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for the Northern Mariana Islands
By 
(Deputy Clerk)

UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS

BETTY JOHNSON, on behalf of herself, and as
a representative of a class of similarly-situated
persons,

Plaintiffs,

v.

RALPH DELEON GUERRERO TORRES,
Governor of the Commonwealth of the Northern
Mariana Islands (“CNMI”), *et al.*,

Defendants.

CIVIL CASE NO. 09-00023

ORDER

Granting Trustee’s Emergency Motion
for Declaratory Relief, Stay and
Injunctive Relief (ECF No. 815)

This matter came before the court on February 3, 2022, for a hearing on the Trustee of the NMI Settlement Fund’s Emergency Motion for Declaratory Relief, Stay and Injunctive Relief (the “Emergency Motion”).¹ *See* ECF No. 815. The Settlement Fund Trustee (the “Trustee”) and Colleen Villagomez Manglona, the Administratrix appointed over the estate of Manuel B. Villagomez, disagree over the procedure for resolving the Settlement Fund’s claim for pension

¹ Following the hearing, on February 6, 2022, the parties filed a stipulation and request to stay the court’s decision on the Emergency Motion to engage in settlement discussions. *See* ECF No. 824. On February 7, 2022, the court granted the request to stay the issuance of its decision on the Emergency Motion until March 8, 2022. Order, ECF No. 825. The parties were unable to reach a settlement, and the Administratrix subsequently produced additional documents that resulted in the Settlement Fund reducing the initial overpayment amount. *See* Report of the Trustee (Sept. 9, 2022) at 23, ECF No. 842. The parties continued to engage in settlement discussions, *id.*, but at the status hearing held on September 15, 2022, the Settlement Fund informed the court that the parties were been unable to resolve the matter. Thus, the court now issues this written ruling to memorialize its oral inclinations as announced at the motion hearing.

overpayments to Mr. Villagomez. The Trustee asserts that the claim must first proceed through the administrative appeals process, while the Administratrix contends that the matter should be resolved in the probate case before the Superior Court for the Commonwealth of the Northern Mariana Islands. The Trustee's motion requests the following relief from this court: (1) a declaration that this court has exclusive jurisdiction over any matters pertaining to or arising under the Settlement Agreement; (2) an order directing a stay of all proceedings by any other court and prohibiting the issuance of orders adjudicating the rights and liabilities of the Settlement Fund or its members pertaining to the Settlement Agreement; and (3) an order enjoining the Administratrix from asserting any claims or defenses or seeking any relief related to the Settlement Agreement and the Settlement Fund's claim against the decedent in any court other than this court. Having heard from the parties and after reviewing the filings and applicable authority, the court grants in part the Emergency Motion as further discussed below.

I. BACKGROUND

A. Determination of an overpayment

The decedent, Manuel B. Villagomez, was an employee of the CNMI Government, and he retired on March 1, 1994, as a member of the NMI Retirement Fund ("Retirement Fund"). *See* Opp'n at 5, ECF No. 821. The Retirement Fund had mistakenly included Mr. Villagomez's overtime earnings when calculating his pension.² *Id.*

On May 7, 2012, the Retirement Fund sent Mr. Villagomez a letter of Overpayment and Adjustment of Benefits (the "Letter of Overpayment"),³ informing him that he had been overpaid in the amount of \$45,680.36 as of April 30, 2012.⁴ *Id.* at 6. The letter stated that the Retirement

² When he retired, Mr. Villagomez's pension was calculated to be \$1,843.71 monthly, or \$921.86 semi-monthly. Opp'n at 5, ECF No. 821.

³ A copy of the letter is attached as part of Exhibit B to the Declaration of Nicole Torres-Ripple. *See* Ex. B at 5-8, ECF No. 817-2.

⁴ According to the Retirement Fund's revised calculations, Mr. Villagomez should have received a monthly pension of \$1,629.02, or \$814.51 semi-monthly. *See* Letter of Overpayment, Ex. B at 7, ECF No. 817-2.

1 Fund would “deduct the maximum allowable of 50 percent of [Mr. Villagomez’s] corrected semi-
 2 monthly pension beginning the June 15, 2012 pay period until the overpayment is fully paid. Letter
 3 of Overpayment, Ex. B at 5, ECF No. 817-2. The Letter of Overpayment also advised
 4 Mr. Villagomez that he had a right to appeal the decision to the Board of Trustees within 30 days
 5 of the date of the letter. *Id.* at 5-6.

