

22-_____

IN THE

SUPREME COURT OF THE
UNITED STATES

PALANI KARUPAIYAN et al

---Petitioners

V.

ARNAUD VAISSIE et al

---- Respondents

On Petition for a Writ of Certiorari
to the United States Court of
Appeals for the Third Circuit
Docket-23-1288

**Appendix for PETITION FOR A
WRIT OF CERTIORARI**

Palani Karupaiyan.
Pro se, Petitioner,
1326 W. William St
Philadelphia, PA 19132s
palanikay@gmail.com
212-470-2048(m)

RECEIVED

JUL 25 2023

OFFICE OF THE CLERK
SUPREME COURT, U.S.

LIBRARY OF THE
SCHOOL OF THE AIR

NOV 5 2 5083

RECEIVED

Table of Appendices

Contents

Appendix-A – Opinion [NOT PRECEDENTIAL] of United States Court of Appeal 3 rd Cir. Dt 4/19/2023 .	1
Appendix - B: Order of United States Court of Appeals 3 rd Cir. dated Apr 19, 2023.....	4
Appendix- C : ECF-34 Order of US Dist. Court for the Eastern Dist. of Pennsylvania to dismissing the Complaint for International SOS Jan 31 2023.....	5
Appendix-D: ECF-35 Dist Court Order that dismissing the Access defendants. Jan 31 2023.....	12
Appendix-E- ECF-17 Dist Court Order- Forma pauperis Granted & Ordered to Serve the Summon and Complaint. Nov 3 2022. ECF-17	18
Appendix-R : Compensation from defendants.	21
1. Claim Against ISOS	21
2. Claims against Access Staffing.....	22
Appendix-S-1 : Urinal Bladder report	23
Appendix-S-2 Kidney Stone	24

APPENDIX-A – OPINION [NOT PRECEDENTIAL] OF
UNITED STATES COURT OF APPEAL 3R CIR. DT
4/19/2023

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-1288

IN RE: PALANI KARUPAIYAN, Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the Eastern
District of Pennsylvania
(Related to Civ. No. 2:22-cv-03083)

Submitted Pursuant to Rule 21, Fed. R. App. P.

April 13, 2023

Before: KRAUSE, PORTER, and
MONTGOMERY-REEVES, Circuit Judges
(Opinion filed April 19, 2023)

OPINION*

PER CURIAM

Palani Karupaiyan petitions this Court for a writ of mandamus pursuant to 28 U.S.C. § 1651. For the reasons that follow, we will deny in part and dismiss in part the petition.

In 2022, Karupaiyan filed a complaint in the District Court for the Eastern District of Pennsylvania against International SOS, Access

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Staffing LLC, Kapital Data Corp., Karupaiyan Consulting Inc. and several individuals. Karupaiyan later amended his complaint against the same defendants. Karupaiyan brought claims on behalf of himself and his minor children regarding the alleged unlawful termination of his employment and subsequent decision not to rehire him. Because of this, Karupaiyan claimed discrimination in violation of various federal and statutes.

On January 31, 2023, the District Court entered two orders granting the moving defendants' motions to dismiss and dismissed the case against those defendants with prejudice. The District Court concluded that Karupaiyan's claims against the defendants were precluded by the doctrine of *res judicata*. Karupaiyan filed a notice of appeal. See C.A. No. 23-1217.

He subsequently filed this mandamus petition, seeking the same relief sought against the defendants in his complaint and the vacatur of the dismissal orders¹.

¹ Karupaiyan also seeks mandamus relief on behalf of his two minor children, R.P. and P.P., who are both listed as petitioners. After the Clerk notified him that, as a non-attorney, he cannot represent the interests of his minor children, see *Osei-Afriyie by Osei-Afriyie v. Med. Coll. of Pa.*, 937 F.2d 876, 883 (3d Cir. 1991), Karupaiyan filed a motion for appointment of counsel or, in the alternative, to appoint him as next friend or guardian ad litem for his minor children. We have repeatedly denied Karupaiyan's motions for such relief in other matters, see C.A. Nos. 23-1303 & 23-1304, and we deny this motion, too, because he has not provided any basis for granting such relief. Accordingly, we will dismiss the request for mandamus relief on R.P. and P.P.'s behalf. Karupaiyan's remaining motions are also denied.

