

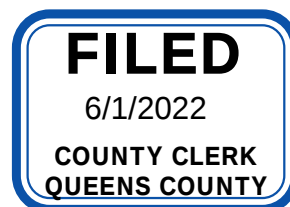
Tackroodeen v Velez-Ramirez
2022 NY Slip Op 35098(U)
May 24, 2022
Supreme Court, Queens County
Docket Number: Index No. 710714/2018
Judge: Timothy J. Dufficy
Cases posted with a "30000" identifier, i.e., 2013 NY Slip Op <u>30001</u> (U), are republished from various New York State and local government sources, including the New York State Unified Court System's eCourts Service.
This opinion is uncorrected and not selected for official publication.

Short Form Order

NEW YORK SUPREME COURT - QUEENS COUNTY

PRESENT: HON. TIMOTHY J. DUFFICY
Justice

PART 35

-----X
VICKRAM TACKROODEEN,

Plaintiff,

-against-

Index No.: 710714/18

Mot. Date: 2/15/22

Mot. Seq. 3

JUAN DAVID VELEZ-RAMIREZ and
W. GONZALEZ-RAMIREZ,Defendants.
-----X

The following papers were read on this motion by plaintiff for an order, pursuant to CPLR 3212, granting summary judgment on the issue of liability in favor of the plaintiff, with respect to the claim of plaintiff against defendants Juan David Velez-Ramirez and W. Gonzalez-Ramirez upon the grounds that no triable issue of fact exists based on *res judicata*.

PAPERS
NUMBERED

Notice of Motion - Affidavits - Exhibits.....	EF 54-61
Answering Affidavits.....	EF 62
Replying Affidavits.....	EF 63

Upon the foregoing papers, it is ordered that the motion by plaintiff is granted.

The underlying action is one for personal injuries arising out of a rear-end motor vehicle accident, that occurred on July 15, 2015, in Kings County, New York, wherein there was contact between the vehicle operated by plaintiff Vickram Thackroodeen and the vehicle owned by defendant W. Gonzalez-Ramirez and operated by defendant Juan David Velez-Ramirez.

Plaintiff now moves for an order, pursuant to CPLR 3212, granting summary judgment on the issue of liability in favor of the plaintiff, with respect to the claim of plaintiff against defendants Juan David Velez-Ramirez and W. Gonzalez-Ramirez upon the grounds that no triable issue of fact exists based on *res judicata*.

CPLR 3211(a)(5) allows for summary dismissal based on the grounds of *res judicata* or collateral estoppel.

“Principles of *res judicata* require that ‘once a claim is brought to a final conclusion, all other claims arising out of the same transaction or series of transactions are barred, even if based upon different theories or if seeking a different remedy’” (*Chen v Fischer*, 6 NY3d 94 [2005])[internal citations omitted]. “It is not always clear whether particular claims are part of the same transaction for *res judicata* purposes. A ‘pragmatic’ test has been applied to make this determination-analyzing ‘whether the facts are related in time, space, origin, or motivation whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties’ expectations or business understanding or usage.’” *Id.* [internal citations omitted]. “The doctrine of *res judicata* prohibits a party from relitigating any claim which could have been, or which should have been litigated in a prior proceeding” (*County of Nassau v New York State Public Employment Relations Board*, 151 AD2d 168 [2d Dept 1989])[internal citations omitted]. The rule applies to claims that either were actually litigated or could have been litigated in a prior proceeding (*see Cohen v City of New York*, 2001 NY Slip Op 50028u (Sup Ct, New York County 2001)). *Res judicata* will only be applicable where there “has been a final judgment on the merits” (*Lewis v City of New York*, 844 NYS2d 650 [Sup Ct, Bronx County 2007]). The main objective of *res judicata* is to “ensure finality, prevent vexatious litigation, and promote judicial economy” (*see Chen, supra*).

Collateral estoppel, or issue preclusion, “precludes a party from relitigating in a subsequent action . . . an issue clearly raised in a prior action . . . and decided against that party or those in privity, whether or not the tribunals or causes of action are the same” (*Ryan v New York Telephone Co.*, 62 NY2d 494 [1984]; *see also Buechel v Bain*, 97 NY2d 295, 303 [2001], cert denied 535 US 1096 [2002]; *Kedik v Kedik*, 86 AD3d 766, 767[2011]; *Matter of Frontier Ins. Co.*, 73 AD3d 36, 41 [2010]). Moreover, as a general rule, future litigation between parties arising from the same transaction is precluded following a valid final judgment in previous actions, even if a new action is based upon different theories or seeks a different remedy (*see Matter of Josey v Goord*, 9 NY3d 386, 389-390 [2007]; *Parker v Blauvelt Volunteer Fire Co.*, 93 NY2d 343, 347 [1999]). Collateral estoppel requires that the party to be precluded from relitigating the

issue “had a full and fair opportunity to contest the prior issue” (*Ryan, supra*, 62 NY2d at 501).

The doctrine of law of the case “ is a rule of practice, an articulation of sound policy that, when an issue is once judicially determined, that should be the end of the matter as far as Judges and courts of co-ordinate jurisdiction are concerned” (*Martin v City of Cohoes*, 37 NY2d 162, 165 [1975]). The doctrine "applies only to legal determinations that were necessarily resolved on the merits in [a] prior decision" (*Baldasano v Bank of N.Y.*, 199 AD2d 184, 185[1993]; *Gay v Farella*, 5 AD3d 540, 541[2004]; *Gilligan v Reers*, 255 AD2d 486, 487 [1998]), "and to the same questions presented in the same case" (*RPG Consulting, Inc. v Zormati*, 82 AD3d 739, 740[2011], citing *People v Evans*, 94 NY2d 499, 502 [2000]).

In the instant action, the plaintiff has established a *prima facie* case that there was a prior proceeding where the identical issue was necessarily decided or that a claim in this case actually was litigated in a prior proceeding.

Plaintiff presents a *prima facie* case in support by establishing the following: Darrell Thackroodeen, a passenger in the vehicle operated by plaintiff Vickram Thackroodeen, previously commenced an action against Juan David Velez-Ramirez and W. Gonzalez-Ramirez, and Vickram Thackroodeen for personal injuries arising out of the subject accident, in Supreme Court, Queens County, under Index Number 710669/18. In that action, Hon. Janice A. Taylor issued a decision/order, dated November 9, 2021, wherein she held that defendant Velez-Ramirez, who was the operator of the rear vehicle, failed to provide a non-negligent explanation for the subject rear-end accident, and as such, that case was dismissed as against Vickram Thackroodeen, the lead vehicle.

As it has already been determined that defendants Juan David Velez-Ramirez and W. Gonzalez-Ramirez were at fault for the happening of the accident, and Vickram Thackroodeen was not at fault, summary judgment on the instant motion should now be granted. The Court finds the arguments raised in defendants’ opposition papers to be wholly unavailing.

Thus, the plaintiff established a *prima facie* case that the instant action is barred by the principles of *res judicata* and collateral estoppel, and the defendants have failed to raise any triable issues of fact in opposition.

Accordingly, it is

ORDERED that the plaintiff's motion is granted.

The foregoing constitutes the decision and order of the Court.

Dated: may 24, 2022

A handwritten signature in black ink, appearing to read 'T. Dufficy', with a stylized, cursive flourish at the end.

TIMOTHY J. DUFFICY, J.S.C.