Only One Bite at the Apple – and Small Claims Court Counts!

The NC Court of Appeals recently answered a question I've long wondered about in Brown v. Patel, 2021-NCCOA-342 (20 July 2021). Although this lawsuit started out as a bedbug case – which is definitely on my list of interesting topics! – it ended up being about what happens when a magistrate doesn't make a decision. Read on for the riveting details!

In Brown, the plaintiffs sued a hotel for "medical costs, legal costs and punitive damages for pain and suffering" resulting from bed bug bites allegedly sustained during their stay. The small claims magistrate ruled in favor of the plaintiffs, entering a judgment for medical expenses and the cost of their lodging. The judgment contained no reference to punitive damages. Neither party appealed, but each plaintiff quickly filed a district court action against the defendant, seeking to recover "punitive damages for pain and suffering" based on "premises liability." The legal question on appeal was whether plaintiffs' lawsuits were barred by the doctrine of *res judicata*.

Despite its intimidating name, the doctrine of *res judicata* is a simple idea: the law allows plaintiffs only one bite at the apple. (Small claims court, with its provision of "appeal for trial de novo," is the rare example in which a plaintiff actually gets two bites at the apple by appealing the magistrate's judgment to district court.) If you sue a particular person for some alleged fault or wrongdoing which caused you injury, the court's judgment is a final determination of the remedy – if any – you're entitled to. If that judgment was affected by legal error, the mechanism for correcting that error is to appeal – not to file the same lawsuit again in the hope of getting a different result.

If the plaintiffs in Brown had filed a second lawsuit, identical to the first, in the hopes of getting a judgment for more money from a different judge, *res judicata* would have been a no-brainer and the case would certainly have been dismissed. That scenario illustrates the doctrine in its most straightforward sense. The facts in Brown, however, illustrate the common situation in which *res judicata* begins to get complicated: what about claims raised in the complaint but not decided by the judge? The district court judge hearing the second case wasn't certain – because the judgment was silent -- whether the magistrate implicitly ruled against the plaintiff on that claim or instead failed to consider the claim altogether. In fact, the magistrate was actually subpoenaed to testify on this point!

The Court of Appeals clarified this murky issue, essentially finding that whatever the magistrate's intent, the judgment entered was the final judgment not only as to claims actually decided, but also as to claims that should have been decided by the court. Plaintiff's request for punitive damages was specifically set out in the complaint and should have been decided by the court. Regardless of the reason for the magistrate's failure to rule on that claim, the law is that "a judgment is conclusive as to all issues raised by the pleadings [i.e., the complaint or counterclaim]." The practical effect of ignoring the claim was thus a final denial of the claim.

As all former law students know, the legal doctrine of res judicata is quite complicated, and its

applications far beyond the scope of this blog. It seldom comes up at all in small claims court. Nevertheless, small claims magistrates have important lessons to learn from the Brown case.

First, remember the rule about small claims judgments: Your judgment must dispose of all claims made as to all parties. I have long wondered whether a judgment that fails to address a claim would be held by the appellate courts to constitute a denial of the claim or simply an incomplete judgment. The Brown case tells us that, for *res judicata* purposes at least, the practical effect is equivalent to a denial.

Second, small claims magistrates should be aware that the Brown scenario frequently comes up in summary ejectment actions. This is because the complaint form (AOC-CVM-202) in these cases includes the following statement:

> 6. *I demand to be put in possession of the premises and to recover the total amount listed above and daily rental until entry of judgment plus interest and reimbursement for court costs.* (emphasis added)

The result is that every summary ejectment action automatically includes a claim for past due rent in addition to the claim for possession unless the plaintiff affirmatively modifies the form. Landlords seeking to recover possession of rental property may fail to notice the inclusion of this claim or, more likely, to appreciate its possible significance. They may be particularly likely to fall into this trap because of GS 42-28 , which specifically permits landlords to bring separate lawsuits for possession and money damages. While this statute allows separate lawsuits in these particular circumstances, it is unlikely to rescue a landlord who asserts claims for both money and possession in Lawsuit #1 and then attempts to collect money damages in Lawsuit #2. In this situation, the claim is “on the table” when the complaint is filed in Lawsuit #1, even if the plaintiff is unaware of it and the magistrate ignores the claim. Consequently, the Brown rule will presumably apply to bar any subsequent effort by the landlord to recover rent owed by the plaintiff.

NOTE: The rule established by Brown has no application to a landlord who elects the severance procedure established in GS 7A-223(b1), because both claims are presented and determined in the same lawsuit.

Some Miscellaneous Observations

About punitive damages in small claims court: The magistrate in the Brown case testified that he had not been trained about the law governing punitive damages and thus did not feel comfortable ruling on the issue. Claims for punitive damages are unusual in small claims court because of the jurisdictional monetary limit, but nothing prohibits a magistrate from hearing such a claim when filed. A discussion of the law related to punitive damages is beyond the scope of this blog post, but magistrates can find this information on pp. 114-115 of NC Small Claims Law by Joan G. Brannon (2009).

About damages in personal injury cases: Plaintiffs' claim for "punitive damages for pain and suffering" has a specific legal meaning, but I wonder whether that meaning was actually what they intended. Plaintiffs who suffer personal injury are frequently entitled to recover damages for pain and suffering associated with the injury, in addition to out-of-pocket expenses related to medical treatment. Magistrates sometimes are reluctant to award these damages because the amount is subjective – but here the presiding judicial official is performing a responsibility also performed by juries all the time: making that subjective determination of what amount of money is reasonable compensation to the injured person for the pain and suffering associated with that injury. Punitive damages, on the other hand, are just that: awarded not for the purpose of compensating the victim, but rather for the purpose of punishing the defendant for particularly egregious behavior.

Bottom Line

Magistrates, remember Mandatory Rule #9! Your judgment should dispose of all of the claims of all of the parties!