Mandamus provides a “drastic remedy that a court should grant only in extraordinary circumstances in response to an act amounting to a judicial usurpation of power.” *Hahnemann Univ. Hosp. v. Edgar*, 74 F.3d 456, 461 (3d Cir. 1996) (citations and internal quotation marks omitted). To justify the Court’s use of this extraordinary remedy, Karupaiyan must show a clear and indisputable right to the writ and that he has no other adequate means to obtain the relief desired. *Haines v. Liggett Grp. Inc.*, 975 F.2d 81, 89 (3d Cir. 1992). He has failed to make this requisite showing.

To the extent that Karupaiyan seeks an order granting the relief sought in his complaint, he is essentially trying to circumvent the District Court’s dismissal of his complaint. Mandamus relief is unavailable because he may challenge the District Court’s dismissal order through the normal appeal process. See *In re Nwanze*, 242 F.3d 521, 524 (3d Cir. 2001) (noting that, “[g]iven its drastic nature, a writ of mandamus should not be issued where relief may be obtained through an ordinary appeal”) (citation omitted). For the same reason, Karupaiyan may not seek through mandamus the vacatur of the District Court’s dismissal orders.

For the foregoing reasons, we will deny in part and dismiss in part the amended petition for a writ of mandamus.

APPENDIX - B: ORDER OF UNITED STATES COURT OF
APPEALS 3RD CIR. DATED APR 19, 2023

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 23-1288

IN RE: PALANI KARUPAIYAN,
Petitioner

On a Petition for Writ of Mandamus from the
United States District Court for the Eastern
District of Pennsylvania

(Related to Civ. No. 2:22-cv-03083)

Submitted Pursuant to Rule 21, Fed. R. App. P.
April 13, 2023

Before: KRAUSE, PORTER, and
MONTGOMERY-REEVES, Circuit Judges

ORDER

PER CURIAM:

This cause came to be considered on a petition for
writ of mandamus submitted on April 13, 2023.

On consideration whereof, it is now hereby

ORDERED by this Court that the petition
for writ of mandamus be, and the same is, denied
in part and dismissed in part. All of the above in
accordance with the opinion of the Court.

Dated: April 19, 2023

APPENDIX- C : ECF-34 ORDER OF US DIST. COURT
FOR THE EASTERN DIST. OF PENNSYLVANIA TO
DISMISSING THE COMPLAINT FOR INTERNATIONAL SOS
JAN 31 2023.

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

<p>Palani Karupaiyan, et al <i>Plaintiffs prose</i> v. <i>Arnaud Vaissie, et al.</i> <i>Defendants</i></p>	<p>Civil Action No 22-3083</p>
--	------------------------------------

ORDER

AND NOW, this 31st day of January 2023, upon consideration of the *motion to dismiss the amended complaint* filed by Defendants International SOS, Arnaud Vaissie, Dessi Nikolova, and Gregory Harris (collectively, “Moving Defendants”), [ECF 30], Plaintiffs’ response in opposition, [ECF 31], and the allegations in the amended complaint, [ECF 24], it is hereby **ORDERED** that the motion to dismiss is **GRANTED**¹. Accordingly, this matter is **DISMISSED**, with prejudice, as to Moving Defendants.

BY THE COURT:

/s/ Nitza L Quinones Alejandro
Nitza L Quinones Alejandro
Judge, United States Dist Court

FoteNote-1. Continues below

In his amended complaint, Plaintiff Palani Karupaiyan (“Plaintiff”), proceeding *pro se* on his own behalf and purportedly on behalf of his children,

asserts various claims against Moving Defendants premised on their alleged unlawful termination of his employment contract and their subsequent decision to not hire him for another position allegedly because of his race, ethnicity, national origin, and disability, in violation of various federal and state statutes. (Am. Compl., ECF 24, at ¶ 2).

Moving Defendants filed the instant motion to dismiss and argue that the doctrine of *res judicata* bars Plaintiff's claims against them. When considering a motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure ("Rule") 12(b)(6), the court "must accept all of the complaint's well-pleaded facts as true, but may disregard any legal conclusions." *Fowler v. UPMC Shadyside*, 578 F.3d 203, 210–11 (3d Cir. 2009). The court must determine "whether the facts alleged in the complaint are sufficient to show that the plaintiff has a 'plausible claim for relief.'" *Id.* at 211 (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009)). The complaint must do more than merely allege the plaintiff's entitlement to relief; it must "show such an entitlement with its facts." *Id.* (quotations and citations omitted).

