

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 95-30683  
Summary Calendar

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JAMES TUCKER,

Plaintiff-Appellant,

versus

MONTGOMERY WARD CREDIT CORPORATION,

Defendant-Appellee.

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Appeal from the United States District Court  
for the Western District of Louisiana  
USDC No. 94-CV-2161  
- - - - -

November 7, 1995

Before GARWOOD, WIENER and PARKER, Circuit Judges.

PER CURIAM:\*

James Tucker filed a complaint against Montgomery Ward Credit Corporation alleging violations of the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f, and the Fair Debt Collection Practices Act, 15 U.S.C. § 1692-1692o. The district court granted Montgomery Ward's motion for summary judgment based on the doctrine of res judicata.

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\* Local Rule 47.5 provides: "The publication of opinions that have no precedential value and merely decide particular cases on the basis of well-settled principles of law imposes needless expense on the public and burdens on the legal profession." Pursuant to that Rule, the court has determined that this opinion should not be published.

An action is barred by the doctrine of res judicata if "1) the parties are identical in both actions; 2) the prior judgment was rendered by a court of competent jurisdiction; 3) the prior judgment was final on the merits; and 4) the cases involve the same cause of action." Travelers Ins. Co. v. St. Jude Hosp. of Kenner, LA, Inc., 37 F.3d 193, 195 (5th Cir. 1994), cert. denied, 115 S. Ct. 1696 (1995). All four factors are satisfied. Tucker and Montgomery Ward are the only parties to both suits; the state court has jurisdiction to render judgment on Tucker's counterclaims under the Equal Credit Opportunity Act and the Fair Debt Collection Practices Act, see 15 U.S.C. §§ 1691e(f), 1692k(d) (West 1982); the state court reached the merits of Tucker's counterclaim; and both actions involved the same cause of action.

Therefore, IT IS ORDERED that Tucker's motion for leave to proceed in forma pauperis on appeal is DENIED. Tucker has not shown that he will present a nonfrivolous issue on appeal. Carson v. Polley, 689 F.2d 562, 586 (5th Cir. 1982). Because the appeal is frivolous, it is DISMISSED. 5th Cir. R. 42.2. We take this opportunity to warn Tucker that any additional frivolous appeals filed by him or on his behalf will be met with an appropriate sanction under Federal Rules of Appellate Procedure 38. To avoid sanctions, Tucker should review all pending appeals to ensure that they do not raise arguments already resolved by this court.

IT IS FURTHER ORDERED that Tucker's motions for summary judgment, to amend the complaint, for the appeal to be heard by

three judges, to compel an officer of the United States to perform his duty, and to strike Montgomery Ward's motion are DENIED. Montgomery Ward's motions to dismiss the appeal and for sanctions are DENIED.