

New York's Highest Court Asked To Clarify Res Judicata Effect Of Small Claims Court Judgments

On April 13, 2020, the Second Circuit certified a question to the New York Court of Appeals asking it to clarify the meaning of New York's statute pertaining to the preclusive effect of small claims court judgments, New York City Civil Court Act Section 1808.

At issue in *Simmons v. Trans Express Inc.*, Case No. 19-438, 2020 U.S. App. LEXIS 11517 (2d. Cir. Apr. 13, 2020), was an appeal of a district court order granting a motion to dismiss on *res judicata* grounds. The plaintiff, Charlene Simmons, alleged that she worked for the defendant, Trans Express, for approximately three years. *Id.* at *3. Shortly after the end of her employment, Ms. Simmons initiated a small claims court action against Trans Express that sought "monies arising out of nonpayment of wages." *Id.* That action ultimately concluded in a \$1,000 judgment in Ms. Simmons' favor. *Id.* About a month after Trans Express satisfied that judgment, Ms. Simmons sued again – this time in a federal court action alleging failure to pay overtime wages in violation of both federal and New York state law. *Id.* at *4.

Thereafter, Trans Express moved to dismiss Ms. Simmons' complaint on *res judicata* (or claim preclusion) grounds. *Id.* Under that doctrine, "a final judgment on the merits of an action precludes the parties or their privies from relitigating issues that were or could have been raised in that action." See, e.g., *TechnoMarine SA v. Giftports, Inc.*, 758 F.3d 493, 499 (2d Cir. 2014). Thus, Trans Express argued that the small claims court judgment against it precluded Ms. Simmons' subsequent federal action. 2020 U.S. App. LEXIS 11517, at *4.

In response, Ms. Simmons argued that under New York law, *res judicata* does not preclude her federal action, which involved separate causes of action from her small claims court complaint. *Id.*; see also *Migra v. Warren City Sch. Dist. Bd. of Educ.*, 465 U.S. 75, 81 (1984) ("[A] federal court must give to a state-court judgment the same preclusive effect as would be given that judgment under the law of the State in which the judgment was rendered."). Ms. Simmons specifically cited New York City Civil Court Act Section 1808, which provides that:

Judgment obtained to be res judicata in certain cases. A judgment obtained under this article shall not be deemed an adjudication of any fact at issue or found therein in any other action or court; ex-

cept that a subsequent judgment obtained in another action or court involving the same facts, issues and parties shall be reduced by the amount of a judgment awarded under this article.

The district court ultimately agreed with Trans Express that *res judicata* bars the federal action. 2020 U.S. App. LEXIS 11517, at *4. In so holding, the district court held that Section 1808, which contains language referencing “the adjudication of any fact or issue,” only pertains to collateral estoppel (or issue preclusion) and not *res judicata*. 2020 U.S. App. LEXIS 11517, at *4. Thus, the court held that Section 1808 does not prevent the small claims court judgment from serving as a bar, for *res judicata* purposes, to Ms. Simmons’ federal complaint. *Id.* at *4-5.

On appeal, Ms. Simmons principally argued that the district court misinterpreted Section 1808. Specifically, she contended that the plain text of Section 1808 actually contemplates an action following a small claims court judgment involving the “same facts, issues, and parties” and provides that – rather than being barred by *res judicata* – any recovery in that action “shall be reduced by the amount of [the prior] judgment.” *Id.* at *8.

Notably, the Second Circuit appeared to agree with Ms. Simmons’ position, stating that it has “persuasive force” and that the “plain meaning” of Section 1808 “strongly supports [her] interpretation.” *Id.* at *9.

However, the Court did not ultimately side with Ms. Simmons. Instead, it observed that New York’s Appellate Divisions are actually split on this exact issue. In *Katzab v. Chaudhry*, 48 A.D.3d 428 (2d Dep’t 2008), the Second Department appears to have adopted Ms. Simmons’ interpretation of Section 1808. *Id.* at 428; accord *Merrimack Mut. Fire Ins. Co. v. Alan Feldman Plumbing & Heating Corp.*, 102 A.D.3d 754, 754 (2d Dep’t 2013). However, the First and Third Departments have held that “[a]llthough judgments of the small claims court are statutorily prohibited from having collateral estoppel or issue preclusive effect . . . [Section 1808] ‘does not divest the small claims judgment of its *res judicata*, or claim preclusion, effect.’” *Platon v. Linden-Marshall Contracting Inc.*, 176 A.D.3d 409, 410 (1st Dep’t 2019) (quoting *Chapman v Faustin*, 150 A.D.3d 647, 647 (1st Dep’t 2017)); *Tovar v. Tesoros Prop. Mgmt., L.L.C.*, 119 A.D.3d 1127, 1128 (3d Dep’t 2014).

In light of this split of authority – and despite the fact that “Section 1808’s plain language allows a litigant to bring a claim ‘involving the same facts, issues and parties’ as a claim that has been brought to judgment in small claims court” – the Second Circuit determined that it is “unable to predict based on the current state of New York case law how the Court of Appeals would interpret Section 1808.” 2020 U.S. App. LEXIS 11517, at *13.

The Court thus certified this issue as a question to the Court of Appeals. *Id.* at *15. Whether or not the Court of Appeals will accept the certification has not yet been determined. See 22 NYCRR § 500.27(d) (providing that the Court of Appeals shall “examine the merits presented by the certified question, to determine, first, whether to accept the certification”).

If certification is accepted, the Court of Appeals has discretion to set the review procedure as it sees fit. *Id.* This can include ordering the parties to submit additional briefings on the matter, as well as appearing for oral argument. *Id.* § 500.27(e). There is no deadline for a decision from the Court on whether to certify and, especially in light of the current public health emergency, it is unclear when the Court of Appeals will act.