As noted, Moving Defendants move to dismiss Plaintiff's claims of unlawful termination of employment as barred by the doctrine of *res judicata*. Specifically, Moving Defendants argue that because Plaintiff previously brought identical claims against Moving Defendants in this Court that were fully adjudicated on the merits in Moving Defendants' favor by the Honorable Petrese B. Tucker, in the matter styled *Karupaiyan v. International SOS, et al.*, Civil Action No. 19-2259 (the "Prior Action"),

Plaintiffs amended complaint here should be dismissed. Notably, Judge Tucker dismissed the Prior Action “with prejudice,” and the United States Court of Appeals for the Third Circuit (the “Third Circuit”) affirmed the dismissal. See *Karupaiyan v. Int’l SOS*, 2021 WL 6102077 (3d Cir. Dec. 22, 2021). For the reasons set forth herein, this Court agrees with Moving Defendants.

The doctrine of *res judicata*, or claim preclusion, “protect[s] litigants from the burden of relitigating an identical issue with the same party or his privy and . . . promot[es] judicial economy by preventing needless litigation.” *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 327 (1979). For the doctrine of *res judicata* to apply, the following requirements must be met, *to wit*: “(1) a final judgment on the merits in a prior suit involving (2) the same parties or their privies and (3) a subsequent suit based on the same cause of action.” *Lubrizol Corp. v. Exxon Corp.*, 929 F.2d 960, 963 (3d Cir. 1991).

In evaluating whether these elements are met, this Court must “focus on the central purpose of the doctrine, to require a plaintiff to present all claims arising out of the same occurrence in a single suit. In so doing, we avoid piecemeal litigation and conserve judicial resources.” *Blunt v. Lower Merion Sch. Dist.*, 767 F.3d 247, 277 (3d Cir. 2014) (internal quotation marks and brackets omitted). In *Blunt*, the Third Circuit explained:

[W]e take a broad view of what constitutes the same cause of action and that res judicata generally is thought to turn on the essential similarity of the underlying events giving rise to the various legal claims. In analyzing essential

similarity, we consider several factors: (1) whether the acts complained of and the demand for relief are the same . . . ; (2) whether the theory of recovery is the same; (3) whether the witnesses and documents necessary at trial are the same . . . ; and (4) whether the material facts alleged are the same. It is not dispositive that a plaintiff asserts a different theory of recovery or seeks different relief in the two actions.

Id. (internal citations and quotations omitted); see also *Elkadrawy v. Vanguard Grp.*, 584 F.3d 169, 173 (3d Cir. 2009) (“This analysis does not depend on the specific legal theory invoked, but rather [on] the essential similarity of the underlying events giving rise to the various legal claims.”) (internal quotation marks omitted). “The doctrine of *res judicata* bars not only claims that were brought in a previous action, but also claims that could have been brought.” *In re Mullarkey*, 536 F.3d 215, 225 (3d Cir. 2008). With respect to privity between defendants, claim preclusion is applied whenever “there is a close or significant relationship between successive defendants.” *Lubrizol*, 929 F.2d at 966.

Here, Plaintiff and Moving Defendants (with the exception of Defendant Arnaud Vaissie) were all parties to the Prior Action. As the alleged CEO of Defendant International SOS (named as a defendant in this action *and* the Prior Action), Defendant Vaissie has a “close or significant relationship” to a previously named defendant such that he is in privity for preclusion purposes. *Salerno v. Corzine*, 449 F. App’x 118, 122–23 (3d Cir. 2011) (finding privity between employer and employees). Plaintiff’s claims against Moving Defendants in this case are also the same and/or premised on the same underlying

allegations and theories as those he asserted in the Prior Action. Indeed, in the second amended complaint filed in the Prior Action, Plaintiff alleged:

This suit arises from Defendant's decision to refuse[] to hire fulltime job and/or refused hire contract job and/or terminate Plaintiff because of his Race, Color, National of Origin, (Language), retaliation, Age, Disability, genetic information, US Citizenship in violation of [various federal statutes]."

(Sec. Am. Compl., Civil Action No. 19-2259, ECF 56, at ¶ 1). In the amended complaint underlying this action, Plaintiff makes the same allegations:

This suit arises from Defendant's decision to refuse[] to hire fulltime job and/or refused hire contract job and/or terminate Plaintiff because of his Race, Color, National of Origin, (Language), retaliation, Age, Disability, genetic information, US Citizenship in violation of Under Laws."