6 On May 18, 2012, Mr. Villagomez sent a letter to the Retirement Fund’s Board of Trustees,
 7 requesting the board not to adjust his monthly benefits. *See* Opp’n at Ex. 2, ECF No. 821-2.
 8 Mr. Villagomez noted that the error was not his fault and any deduction would adversely affect his
 9 family. *Id.*

10 No further action was taken by the Retirement Fund.

11 B. Creation of the Settlement Fund

12 On June 26, 2009, this case was initiated by the filing of a Complaint for
 13 Declaratory/Injunctive Relief and for Damages was filed. *See* Compl., ECF No. 1. On August 27,
 14 2009, a First Amended Complaint (the “FAC”) was filed, seeking class certification of this action.⁵
 15 *See* ECF No. 4. On September 12, 2012, a Second Amended Complaint (SAC) was filed.⁶ *See*
 16 ECF No. 214. The SAC described the class as consisting of “all retired members of the Northern
 17 Marianas Retirement Fund or persons eligible for survivor’s benefits of retired members of the
 18 [Retirement] Fund.” *Id.* at ¶14.

19 On August 6, 2013, following lengthy mediation sessions with Judge Faris, the parties
 20 entered into a Final Amended Stipulation and Agreement of Settlement (the “Settlement
 21 Agreement”). *See* ECF No. 468-1. The Settlement Agreement provided that all assets of the
 22 Retirement Fund were to be transferred and assigned to the Settlement Fund upon final approval
 23

25 ⁵ The FAC asserted the court had jurisdiction based on federal question, *see* FAC at ¶30,
 26 ECF No. 4, not based on diversity jurisdiction as alleged by the Administratrix. *See* Opp’n at 3
 and 6, ECF No. 821.

27 ⁶ The SAC claimed the court had federal question jurisdiction over the action based in part
 28 on asserted civil rights violations under 28 U.S.C. § 1983. *See* SAC at ¶26, ECF No. 214.

1 of the agreement. *Id.* at ¶8.0. Additionally, all Settlement Class Members⁷ who did not opt out
 2 would cease to be members of the Retirement Fund and would become members of the Settlement
 3 Fund upon final approval. *Id.* at ¶8.0(a). Moreover, “all rights and liabilities of the [Retirement]
 4 Fund with respect to any unresolved disputes [then] existing or hereafter asserted between any
 5 Settlement Class Member and the [Retirement] Fund [would be] transfer[red] and . . . assigned as
 6 rights and liabilities of the Settlement Fund” upon the court’s final approval of the Settlement
 7 Agreement. *Id.* at ¶8.0(b). Furthermore, the Settlement Agreement empowered the Settlement
 8 Fund Trustee to “establish policies and appoint hearings officers for the resolution of all disputes
 9 between individual [m]embers of the Settlement Fund and the Settlement Fund consistent with due
 10 process and a right to a final appeal to an independent arbitrator selected by the Trustee and
 11 approved by the District Court, there shall be no further appeal from the decision of the arbitrator.”⁸
 12 *Id.* at ¶10.0(k). Finally, the parties consented to the

13 exclusive and continuing jurisdiction of the District Court over the Johnson Action
 14 and any related litigation and to the District[] Court’s *exclusive jurisdiction to*
 15 *enforce and interpret any provision of this agreement and to enjoin any person or*
 16 *entity from pursuing any action that is inconsistent with this Agreement* or the
 17 exclusive jurisdiction of the District Court over this Agreement or the Johnson
 18 Action.

19 *Id.* at ¶28.0 (emphasis added).

20 On August 7, 2013, the court preliminarily approved the Settlement Agreement. *See* Order,
 21 ECF No. 469. All settlement class members were given until September 20, 2013, to opt out of the
 22 Settlement Agreement. *Id.* at 5. Mr. Villagomez did not opt out of the Settlement Agreement nor

23 ⁷ The term “Settlement Class Members” was defined as “All persons who on August 6,
 24 2013 are members of the Defined Benefit Plan of the Northern Mariana Islands Retirement Fund
 or persons who are entitled to survivor’s benefits of such members; provided the person did not
 execute and deliver to the CNMI Fund a timely Election to Terminate.” Settlement Agreement
 at ¶2.1, ECF No. 468-1.

25 ⁸ A final version of the Appeal Rules and Procedures was appended as Exhibit 14 to the
 26 Trustee’s Status Report filed on November 13, 2015. *See* ECF No. 731-14. A copy of these rules
 27 can also be found on the Settlement Fund’s website. *See*
 28 <https://www.nmisf.com/wp-content/uploads/2015/11/Exhibit-14.-NMI-SETTLEMENT-FUND-APPEAL-RULES-AND-PROCEDURES-Final-version-of-the-Appeal.pdf>. On December 18,
 2015, the court approved the implementation of said rules. *See* Order, ECF No. 739.

1 did he file an objection to any of its provisions. *See* Reply at 5-6, ECF No. 822.

2 On September 30, 2013, the court granted final approval of the Settlement Agreement. *See*
3 Minutes at 2, ECF No. 556. On October 12, 2013, the court issued a Final Judgment Approving
4 Class Action Settlement (the “Judgment”). *See* J., ECF No. 561. The Judgment “incorporate[d]
5 the [Settlement] Agreement as an integral part of” said Judgment, *id.* at 2, and the court ordered that
6 it would “retain exclusive jurisdiction of this action and of all matters relating to the enforcement,
7 effectuation, administration, interpretation, administration, or modification of this Judgment, the
8 [Settlement] Agreement and the settlement.” *Id.* at 6.

9 No further contact between Mr. Villagomez and the Retirement Fund or Settlement Fund
10 occurred until July 15, 2015, when the Settlement Fund’s Appeals Coordinator wrote to
11 Mr. Villagomez and informed him that the Settlement Fund was in the process of retaining a
12 hearing officer to hear his appeal. *See* Opp’n at Ex. 1, ECF No. 821-1. No further notices were sent
13 to Mr. Villagomez. *See* Opp’n at 7, ECF No. 821.

14 C. Matters Involving the Probate Action

15 On May 10, 2021, Mr. Villagomez passed away. *See* Opp’n at 5, ECF No. 821. Sometime
16 thereafter, Mr. Villagomez’s spouse (Patricia R. Villagomez) went to the Settlement Fund’s office
17 to apply for her survivor’s annuity benefits. *Id.* at 7.

18 On June 4, 2021, the Settlement Fund’s Administrator served Mrs. Villagomez with a
19 “Notice of Settlement Fund Appeal – Manuel B. Villagomez (Deceased),” informing Mrs.
20 Villagomez of her deceased husband’s pending appeal and the Settlement Fund’s claim of
21 \$56,913.77.⁹ *Id.*

25 ⁹ According to the Administratrix, because the overpayments to Mr. Villagomez had
26 continued until his passing, the Settlement Fund’s claim of overpayment had grown to \$56,913.17
27 by the time of his death. *See* Opp’n at 5 n.1, ECF No. 821.

1 On August 16, 2021, Mr. Villagomez's daughter (Colleen V. Manglona) filed a petition¹⁰
2 to admit Mr. Villagomez's estate into probate and appoint an administratrix of the estate (the
3 "Probate Action"). *See* Emergency Mot. at 5, ECF No. 815. On September 20, 2021, the Superior
4 Court for the CNMI (the "Superior Court") appointed Ms. Manglona as the Administratrix. *Id.* and
5 Ex. D to Decl. of Nicole Torres-Ripple, ECF No. 817-4.

6 On November 1, 2021, the Settlement Fund filed a Notice of Claim in the Probate Action.
7 *Id.* and Ex. B to Decl. of Nicole Torres-Ripple, ECF No. 817-2.

8 On January 6, 2022, the Superior Court of the CNMI held a status hearing in the Probate
9 Action at the request of the Administratrix. *See* Ex. H to Decl. of Nicole Torres-Ripple, ECF
10 No. 817-8. The Administratrix asked the Superior Court to "direct the manner of consideration or
11 adjudication of the NMISF claim." *Id.* The Settlement Fund's counsel argued that the decedent had
12 a pending administrative appeal that should be scheduled for a mediation conference in the next
13 month and any matters regarding the Settlement Fund's claim should be addressed in that forum.
14 *See* Emergency Motion at 6, ECF No. 815. In order to resolve the issues raised at the status hearing,
15 on January 11, 2022, the Superior Court ordered the parties' to file respective briefs regarding the
16 Settlement Fund's claim and set the matter for an evidentiary hearing on April 4, 2022. *See* Ex. H
17 to Decl. of Nicole Torres-Ripple, ECF No. 817-8.

