

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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CATHERINE CONRAD,

Plaintiff,

v.

DAVID BATZ, SHARON BATZ,  
SHANAUBA PRODUCTIONS,  
KAREN M. GALLAGHER, AMY K. SCHOLL  
and COYNE, SHULTZ, BECKER & BAUER, S.C.,

Defendants.  
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OPINION AND ORDER

13-cv-475-bbc

Pro se plaintiff Catherine Conrad is suing the host for her website <http://www.bananalady.com>, along with the host's owners and lawyers, for allegedly taking down her website and offering her domain name for sale. She is asserting numerous violations of state and federal law, including copyright, trademark, trade dress, "cybersquatting," misappropriation, defamation, conversion, "bank fraud" and even "tax evasion."

This is plaintiff's eighth case filed in this court since 2009. She settled the first three cases. Conrad v. Westport, Marine, Inc., No. 09-cv-49-bbc; Conrad v. Madison Festivals, Inc., No. 09-cv-499-bbc; Conrad v. Isthmus Publishing, Inc., No. 09-cv-566-bbc. The other four I dismissed on the merits or for lack of jurisdiction. Conrad v. Bednwald, No. 11-cv-305-bbc (dismissed on merits at summary judgment; attorney fees awarded to defendants);

Conrad v. Bell, Moore & Richter, S.C., No. 11-cv-539-bbc (dismissed for lack of jurisdiction); Conrad v. Russell, No. 11-cv-570-bbc (dismissed for failure to state a claim upon which relief may be granted); Conrad v. AM Community Credit Union, No. 13-cv-461-bbc (dismissed for failure to state a claim upon which relief may be granted).

This case represents a continuation of the trend plaintiff started in case no. 13-cv-461-bbc of coming to this court after receiving an unfavorable ruling in Wisconsin state court. In her complaint, she admits that she already sued defendants in state court for breach of contract, but the state court dismissed the case for lack of personal jurisdiction. Dkt. #1 at ¶ 12. However, plaintiff is not entitled to file a new law suit in federal court with repackaged claims simply because she did not like the resolution in state court. Federal courts are bound by state court rulings to the same extent that the rulings would be enforceable in state court. 28 U.S.C. § 1738; Best v. City of Portland, 554 F.3d 698, 701 (7th Cir. 2009). Under Wisconsin law, “[i]ssue preclusion prevents the relitigation of issues that have actually been litigated in a prior proceeding,” Cirilli v. Country Ins. & Financial Services, 2013 WI App 44, ¶ 8, 347 Wis. 2d 481, 490, 830 N.W.2d 234, 239, including jurisdictional issues. In Interest of H.N.T., 125 Wis. 2d 242, 250-251, 371 N.W.2d 395, 399 (Ct. App. 1985).

Because plaintiff admits that the state court already decided that personal jurisdiction does not exist over defendants in Wisconsin, it seems that issue preclusion should apply in this case. Although plaintiff is not asserting the same legal theories in this court, I see no reason why that would affect the issue of personal jurisdiction because of all her claims arise

out of the same facts. However, I note that Wisconsin courts consider a number of factors before deciding whether to apply issue preclusion:

(1) could the party against whom preclusion is sought, as a matter of law, have obtained review of the judgment; (2) is the question one of law that involves two distinct claims or intervening contextual shifts in the law; (3) do significant differences in the quality or extensiveness of proceedings between the two courts warrant relitigation of the issue; (4) have the burdens of persuasion shifted such that the party seeking preclusion had a lower burden of persuasion in the first trial than in the second; or (5) are matters of public policy and individual circumstances involved that would render the application of collateral estoppel to be fundamentally unfair, including inadequate opportunity or incentive to obtain a full and fair adjudication in the initial action?

Michelle T. v. Crozier, 173 Wis.2d 681, 689, 495 N.W.2d 327 (1993). None of these factors seem to favor plaintiff in this case, but I will give her an opportunity to identify any reason she believes would make it unfair to apply issue preclusion in this case.

Although plaintiff says that she filed the state court lawsuit against “Defendants,” a review of Wisconsin’s Circuit Court Access website shows that plaintiff did not include lawyers Karen Gallagher and Amy Scholl or their law firm Coyne, Schultz, Becker & Bauer, S.C. in the state court action. However, even if personal jurisdiction exists over these defendants in Wisconsin, any claims against them are frivolous. Plaintiff does not allege that these defendants committed any of the allegedly unlawful acts. Rather, their only alleged involvement was giving the other defendants legal advice. Because that does not constitute copyright or trademark infringement, defamation, theft or any of the other violations of the law asserted by plaintiff, I am dismissing the complaint as to them now.

## ORDER

IT IS ORDERED that

1. Plaintiff Catherine Conrad's complaint is DISMISSED as to defendants Karen Gallagher, Amy Scholl and Coyne, Schultz, Becker & Bauer, S.C. for plaintiff's failure to state a claim upon which relief may be granted.

2. Plaintiff may have until September 6, 2013 to show cause why the complaint should not be dismissed as to the remaining defendants under the doctrine of issue preclusion. If plaintiff does not respond by that date, I will dismiss the case.

Entered this 16th day of August, 2013.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge