

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF HORRY )  
  
Essie Ruth Ford, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
Ralph Kline, )  
 )  
Defendant. )  
\_\_\_\_\_ )

IN THE COURT OF COMMON PLEAS  
FIFTEENTH JUDICIAL CIRCUIT  
C.A. No.: 2019-CP-26-01113

**ORDER GRANTING DEFENDANT'S  
MOTION FOR JUDGMENT ON THE PLEADINGS**

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SC Court of Appeals

THIS MATTER comes before this Court on Defendant's Motion for Judgment on the Pleadings pursuant to SCRPC Rule 12(c). A hearing was held on December 17, 2019 at the Horry County Courthouse. For the reasons discussed herein below, Defendant's Motion for Judgment on the Pleadings is GRANTED. I make the following findings of fact and conclusions of law.

**STANDARD**

Any party may move for judgment on the pleadings under Rule 12(c), SCRPC. When considering such motion, the court must regard all properly pleaded factual allegations as admitted. *Russell v. City of Columbia*, 305 S.C. 86, 406 S.E.2d 338 (1991). On review of the motion, the court may not consider matters outside the pleadings. *Firemen's Ins. Co. v. Cincinnati Ins. Co.*, 302 S.C. 234, 394 S.E.2d 855 (Ct. App. 1990).

**BACKGROUND**

The Plaintiff in this construction defects case, Essie Ruth Ford ("Plaintiff"), entered into an agreement with Defendant to perform work to the roof of her residence in January of 2018. Every cause of action set forth in the Complaint filed by Plaintiff on February 26, 2019 (hereinafter "Plaintiff's Complaint") is related to that transaction between Plaintiff and Defendant. Defendant responded to Plaintiff's Complaint by filing and serving an Answer containing multiple affirmative

defenses on September 3, 2019 (hereinafter “Defendant’s Answer”). One of the affirmative defenses pleaded in Defendant’s Answer is that the claims set forth in Plaintiff’s Complaint are barred under the doctrine of Res Judicata. *See Defendant’s Answer ¶¶ 20 – 24*. In Plaintiff’s Reply to Defendant’s Answer filed September 18, 2019 (hereinafter “Plaintiff’s Reply”), Plaintiff admitted the allegations set forth in Paragraphs 20, 21, 22 and 23 of Defendant’s Complaint. *See Plaintiff’s Reply ¶ 2*. Defendant filed this Motion for Judgment on the Pleadings pursuant to Rule 12(c) asserting that Plaintiff has admitted the elements constituting the affirmative defense of Res Judicata and the judgment should be entered for Defendant.

### **UNDISPUTED FACTS SET FORTH IN PLEADINGS**

- “In 2018, Plaintiff filed a Complaint against Defendant in Civil Action Case Number 2018CV261070719 (“2018 Complaint”).” *Defendant’s Answer ¶ 20; Plaintiff’s Reply ¶ 2*.
- “In the 2018 Complaint, Plaintiff brought claims against Defendant which arose from the same transaction and occurrence that is the subject of Plaintiff’s current Complaint.” *Defendant’s Answer ¶ 21; Plaintiff’s Reply ¶ 2*.
- “On July 23, 2019<sup>1</sup> a bench trial based upon the 2018 Complaint was held before the Honorable Bradley Mayers in Conway Magistrate Court (“2018 Bench Trial”).” *Defendant’s Answer ¶ 22; Plaintiff’s Reply ¶ 2*.
- “Plaintiff was afforded an opportunity to present all her evidence in the 2018 Bench Trial and, after Plaintiff rested, Defendant’s Motion for a Directed Verdict was granted by the court.” *Defendant’s Answer ¶ 23; Plaintiff’s Reply ¶ 2*.

### **DISCUSSION**

Defendant argues that Plaintiff’s Complaint should be dismissed under the doctrine of res judicata or claim preclusion. The general rule is well established that once a person has had a full and fair opportunity to litigate a claim, the person is precluded, under the doctrine of res judicata,

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<sup>1</sup> This is a scrivener’s error. The date of the bench trial was July 23, 2018, which is why this event is later referred to as “2018 Bench Trial” in Defendant’s Answer.

from relitigating it. *See New Hampshire v. Maine*, 532 U.S. 742, 748-49 (2001). Sound considerations justify the doctrine. “[P]reclud[ing] parties from contesting matters that they have had a full and fair opportunity to litigate protects their adversaries from the expense and vexation attending multiple lawsuits, conserves judicial resources, and fosters reliance on judicial action by minimizing the possibility of inconsistent decisions.” *Montana v. United States*, 440 U.S. 147, 153-54 (1976). Res judicata bars subsequent actions by the same parties when the claims arise out of the same transaction or occurrence that was the subject of a prior action between those parties. Res judicata applies if (1) the identities of the parties are the same as in the prior litigation, (2) the subject matter is the same as in the prior litigation, and (3) there was a prior adjudication of the issue by a court of competent jurisdiction. *Johnson v. Greenwood Mills, Inc.*, 317 S.C. 248, 250-51, 452 S.E.2d 832, 844 (1994).

Based on the pleadings filed in this matter, specifically Plaintiff’s admission to the allegations contained in Paragraphs 20, 21, 22, and 23 of Defendant’s Answer, this Court finds that the doctrine of Res Judicata operates to bar Plaintiff’s prosecution of the claims set forth in her Complaint. This Court further finds that the operation of the doctrine of Res Judicata to the matter at hand is consistent with the underlying reasons for claim preclusion. Therefore, judgment shall be entered in favor of Defendant.

### CONCLUSION

Defendant’s Motion for Judgment on the Pleadings pursuant to Rule 12(c) is GRANTED.

JUDGMENT is entered for Defendant.

**IT IS SO ORDERED.**

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The Honorable Benjamin H. Culbertson  
Presiding Judge- Fifteenth Judicial Circuit

December \_\_\_\_, 2019  
Conway, South Carolina



Horry Common Pleas

**Case Caption:** Essie Ruth Ford VS Ralph Kline , defendant, et al

**Case Number:** 2019CP2601113

**Type:** Order/Other

Presiding Circuit Court Judge

s/Benjamin H. Culbertson, Judge Code 2148

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