18 On January 10, 2022, the Settlement Fund wrote to the Administratrix to inquire whether
19 she would stipulate to a limited stay of the Probate Action to allow this court to address jurisdiction
20 issues. *See* Emergency Mot. at 6, ECF No. 815 and Ex. I to Decl. of Nicole Torres-Ripple, ECF
21 No. 817-9.

22 On January 11, 2022, the Administratrix declined the offer to temporarily stay the Probate
23 Action. *Id.* and Ex. K, ECF No. 817-11.

24 Additionally on January 11, 2022, the Settlement Fund filed a "Statement" asking the
25

26 ¹⁰ A copy of the probate petition is appended as Exhibit C to the Declaration of Nicole
27 Torres-Ripple. *See* ECF No. 817-3.

1 Superior Court to issue a 90-day stay of the Probate Action. *Id.* and Ex. L, ECF No. 817-12. The
2 court denied the request as being “unclear” and ordered the Settlement Fund to file a proper motion
3 with supporting documents by January 20, 2022. Ex. L at 4, ECF No. 817-12.

4 The Settlement Fund then filed the instant Emergency Motion. *See* ECF No. 815.

5 **II. LEGAL STANDARD**

6 The Settlement Fund asks the court to enforce the Settlement Agreement, particularly
7 paragraph 10.0(k) which empowered the Trustee to establish an administrative appeals process,
8 and require the Administratrix to seek resolution of the claimed overpayment to Mr. Villagomez
9 through the mediation process as set forth in the Settlement Fund’s Appeal Rules and Procedures.

10 “An agreement to settle a legal dispute is a contract and its enforceability is governed by
11 familiar principles of contract law.” *Jeff D. v. Andrus*, 899 F.2d 753, 759 (9th Cir. 1989). “The
12 construction and enforcement of settlement agreements are governed by principles of local law
13 which apply to interpretation of contracts generally.” *Id.* “[A] written contract must be read as a
14 whole and every part interpreted with reference to the whole.” *Isla Dev. Prop., Inc. v. Jang*, No.
15 2017-SCC-0009-CIV, 2017 WL 6404832, at *2 (N. Mar. I. Dec. 15, 2017). The Supreme Court
16 of the CNMI has also held that

17 the language in a contract is to be given its plain grammatical meaning unless doing
18 so would defeat the parties’ intent. Furthermore, in determining the intention of the
19 parties, we look only within the four corners of the agreement to see what is actually
20 stated, and not at what was allegedly meant. Confining our inquiry to the four
corners of a contract is the most equitable method of determining the parties’ intent.
Doing so allows the court to interpret what both parties agreed to and not what the
contract may have devolved into.

21 *Commonwealth Ports Auth. v. Tinian Shipping Co.*, No. CV-04-0017-GA, 2007 WL 3033499, at
22 *4 (N. Mar. I. Oct. 15, 2007) (internal citations omitted). This standard is consistent with the terms
23 of the Settlement Agreement. *See* Settlement Agreement at ¶38.0, ECF No. 468-1 (“This
24 Agreement shall be governed by, construed and enforced . . . in accordance with general principals
25 of contract law construction in the United States and shall not be construed as controlled by the
26 laws, case law, statutes, or regulations of any particular State or territory of the United States.”).

III. ANALYSIS

The Administratrix raises a variety of arguments in asserting that the Settlement Fund's motion is improper because the matter rightfully is a probate matter that must be decided by the Superior Court. The Administratrix argues that (1) the court lacks subject matter jurisdiction over the Settlement Fund's claim of overpayment filed in the Probate Action; (2) the Settlement Fund's motion is an *in rem* action which is barred by the probate exception; and (3) the court should abstain from ruling on the matter and allow the alleged overpayment claim to be adjudicated in the Superior Court. These assertions are addressed separately below.

1. Whether the court has jurisdiction

The Administratrix contends that the court lacks subject matter jurisdiction over this matter because there is no diversity between the parties, the matter does not involve a federal question, and the Settlement Fund has not sought to remove its probate claim to this court. *See* Opp'n at 14-15, ECF No. 821. While the Administratrix concedes that this court "clearly has jurisdiction over the enforceability of the Settlement Agreement," the Administratrix argues that the appeal rules of the Settlement Fund grants the administrative hearing officer – not this court – ultimate jurisdiction to decide the overpayment claim. *Id.*

The Settlement Fund counters that this court has exclusive jurisdiction to interpret and enforce the Settlement Agreement. The Settlement Fund references the provisions in both the Settlement Agreement and the Judgment that specifically provide for the court's retention of "exclusive jurisdiction of this action and of all matters relating to the enforcement, effectuation, administration, interpretation, . . . or modification of this Judgment, the [Settlement] Agreement and the settlement." J. at 6, ECF No. 561.

