and *"any term outside of the material terms provided in paragraph (1) of subsection (b) of this Code section, such term shall be construed as an immaterial term"*). See also OCGA § 9-11-67.1(e) ("*no party shall require another party, as a condition of settlement, to waive or modify the application of this Code section or any provision of this Code section*").

Accordingly, in providing its written acceptance pursuant to OCGA § 9-11-67.1(d) and delivering the settlement proceeds along with a statement that complied

with section (b)(1)(G), State Farm did all it was required to do to accept the offer and form a binding settlement agreement.[2] *Diaz v. Thweatt*, 373 Ga. App. 586, 591 (908 SE2d 22) (2024) (reversing denial of a motion to enforce settlement under former 2021 version of statute where offeree accepted all statutory material terms and the offer contained non-statutory terms).

We thus conclude that a binding contract was formed between the parties, and we affirm the trial court's judgment.

Judgment affirmed. Doyle, P. J., and Padgett, J., concur.

[2] Torres's reliance on *Grange Mut. Cas. Co. v. Woodard*, 300 Ga. 848 (797 SE2d 814) (2017), and *Pierce v. Banks*, 368 Ga. App. 496 (890 SE2d 402) (2023), is misplaced as these cases predated the 2024 amendment to OCGA § 9-11-67.1. And, to the extent Torres's remaining arguments concern contract performance and have no bearing on whether a binding settlement agreement was created under the 2024 amended statute, we do not address them.