STATE OF VERMONT
WASHINGTON COUNTY

FILED
2007 JAN 25 P 12: 16
SUPERIOR COURT
WASHINGTON COUNTY

SABINE BALDWIN,	)	
Plaintiff,	)	**Washington Superior Court**
	)	**Docket No. 388-7-06 Wncv**
v.	)	
	)	**on appeal from**
EARL L. CHAFFEE III,	)	**Docket No. 241-4-06 Wnsc**
Defendant.	)	

DECISION

Plaintiff Baldwin alleges in the small claims complaint that Defendant Chaffee has refused to pay back a loan. Chaffee responded with a motion to dismiss, arguing essentially that this claim is barred because it should have been raised in the parties' earlier partition case. The small claims court granted the motion to dismiss. Baldwin has appealed, arguing that the doctrine of claim preclusion does not apply and, in any event, the motion to dismiss was not permissible under small claims procedure.

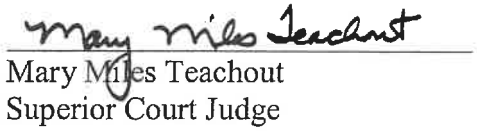
The motion to dismiss filed in this case is not one permitted under V.R.S.C.P. 4 or elsewhere in the small claims rules. It should have been denied for this reason alone. Nevertheless, the court will address the claim preclusion issue in furtherance of the interest in keeping small claims cases simple; it is likely to arise on remand.

Claim preclusion "bars litigation of a claim or defense if there exists a final judgment in former litigation in which the parties, subject matter, and causes of action are identical or substantially identical." *Department of Taxes v. Murphy*, 2005 VT 84, ¶ 9, 178 Vt. 269 (quoting *Kellner v. Kellner*, 2004 VT 1, ¶ 8, 176 Vt. 571 (mem.) (quotations omitted)). Chaffee argues that the partition case was intended to resolve all issues related to the "dissolution" of the parties' relationship. However, the complaint in the partition case reveals no claim for liability on a loan to Chaffee. The claims are limited to partition of real estate and personal property.

The claim in this case, based on an alleged bad debt, is a cause of action separate from any cause of action raised in the partition case, at least insofar as the face of the partition complaint reveals. A "cause of action" is a "group of operative facts giving rise to one or more bases for suing; a factual situation that entitles one person to obtain a remedy in court from another person." Black's Law Dictionary 214 (7th ed. 1999). The alleged unpaid loan does not appear to bear any meaningful relationship to the claims in the partition case. Claim preclusion does not appear to apply.

The decision of the small claims court is reversed. This case is remanded to the small claims court for a hearing on the merits.

Dated at Montpelier, Vermont this 24th of January, 2007.



Mary Miles Teachout
Superior Court Judge