The court concurs with the Settlement Fund's position. Despite the assertions of the Administratrix, the court finds it unnecessary for the Settlement Fund's Emergency Motion to plead the basis for this court's jurisdiction. The SAC asserted that this court had federal question jurisdiction over this action, and no party ever contested this court's jurisdiction over the original

1 action. The parties to the Settlement Agreement consented to this court’s “exclusive jurisdiction
 2 to enforce and interpret any provision of this [Settlement A]greement and to enjoin any person or
 3 entity from pursuing any action that is inconsistent with this [Settlement] Agreement[.]” Settlement
 4 Agreement at ¶28.0, ECF No. 468-1. As noted, the Judgment contained similar language. Here,
 5 the Settlement Fund’s Emergency Motion seeks enforcement of the Settlement Agreement against
 6 the Administratrix. Mr. Villagomez was a member of the Settlement Class since he did not opt out
 7 of the Settlement Agreement. Additionally, the Settlement Agreement provided that the terms of
 8 the agreement would apply to the parties’ “heirs, successors and assigns.” *Id.* at ¶32.0.
 9 Furthermore, the Judgment also specified that each member of the Settlement Class,

10 their respective heirs, executors, administrators, representatives, agents, attorneys,
 11 partners, successors, predecessors-in- interest, assigns, and all persons acting for or
 12 on their behalf, will be deemed to have fully, voluntarily, and irrevocably redefined
 their rights to benefits from the CNMI as members of the CNMI Fund as defined by
 the Agreement but still guaranteed by the United States and CNMI Constitutions.

13 J. at 4, ECF No. 561.

14 Thus, the Administratrix is subject to the jurisdiction of the court as well as to the terms of
 15 the Settlement Agreement and Judgment. The court finds that it continues to retain exclusive
 16 jurisdiction over the interpretation and enforcement of the Settlement Agreement.

17 2. Whether the probate exception bars this “in rem” action

18 Having determined that the court has subject matter jurisdiction over the matter, the next
 19 issue is whether the court is precluded from providing the relief requested by the Settlement Fund
 20 under the probate exception.

21 In *Marshall v. Marshall*, 547 U.S. 293 (2006),¹¹ the Supreme Court sought to clarify and

23 ¹¹ The *Marshall* case arose from an adversary proceeding between a widow and her
 24 stepson. Upon the passing of the widow’s husband, the stepson became the ultimate beneficiary
 25 of the estate plan because the widow was not included in the will, though she alleged that he
 26 intended to provide for her financial security through a gift in the form of a trust. 547 U.S. at 300.
 27 The widow filed for Chapter 11 bankruptcy, and the stepson filed a claim in the bankruptcy case
 alleging various torts. *Id.* In response, the widow filed counterclaims against her stepson,
 including a claim that the stepson had tortiously interfered with a gift she expected. *Id.* at 301.

1 “resolve the apparent confusion among federal courts concerning the scope of the probate
 2 exception.” *Id.* at 304. First, the Supreme Court analyzed *Markham v. Allen*, 326 U.S. 490 (1946),
 3 where the Court first pronounced the probate exception to federal jurisdiction. In the *Markham*
 4 case, the Supreme Court stated:

5 It is true that a federal court has no jurisdiction to probate a will or administer an
 6 estate But it has been established by a long series of decisions of this Court
 7 that federal courts of equity have jurisdiction to entertain suits “in favor of creditors,
 8 legatees and heirs” and other claimants against a decedent’s estate “to establish their
 claims” so long as the federal court does not interfere with the probate proceedings
 or assume general jurisdiction of the probate or control of the property in the
 custody of the state court.

9 326 U.S. at 494 (quoting *Waterman v. Canal-Louisiana Bank & Trust Co.*, 215 U.S. 33, 43 (1909)).

10 The Supreme Court described that the probate exception had a limited scope:

11 [W]hile a federal court may not exercise its jurisdiction to disturb or affect the
 12 possession of property in the custody of a state court, . . . it may exercise its
 13 jurisdiction to adjudicate rights in such property where the final judgment does not
 14 undertake to interfere with the state court’s possession save to the extent that the
 state court is bound by the judgment to recognize the right adjudicated by the federal
 court.

15 *Markham*, 326 U.S. at 494.

