

Homo v. Henniker

CV-95-499-SD 05/28/96

UNITED STATES DISTRICT COURT FOR THE

DISTRICT OF NEW HAMPSHIRE

Lawrence R. Homo, Sr.;
Katheren I. Homo

v.

Civil No. 95-499-SD

Town of Henniker;
William Belanger;
Wayne Colby;
Kenneth Ward;
Edward Wojnowski;
Walter Crane;
Meridan Timber Company;
John's Wrecker Service;
Jeffrey Fielding

O R D E R

In this civil action, plaintiffs Lawrence R. Homo, Sr., and Katheren I. Homo have filed a four-count complaint against the above-named defendants for alleged deprivations of certain rights protected by the constitutions of the United States and the State of New Hampshire.

Presently before the court is defendants' motion for summary judgment, to which no objection has been filed.¹

¹Plaintiffs have filed with the court a "Notice of Contract and Reaffirmation Under the Jurisdiction of the American Flag of Peace of the United States of America." Insofar as such document is specifically directed to the court, the court does not construe same as an objection to defendants' motion for summary judgment. With respect to the intendment of the document, the

Discussion

Having reviewed defendants' motion for summary judgment in conjunction with the complaint filed herein, the court finds and rules that this litigation is like, in the inestimable words of Lawrence Peter Berra, Litt.D., a/k/a Yogi Berra, "déjà vu all over again." Bartlett's Familiar Quotations 754 (16th ed. 1992).

The court further finds and rules that the principles of res judicata estop plaintiffs² from attempting to litigate what has heretofore been given full and fair process in the courts of both New Hampshire, see Lawrence R. Homo, Sr., et al. v. Town of Henniker, et al., Civil Action No. 94-C-00130-WS (N.H. Super. Ct. May 10, 1994) (granting defendants' motion to dismiss), aff'd, Case No. 94-456 (N.H. Nov. 14, 1994), reh'g denied (Jan. 19, 1995), and the United States, see Homo v. Town of Henniker, et al., Civil No. 94-387-SD (D.N.H. July 6, 1996) (granting defendants' motion for judgment on pleadings on ground of res judicata), aff'd without opinion, 78 F.3d 577 (1st Cir. 1996); see also Homo, et al. v. Town of Henniker, et al., Civil No. 92-

court directs plaintiffs' attention to 28 U.S.C. § 453 (1993) (oaths of justices and judges).

²The addition of certain parties as plaintiffs and defendants in this action who were not parties to Civil No. 94-387-SD, does not alter the result. Quite to the contrary, the parties herein are actually more similar to those involved in the superior court action, and thus present an even stronger argument for the application of res judicata to the instant pleadings.

180-SD (D.N.H. Sept. 30, 1994) (approving magistrate judge's report and recommendation dismissing complaint).

Accordingly, the court herewith grants defendants' motion for summary judgment.

Conclusion

For the reasons set forth herein, defendants' motion for summary judgment (document 5) is granted. Judgment shall be entered accordingly.

SO ORDERED.

Shane Devine, Senior Judge
United States District Court

May 28, 1996

cc: Lawrence R. Homo, Sr., pro se
Katheren I. Homo, pro se
Barton L. Mayer, Esq.