STATE OF VERMONT | **Caledonia Superior Court**

CALEDONIA COUNTY, SS. | **Docket No. 182-9-97 Cacv**

RACHEL LURIE }
}
v. }
}
FARRELL SMITH SEILER }

NOTICE OF DECISION

This matter is before the Superior Court on an appeal from a judgment Order of August 6, 1997 issued in Small Claims Court (Docket No. 191-5-97 Casc) in favor of Plaintiff/Appellee Farrell Smith Seiler. Defendant/Appellant Rachel Lurie appeals. The procedural history is important to the issue before the Court.

In August of 1995, the parties entered into an arrangement whereby Ms. Lurie was to perform some graphic arts work for Mr. Seiler in connection with a conference Mr. Seiler was organizing for Internet business users. As part of the arrangement, Ms. Lurie was to attend the Internet conference without payment of the fee charged to conference participants. Business relations did not end happily, and Ms. Lurie filed a claim for payment for services in Small Claims Court in Chittenden County, Docket No. 3775-12-95 Cnsc. On July 12, 1996, an Order was issued granting judgment for Ms. Lurie in the amount of $400.00. On November 22, 1996, a Financial Disclosure Hearing was held, at which Judge Villa determined that Mr. Seiler owed Ms. Lurie $477.65. A Contempt Hearing was held on January 17, 1997, at which it was determined that Mr. Seiler owed Ms. Lurie $531.65, which was to be paid at the rate of $106 per month. Mr. Seiler completed all payments and Ms. Lurie was paid in full as of May 16, 1997.

One week later, on May 23, 1997, Mr. Seiler brought a new case in Small Claims Court in Caledonia County. This is the underlying Small Claims action in this case, Docket No. 191-5-97 Casc. Mr. Seiler's claim was for the $400 registration fee attributable to Ms. Lurie's attendance at the Internet conference. Ms. Lurie filed a Motion to Dismiss on June 2, 1997, on the grounds

that the claim had already been the subject matter of the Chittenden County case. The Motion was denied by Assistant Judge Roy Vance on June 6, 1997, presiding pursuant to 12 V.S.A. §5540a. Ms. Lurie filed a Motion for Reconsideration, which was denied on June 17, 1997. A hearing was held on August 6, 1997 and resulted in a judgment Order in favor of Mr. Seiler for $395.00. Ms. Lurie appealed, and the case is presently before the Court on her appeal. A hearing was held on November 20, 1997.

Ms. Lurie argues that the action is precluded by the doctrines of *res judicata* and judicial estoppel, since the subject matter of this case had already been litigated and decided by the Order of the Chittenden Small Claims Court in Docket No. 3775-12-95 Cnsc. She argues that the arrangement concerning the conference fee was already factored into the Chittenden County judgment order, since she had asked for $1,200 for compensation for work performed, and was awarded $400 after the court considered the effect of her attendance at the conference. She further argues that Mr. Seiler has attempted to switch his position on whether or not she was obligated to pay the conference registration fee, and that he should be prohibited by the doctrine of judicial estoppel from seeking the fee in this court when he agreed in Chittenden Small Claims Court that she did not owe the fee under their contract. She argues that the judgment Order below simply allows Mr. Seiler to recoup a portion of the money the Chittenden Court required him to pay her after it had considered all the merits of the positions of both parties. Mr. Seiler argues that the judge did not take Ms. Lurie's attendance into account in determining the amount of the judgment in Chittenden County, and that he is entitled to bring this as a separate claim.

The Order of the Court below is based on a determination that Mr. Seiler's claim for the conference registration fee was separate from Ms. Lurie's claim for compensation for services performed. This Court agrees with Ms. Lurie that the Court below was in error in addressing Mr. Seiler's claim in this case as a separate claim. The claims in the two cases are not divisible, but are both based on terms of an overall single contract between the parties. The subject matter of that contract had already been placed before the court for litigation in the Chittenden County case. *Res judicata*, or claim preclusion, bars litigation of claims or causes of action which were or might properly have been litigated in a previous action. *See* Cold Springs Farm Dev., Inc. v. Ball, 163 Vt. 466, 472 (1995). In this case, the term of the parties' verbal agreement that Ms. Lurie was to

be compensated for her work partially in the form of the conference registration fee cannot be separated from the issue of how much compensation Ms. Lurie was to receive for her work.

It is true that 12 V.S.A. §5533(c) provides that the judgment on an asserted counterclaim shall not be conclusive between the parties in a later action, and it further provides that parties shall not be precluded from litigating any issue of fact or law as a result of the judgment on the counterclaim. Mr. Seiler did not, however, file a counterclaim in the Chittenden County case. He even admitted in his Answer that "Rachel Lurie did attend the Internet New England Conference and workshop and, per our understanding, she was not charged for attending any sessions." Having taken that position in the Chittenden County case, he is prohibited from changing his position on the same issue in the Caledonia County case by the doctrine of estoppel, which prohibits taking inconsistent positions in litigation over the same subject matter.

Many small claims cases involve contractual relations between parties in which there are multiple obligations between the parties to perform or receive services and/or to pay for goods or services. In determining small claims judgments, it is common for courts to apply credits or debits for or against one or the other party in order to settle all claims arising from a single contract with multiple terms. It makes no sense for one court to engage in this process of dispute resolution only to have the dissatisfied party take his or her losing arguments to another court and start all over again.

Where all obligations of the parties arise from a single contract with mutual obligations, and that contract and the parties' obligations to each other arising from that contract have already been litigated in a previous action in Small Claims Court, both parties are precluded by the doctrine of *res judicata* (meaning 'already decided') from raising again, in a later case filed in Small Claims Court, their portions of claims under such a contract.

For the foregoing reasons, the Court's denial of Ms. Lurie's Motion to Dismiss was error. The Judgment Order entered below is reversed, and the action is dismissed.

Dated at St. Johnsbury this 24th day of February, 1998.

Mary Miles Teachout
Superior Judge