16 The Supreme Court in *Marshall* recognized that “[l]ower federal courts have puzzled over

18 After a trial on the merits, judgment was awarded to the widow, and the stepson moved to dismiss
 19 for lack of subject matter jurisdiction, arguing that the widow’s tortious interference claim could
 20 only be tried in the Texas probate court proceedings. *Id.* The matter was thereafter reviewed by
 21 the district court, which adopted the bankruptcy court’s findings. *Id.* at 302-304. The district court
 22 found that the probate exception did not bar federal jurisdiction over the widow’s counterclaim
 23 because it did not “interfere” with the probate proceedings since the widow’s counterclaim did not
 necessitate any declaration that the decedent’s will was invalid, nor do Texas probate courts have
 exclusive jurisdiction to entertain claims of the kind asserted in the widow’s counterclaims. *Id.* at
 302.

24 The Ninth Circuit reversed, recognizing that although the widow’s claim “did not involve
 25 the administration of an estate, the probate of a will, or any other purely probate matter,” *id.* at 304,
 26 the claim raised “questions which would ordinarily be decided by a probate court in determining
 27 the validity of the decedent’s estate planning instrument and whether it involved “fraud, undue
 influence, or tortious interference with the testator’s intent.” *Id.* The Supreme Court ultimately
 reversed the Ninth Circuit, finding that the widow sought “an *in personam* judgment against [the
 stepson], not the probate or annulment of a will.” *Id.* at 312.

1 the meaning of the words ‘interfere with the probate proceedings.’” *Marshall*, 547 U.S. at 311. The
 2 Supreme Court stated,

3 In short, we comprehend the “interference” language in *Markham* as essentially a
 4 reiteration of the general principle that, when one court is exercising in rem
 5 jurisdiction over a *res*, a second court will not assume *in rem* jurisdiction over the
 6 same *res*. Thus, the probate exception reserves to state probate courts the probate
 7 or annulment of a will and the administration of a decedent’s estate; it also precludes
 8 federal courts from endeavoring to dispose of property that is in the custody of a
 9 state probate court. But it does not bar federal courts from adjudicating matters
 10 outside those confines and otherwise within federal jurisdiction.

11 *Marshall*, 547 U.S. at 311-12 (internal citations omitted; italics in original).

12 Turning now to this case, the Administratrix claims that the probate exception applies. The
 13 Administratrix argues that the Settlement Fund’s claim is not an *in personam* action against the
 14 Administratrix because of any action on her part. Rather, the Administratrix contends that this is
 15 an *in rem* action because what the Settlement Fund ultimately seeks is a recovery for the alleged
 16 overpayment from the funds in the *res* of the Probate Action that is before the Superior Court. The
 17 Administratrix asserts that allowing the Settlement Fund to proceed through administrative
 18 proceedings would disturb the Probate Action and the estate funds currently in the custody of the
 19 Superior Court.

20 The Settlement Fund counters that the probate exception is inapplicable since it is not
 21 seeking to annul a will or administer Mr. Villagomez’s estate. Instead, it is asking this court to
 22 resolve specific issues¹² raised in the Probate Action, which requires the court to interpret and
 23

24 ¹² The Settlement Trustee seeks to address the following issues:

- 25 (1) The exclusive remedy and jurisdiction for resolving all NMI Settlement
 26 Fund Claims against Settlement Fund members must be through the
 27 Administrative Appeals process set forth in Section 10.0(k) of the
 28 Settlement Agreement;
- (2) Whether the Administratrix, as the successor in interest to the Decedent, is
 subject to the Administrative Appeals process and to the NMI Settlement
 Fund Appeal Rules and Procedures for purposes of litigating the Settlement
 Fund’s claim against the Decedent/Estate; and

1 enforce the Settlement Agreement.

2 The court agrees with the Settlement Fund that the probate exception is not applicable here.
3 As stated by the Supreme Court, a federal court “may exercise its jurisdiction to adjudicate rights
4 in . . . property [that is subject to a state probate proceeding] where the final judgment does not
5 undertake to interfere with the state court’s possession save to the extent that the state court is
6 bound by the judgment to recognize the right adjudicated by the federal court.” *Marshall*, 541 U.S.
7 at 310 (quoting *Markham*, 326 U.S. at 494). The true nature of the Settlement Fund’s request is
8 an adjudication of its rights under the Settlement Agreement. The Emergency Motion asks the court
9 to resolve specific issues raised by the Probate Action that require interpretation and enforcement
10 of the Settlement Agreement. Despite the Administratrix’s characterization, the Settlement Fund
11 does not seek an order from this court directing the payment of funds from the probate estate for
12 the alleged overpayment to Mr. Villagomez. There has been no final determination that an
13 overpayment in fact occurred or the amount of any overpayment. That must still be determined
14 through the administrative appeals process. Additionally, in the event a final determination is made
15 by the arbiter that Mr. Villagomez was in fact overpaid, the Settlement Fund can then reduce that
16 award to a judgment and seek to have it recognized by the Superior Court in the Probate Action.

