

IN THE SUPERIOR COURT THE VIRGIN ISLANDS

DIVISION OF ST. THOMAS AND ST. JOHN

GWENETH CONNOR-PELLE,	)	
	)	
Plaintiff,	)	CASE NO. ST-15-CV-658
	)	
v.	)	
	)	
LOUANGEL RAVALIER-MATTHEW,	)	
	)	
Defendant.	)	

MEMORANDUM OPINION AND ORDER

On March 15, 2016, the Court entered Default Judgment in this case in favor of Plaintiff and against Defendant in the principal sum of Seventeen thousand one hundred dollars (\$17,100.00), upon Defendant's failure to move, answer or otherwise respond to the Complaint following personal service. The Default Judgment was based in part upon the Affidavit of Plaintiff representing to the Court that Defendant was indebted to Plaintiff in that amount for unpaid rent at Parcel No. 10-8 Estate Mariendahl, St. Thomas, **from January 23, 2013, to July 8, 2014.**

Six days later, the Court received correspondence from Defendant asking the Court to reconsider the judgment, representing that she was "unaware that I was to respond by a certain time frame" and that she expected to be notified of a date upon which she was to appear and dispute the debt. Ordinarily, the Court might not have afforded significant credibility to that representation, but, Defendant's expectation of notice of a hearing similar to a small claims action was bolstered since attached to the correspondence was a Judgment executed by Magistrate Carolyn P. Hermon-Percell entered **June 26, 2014**, in Case No. ST-14-SM-225 in the amount of Three thousand six hundred dollars (\$3,600.00), which had been entered following a trial on the merits.

After receiving the correspondence, the Court reviewed the contents of the Court's file in Case No. ST-14-SM-225, of which the Court now takes judicial notice. The Small Claims Complaint, signed by Gwyneth Connor-Pelle, represents that, as of April 22, 2014, Louangel Ravalier-Matthew owed Two thousand seven hundred dollars (\$2,700.00) in unpaid rent for 10-8 Estate Mariendahl. Attached to the Small Claims Complaint was a Notice to Vacate the premises dated March 20, 2014, that indicated that, as of the date of the Notice, Ms. Ravalier-Matthew was in arrears for **two months from January 21, 2014 until March 20, 2014**, in the amount of One thousand eight hundred dollars (\$1,800.00).

As a result of these conflicting representations by Plaintiff, the Court entered an Order on June 16, 2016, vacating the Default Judgment and directing Plaintiff and her counsel to show cause why they should not be held in contempt and sanctioned for failing to disclose the small claims judgment and making inconsistent representations to the Court.

By Informative Motion filed July 5, 2016, Plaintiff's counsel apologized to the Court, indicating there was no intent to make inconsistent or perjurious representations to the Court. Significantly, no Affidavit or other supporting documentation accompanied the Informative Motion.

In this instance, the unsupported allegations of counsel are insufficient. The Court is faced with a situation in which Plaintiff, through the admissions of counsel, was frustrated with her inability to collect the small claims judgment, such that counsel "decided to start the process from the beginning." The problem with that approach is that Plaintiff had already represented under oath in Case No. ST-14-SM-225 that Defendant owed a rental arrearage in an amount significantly less than that represented in Case No. ST-15-CV-658 for the same premises for substantially the same period of occupancy.

In light of Plaintiff's stated inability to collect the small claims Judgment, the Court is not persuaded that the failure to disclose the small claims case was a mere oversight. This is particularly true because Plaintiff submitted an Affidavit in support of the request for default judgment in this case apparently misrepresenting the rental arrearage. Under the circumstances presented here, the Court is left with the conclusion that either Plaintiff intentionally failed to disclose the small claims case to her counsel or counsel intentionally failed to disclose the Judgment in Case No. ST-14-SM-225 to the Court.

Because of the paucity of substance in the Informational Motion, the Court would have to conduct an evidentiary hearing in order to determine from an adequate record whether Plaintiff, counsel, or both should be held in contempt. Fortunately for them, the Court need not make that determination to dispose of this case.