(Am. Compl., ECF 24, at ¶ 2). As such, the second and third elements for application of *res judicata* are clearly met.

Plaintiff contends, however, that the judgment in the Prior Action was not "on the merits" because it was premised on pleading deficiencies under Rules 8 and 10 and on his failure to comply with Court Orders under *Poulis v. State Farm Fire and Casualty Co.*, 747 F.2d 863 (3d Cir. 1984). While Plaintiff is correct as to the bases of the prior dismissal, he is incorrect as to the preclusive effect of such dismissals. Though not squarely determined by the Third Circuit, district courts in this Circuit have held that dismissal of a plaintiff's claims with prejudice for failure to comply

with federal court orders operates as an adjudication on the merits for preclusion purposes. *See, e.g., Jackson v. Dow Chem. Co.*, 902 F. Supp. 2d 658, 668–69 (E.D. Pa. 2012); *Nwani v. Molly*, 2018 WL 2461987, at *6 (E.D. Pa. May 31, 2018) (citing and following *Jackson*). This approach is also the uniform view taken by other federal courts. *See Dillard v. Sec. Pac. Brokers, Inc.*, 835 F.2d 607, 608 (5th Cir. 1988) (affirming application of claim preclusion to earlier federal judgment entered as a sanction for failure to comply with court order); *United States v. \$149,345 U.S. Currency*, 747 F.2d 1278, 1280 (9th Cir. 1984) (same); *see also* 18A Charles A. Wright *et al.*, *Federal Practice and Procedure* § 4440 n.1 (3d ed.) (collecting cases). Though in *dicta*, the United States Supreme Court indicated its agreement. *See Costello v. United States*, 365 U.S. 265, 286 (1961) (stating that dismissal for reasons enumerated in Rule 41(b), including “failure . . . to comply with an order of the Court,” would normally “bar a subsequent action”). Further, the Third Circuit has recognized that dismissal as a sanction for failure to obey a court order would give rise to preclusion under Pennsylvania law. *McCarter v. Mitcham*, 883 F.2d 196, 199–200 (3d Cir. 1989). In light of this caselaw, this Court agrees that a dismissal with prejudice premised on a plaintiff’s failure to comply with court orders operates as a decision on the merits for preclusion purposes.

Here, Judge Tucker dismissed the Prior Action, with prejudice, on account of Plaintiff’s failure to comply with prior orders. Specifically, she concluded that Plaintiff’s second amended complaint was filed after the deadline set in an Order dismissing Plaintiff’s previous complaint. After conducting the

requisite *Poulis* analysis, which included consideration of the merits of Plaintiff's claims, Judge Tucker dismissed the second amended complaint with prejudice. Judge Tucker's dismissal with prejudice was affirmed on appeal by the Third Circuit. See *Karupaiyan*, 2021 WL 6102077 (3d Cir. Dec. 22, 2021). Under these circumstances, and based on the caselaw cited above, this Court finds that the dismissal of the Prior Action with prejudice for failure to comply with court orders constitutes a decision on the merits for preclusion purposes. As such, Plaintiff's claims against Moving Defendants are precluded by the doctrine of *res judicata*.

**APPENDIX-D: ECF-35 DIST COURT ORDER THAT
DISMISSING THE ACCESS DEFENDANTS. JAN 31 2023.
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DIST OF PENNSYLVANIA**

Palani Karupaiyan, et al. Plaintiffs, prose V Arnaud Vaissie, et al , Defendants	Civil Action No. 22-3083
--	---------------------------------

ORDER

AND NOW, this 31st day of January 2023, upon consideration of the *motion to dismiss the amended complaint* filed by Defendants Access Staffing, LLC, and Mike Weinstein (collectively, "Moving Defendants"), [ECF 28], Plaintiffs' response in opposition, [ECF 32], and the allegations in the amended complaint, [ECF 24], it is hereby **ORDERED** that the motion to dismiss is **GRANTED**.¹ Accordingly, this matter is **DISMISSED**, with prejudice, as to Moving Defendants.