17 Justice Ginsburg’s quote of former Chief Justice Marshall is of import: “It is most true that
18 this Court will not take jurisdiction if it should not: but it is equally true, that it must take
19 jurisdiction if it should. . . . We have no more right to decline the exercise of jurisdiction which
20 is given, than to usurp that which is not given.” *Marshall*, 547 U.S. at 298-99 (quoting *Cohens v.*
21 *Virginia*, 6 Wheat 264, 404 (1821). This court has jurisdiction over this matter, and the narrow
22 probate exception is not applicable to strip this court of its jurisdiction.

23 _____
24 (3) The Administratrix’s assertion that the Settlement Agreement resolved the
25 Settlement Fund’s claim against the Decedent/Estate and therefore is not
26 subject to the Administrative Appeals process is an incorrect interpretation
 of the Settlement Agreement and this Court’s Order.

27 See Emergency Mot. at 3, ECF No. 815.

1 3. Whether the court should abstain to allow the Superior Court to determine the claim
2 instead of the Settlement Fund's administrative body

3 The Administratrix next appears to argue that this court should abstain and allow the
4 Settlement Fund's claim to be adjudicated in the Superior Court. But aside from discussing cases
5 that applied the probate exception, the Administratrix fails to cite to any cases discussing the
6 various abstention doctrines (*e.g., Younger, Pullman, Burford, Colorado River, Rooker-Feldman,*
7 *etc.*) or the applicable legal standard for any of such abstention.

8 The Administratrix also makes some assertions that are unsupported by authority. For
9 example, the Administratrix claims that "an administrative NMISF body cannot rule on a
10 determination of a claim that is exclusively reserved to the CNMI probate court." Opp'n at 19, ECF
11 No. 821. Again, the Administratrix misconstrues the relief sought. The Settlement Fund seeks to
12 enforce the Settlement Agreement against the Administratrix by requiring the claimed overpayment
13 to go through the appeals process. Under the appeals process, if the parties are unable to reach a
14 resolution on the claim amount via mediation, then an arbiter will make an award, and the
15 Settlement Fund can then seek to have any such award recognized by the Superior Court in the
16 Probate Action. Such a process does not interfere with or usurp the authority of the Superior Court
17 over the Probate Action.

18 Additionally, the Administratrix argues that "[h]aving delayed due process for reasons
19 unknown to the Administratrix, the probate exception warrants this court finding that there is no
20 jurisdiction over a declaratory action over an estate's *res* - to wit, estate funds by a non-creditor
21 whose claim of overpayment was never reduced to final judgment." Opp'n at 19-20, ECF No. 821.
22 This statement is unsupported by any authority. The probate exception to federal jurisdiction has
23 nothing to do with alleged delays in due process or claims not being reduced to final judgment.
24 The court has already discussed that the probate exception is inapplicable to the facts here, so this
25 assertion by the Administratrix is simply unpersuasive.

26 Finally, the Administratrix asserts that the "[t]he probate exception is an issue of jurisdiction
27

1 of the federal courts, not administrative bodies[.]” and “[t]here is no authority that for a deceased
2 pensioner that the NMISF Administrative Appeals Office has any jurisdiction over claims against
3 an estate – that is the province reserved for local courts unless a federal court has actual jurisdiction
4 and the probate exception does not apply.” *Id.* at 21-22. As noted above, this court has exclusive
5 jurisdiction to interpret and enforce the Settlement Agreement, which the Settlement Fund is
6 requesting here. The Settlement Fund is asking this court to exercise its jurisdiction over the matter.
7 The Settlement Fund does not assert that its appeals process has a separate jurisdiction from that
8 of this court.

9 Accordingly, the court denies the Administratrix’s request to abstain from exercising
10 jurisdiction over this matter.