The doctrine of *res judicata* consists of two preclusion concepts: claim preclusion, and issue preclusion or collateral estoppel, as follows:

Claim preclusion arises after a judgment on the merits in a prior suit, and bars a subsequent suit involving the same parties based on the same cause of action. Whereas, issue preclusion or collateral estoppel, involves a subsequent suit upon a different cause of action, and precludes relitigation of issues actually litigated and necessary to the outcome of the first suit.¹

Collateral estoppel, the counterpart of claim preclusion under the doctrine of *res judicata*, "means simply that when an issue of ultimate fact has once been determined by a valid final judgment, the issue cannot again be litigated between the same parties in any future lawsuit."² "It is well established that, to bind parties to a subsequent action to the outcome of a prior judgment pursuant to the principle of *res judicata*, [specifically, the precept of claim preclusion,] it is required

¹ *George v. Martin*, 2001 V.I. LEXIS 38, *11-12 (V.I. Terr. Ct. 2001) (citing *Boyd-Richards v. Massac*, 35 V.I. 62 (Terr. Ct. 1996)); *See also Meyers v. George*, 2014 V.I. LEXIS 9, *4 (V.I. Super. Ct. Mar. 5, 2014).

² *Gilbert v. People*, 52 V.I. at 364 (citing *Ashe v. Swenson*, 397 U.S. 426, 443 (1970)).

that (1) the prior judgment was valid, final, and on the merits; (2) the parties in the subsequent action are identical to or in privity with the parties in the prior action; and (3) the claims in the subsequent action arise out of the same transaction or occurrence as the prior claims.”³ Applying these principals to the fact presented here, the Court determines that the Complaint in this action is barred.

As to the first element, Magistrate Hermon-Percel conducted a trial on the merits in Case No. ST-14-SM-225 on June 3, 2014, at which both Plaintiff and Defendant were present and testified. The Court made findings on the record and entered Judgment against Defendant in the amount of \$3,600.00 plus costs. No appeal of the Judgment was taken, and neither party has presented any evidence of the invalidity of that Judgment. Thus, the prior Judgment was valid, final, and on the merits. Further, Plaintiff implicitly admits the finality and validity of the Judgment in Case No. ST-14-SM-225 through counsel’s representation that it was Plaintiff’s difficulty in collecting on the Judgment that led to the initiation of this second action.

Second, the parties were the same in both actions, with Gweneth Connor-Pelle as the Plaintiff and Louangel Ravalier-Matthew named as the Defendant in both cases.

Finally, the claims in this subsequent action arise out of the same transaction or occurrence as the claims in Case No. ST-14-SM-225. Both actions arise from Defendant’s delinquency in rental payment for occupancy of the premises located at Parcel No. 10-8 Estate Mariendahl, St. Thomas. Both actions effectively cover substantially identical rental periods, as the small claims trial was held on June 3, 2014, and determined the rental arrearage as of that date, while in the present action Plaintiff sought to collect for the period from January 23, 2013, to July 8, 2014. While this action arguably seeks rent for the month of June, 2014, which was not included in the Magistrate’s Judgment, Plaintiff presented a March 20, 2014, Notice to Vacate the premises as an attachment to

³ *Smith v. Turnbull*, 54 V.I. 369, 375 (V.I. 2010) (citing *CoreStates Bank, N.A. v. Huls America, Inc.*, 176 F.3d 187, 194 (3d Cir. 1999)).

the Small Claims Complaint and represented in the Small Claims Complaint that the Notice "was issued to Defendant on March 30, 2014". In order for that Notice to Vacate to have been enforceable in a forcible entry and detainer action, Plaintiff would have been precluded from accepting rent for occupancy after the service of the Notice. Thus, the Court finds that the periods of occupancy are sufficiently identical that the claims arise from the same transaction or occurrence.

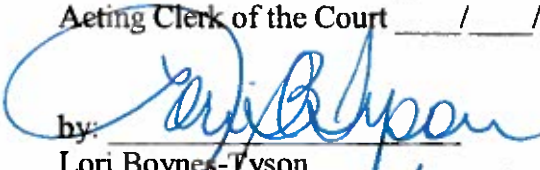
The Court having found that Plaintiff's claims in this action are barred by the doctrine of *res judicata*, it is

ORDERED that this case is DISMISSED WITH PREJUDICE, with the parties to bear their own attorney's fees and costs; and it is

ORDERED that a copy of this Order shall be personally served on Defendant and a copy shall be directed to counsel of record for Plaintiff.

Dated: July 26, 2016.

ATTEST: Estrella H. George
Acting Clerk of the Court ____/____/____

by: 

Lori Boynes-Tyson
Court Clerk Supervisor 7/27/16


HON. MICHAEL C. DUNSTON
JUDGE OF THE SUPERIOR COURT
OF THE VIRGIN ISLANDS

CERTIFIED A TRUE COPY

DATE: 7-28-16

ESTRELLA H. GEORGE
Acting Clerk of the Court

By: 

Camell A. Clarke
Court Clerk II