

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-61194-CIV-ZLOCH

REGIS BUTLER,

Plaintiff,

**FINAL ORDER OF DISMISSAL**

vs.

BROWARD COUNTY CENTRAL  
EXAMINING BOARD OF BUILDING  
CONSTRUCTION TRADES, et al.,

Defendants.

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THIS MATTER is before the Court sua sponte. The Court has carefully reviewed the entire court file herein and is otherwise fully advised in the premises.

Plaintiff initiated the above-styled cause with the filing of her Complaint (DE 1) on July 28, 2008. The claims she raises herein and the Defendants named are identical to an action previously dismissed by a judge of the United States District Court for the Southern District of Florida. See DE Nos. 30 & 31 of Case No. 08-60764-CIV-LENARD.

The doctrine of res judicata bars the refiling and relitigating of any claim that was the subject of a prior action if the following are all true: (1) the prior decision was rendered by a court of competent jurisdiction; (2) there was a final judgment on the merits in the prior action; (3) the parties are identical in both actions; and (4) the prior and present causes of action are the same. Davila v. Delta Air Lines, Inc., 326 F.3d 1183, 1187 (11th Cir. 2003) (citations omitted).

It is clear that Judge Lenard's dismissal of the action pending before her bars Plaintiff's prosecution of the above-styled cause before this Court. First, Judge Lenard properly exercised in personam jurisdiction over the Parties and had subject matter jurisdiction over the claims pursuant to 28 U.S.C. §§ 1331 and 1367. Second, Judge Lenard dismissed the prior action pursuant to Federal Rule of Civil Procedure 41(b). The Order Dismissing Amended Complaint (DE 31 of Case No. 08-60764-CIV-LENARD) did not specifically state that it would not operate on the merits. Federal Rule 41 clearly states that "[u]nless the dismissal order states otherwise, a dismissal under this subdivision (b) . . . operates as an adjudication on the merits." Fed. R. Civ. P. 41(b). Finally, both the Parties and the claims are identical between the above-styled cause and Case No. 08-60764-CIV-LENARD. Therefore, Plaintiff is barred by the doctrine of res judicata from attempting to relitigate her claims before this Court. Semtek Intern. Inc. v. Lockheed Martin Corp., 531 U.S. 497, 506 (2001) ("We think, then, that the effect of the 'adjudication upon the merits' default provision of Rule 41(b) . . . is simply that, unlike a dismissal 'without prejudice,' the dismissal in the present case barred refiling of the same claim in the [same court].").

Accordingly, after due consideration, it is

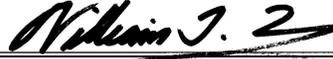
**ORDERED AND ADJUDGED** as follows:

1. The above-styled cause be and the same is hereby **DISMISSED** with prejudice on the basis that the claims asserted herein are res

judicata; and

2. To the extent not otherwise disposed of herein, all pending motions are hereby **DENIED** as moot.

**DONE AND ORDERED** in Chambers at Fort Lauderdale, Broward County, Florida, this 21st day of August, 2008.



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WILLIAM J. ZLOCH  
United States District Judge

Copies furnished:

All Counsel of Record