11 4. Relief Sought by Settlement Fund on Issues Raised

12 Having determined that this court has subject matter jurisdiction and that the probate
13 exception does not bar the exercise of such jurisdiction, and declining the Administratrix’s request
14 to abstain from asserting jurisdiction over the matter, the court must now address the substantive
15 request of the Settlement Fund to interpret and enforce the Settlement Agreement.

16 First, the Settlement Fund asks the court to interpret ¶10.0(k) of the Settlement Agreement
17 and determine whether said provision sets forth the exclusive remedy for resolving any and all
18 disputes between Settlement Fund members and the Settlement Fund. As noted above, the
19 Settlement Fund Trustee was empowered to “establish policies and appoint hearings officers for the
20 resolution of all disputes between individual [m]embers of the Settlement Fund and the Settlement
21 Fund consistent with due process and a right to a final appeal to an independent arbitrator selected
22 by the Trustee and approved by the District Court, there shall be no further appeal from the decision
23 of the arbitrator.” Settlement Agreement at ¶10.0(k), ECF No. 468-1. The Trustee promulgated
24 the appeal rules and procedures in November 2015, and the court approved the implementation of
25 said rules on December 18, 2015. *See* Order, ECF No. 739. Accordingly, the process set forth in
26 the appeal rules is the exclusive remedy for resolving a dispute between a member and the
27

1 Settlement Fund.

2 The next question posed by the Settlement Fund is whether the Administratrix is subject to
3 the appeal procedure for resolving the Settlement Fund's claim for overpayment against
4 Mr. Villagomez. Prior to the creation of the Settlement Fund, the Retirement Fund had determined
5 that Mr. Villagomez had been overpaid, and he filed an appeal of that decision. Subsequently, the
6 Settlement Fund was created, and all assets of the Retirement Fund were transferred and assigned
7 to the Settlement Fund upon final approval of the agreement. Settlement Agreement at ¶8.0, ECF
8 No. 468-1. Any overpayment to Mr. Villagomez by the Retirement Fund would be considered a
9 receivable, which was an asset that was subsequently transferred and assigned to the Settlement
10 Fund. Additionally, there is no dispute that Mr. Villagomez did not opt out of being included in
11 the Settlement Class, so he agreed to be bound by the administrative appeals process to resolve the
12 claimed overpayment. When Mr. Villagomez passed away, any rights he had passed to his estate.
13 The Settlement Agreement provided that the terms of the agreement also would apply to the parties'
14 "heirs, successors and assigns" *id.* at ¶32.0, and the Judgment also specified that each member of
15 the Settlement Class,

16 their respective heirs, executors, administrators, representatives, agents, attorneys,
17 partners, successors, predecessors-in-interest, assigns, and all persons acting for or
18 on their behalf, will be deemed to have fully, voluntarily, and irrevocably redefined
their rights to benefits from the CNMI as members of the CNMI Fund as defined by
the Agreement but still guaranteed by the United States and CNMI Constitutions.

19 J. at 4, ECF No. 561.

20 Thus, just as Mr. Villagomez was required to comply with the appeals process, the
21 Administratrix of his estate, too, is bound to proceed with the administrative appeals process to
22 resolve the dispute of the claimed overpayment.

23 Finally, the Settlement Fund asks whether the Administratrix's assertion that the Settlement
24 Agreement resolved the Settlement Fund's claim against the Decedent/Estate and therefore is not
25 subject to the Administrative Appeals process is an incorrect interpretation of the Settlement
26 Agreement and this court's Order. Based on the analysis above, the court finds that the Settlement
27

Fund's alleged overpayment claim remains unresolved and must proceed through the administrative appeals process.

IV. CONCLUSION

Based on the above analysis, the court grants the Trustee's Emergency Motion. The court finds that it has exclusive jurisdiction to interpret and enforce the Settlement Agreement. The court finds that the probate exception does not apply so as to preclude this court from providing the relief requested by the Settlement Fund in this *in rem* proceeding.¹³ Finally, the court orders the Administratrix to proceed with the appeals process, including mandatory mediation, and enjoins the Administratrix from taking any action in the Probate Court that seeks to challenge the Settlement Fund's claim until such time as the administrative appeals process has been exhausted.

IT IS SO ORDERED.



/s/ Frances M. Tydingco-Gatewood
Designated Judge
Dated: Dec 21, 2022

¹³ To the extent that the Settlement Fund seeks a stay of the Probate Action in the Superior Court of the CNMI, the court declines such a request since the probate exception would bar such an action by this court.