BY THE COURT:

/s/ Nitza I. Quiñones Alejandro
NITZA I. QUIÑONES ALEJANDRO
Judge, United States District Court

FootNote-1

In his amended complaint, Plaintiff Palani Karupaiyan ("Plaintiff"), proceeding *pro se* on his own behalf and purportedly on behalf of his children, asserts various claims against Moving Defendants premised on their alleged unlawful termination of his employment contract and their subsequent decision to not hire him for another position allegedly because

of his race, ethnicity, national origin, and disability, in violation of various federal and state statutes. (Am. Compl., ECF 24, at ¶ 2).

Moving Defendants filed the instant motion to dismiss and argue, *inter alia*, that the doctrine of *res judicata* bars Plaintiff's current claims against them. When considering a motion to dismiss for failure to state a claim under Federal Rule of Civil Procedure ("Rule") 12(b)(6), the court "must accept all of the complaint's well-pleaded facts as true, but may disregard any legal conclusions." *Fowler v. UPMC Shadyside*, 578 F.3d 203, 210–11 (3d Cir. 2009). The court must determine "whether the facts alleged in the complaint are sufficient to show that the plaintiff has a 'plausible claim for relief.'" *Id.* at 211 (quoting *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009)). The complaint must do more than merely allege the plaintiff's entitlement to relief; it must "show such an entitlement with its facts." *Id.* (quotations and citations omitted).

As noted, Moving Defendants move to dismiss Plaintiff's claims of unlawful termination of employment as barred by the doctrine of *res judicata*. Specifically, Moving Defendants argue that because Plaintiff previously brought identical claims against Moving Defendants in this Court that were fully adjudicated on the merits in Moving Defendants' favor by the Honorable Petrese B. Tucker, in the matter styled *Karupaiyan v. International SOS, et al.*, Civil Action No. 19-2259 (the "Prior Action"), Plaintiff's amended complaint here should be dismissed. Notably, Judge Tucker dismissed the Prior Action "with prejudice," and the United States Court of Appeals for the Third Circuit (the "Third Circuit")

affirmed the dismissal. See *Karupaiyan v. Int'l SOS*, 2021 WL 6102077 (3d Cir. Dec. 22, 2021). For the reasons set forth herein, this Court agrees with Moving Defendants.

The doctrine of *res judicata*, or claim preclusion, “protect[s] litigants from the burden of relitigating an identical issue with the same party or his privy and . . . promot[es] judicial economy by preventing needless litigation.” *Parklane Hosiery Co. v. Shore*, 439 U.S. 322, 327 (1979). For the doctrine of *res judicata* to apply, the following requirements must be met, *to wit*: “(1) a final judgment on the merits in a prior suit involving (2) the same parties or their privies and (3) a subsequent suit based on the same cause of action.” *Lubrizol Corp. v. Exxon Corp.*, 929 F.2d 960, 963 (3d Cir. 1991).

In evaluating whether these elements are met, this Court must “focus on the central purpose of the doctrine, to require a plaintiff to present all claims arising out of the same occurrence in a single suit. In so doing, we avoid piecemeal litigation and conserve judicial resources.” *Blunt v. Lower Merion Sch. Dist.*, 767 F.3d 247, 277 (3d Cir. 2014) (internal quotation marks and brackets omitted). In *Blunt*, the Third Circuit explained:

[W]e take a broad view of what constitutes the same cause of action and that res judicata generally is thought to turn on the essential similarity of the underlying events giving rise to the various legal claims. In analyzing essential similarity, we consider several factors: (1) whether the acts complained of and the demand for relief are the same . . . ; (2) whether the theory of recovery is the same; (3) whether the

witnesses and documents necessary at trial are the same . . . ; and (4) whether the material facts alleged are the same. It is not dispositive that a plaintiff asserts a different theory of recovery or seeks different relief in the two actions.

Id. (internal citations and quotations omitted); see also *Elkadrawy v. Vanguard Grp.*, 584 F.3d 169, 173 (3d Cir. 2009) (“This analysis does not depend on the specific legal theory invoked, but rather [on] the essential similarity of the underlying events giving rise to the various legal claims.”) (internal quotation marks omitted). “The doctrine of *res judicata* bars not only claims that were brought in a previous action, but also claims that could have been brought.” *In re Mullarkey*, 536 F.3d 215, 225 (3d Cir. 2008). With respect to privity between defendants, claim preclusion is applied whenever “there is a close or significant relationship between successive defendants.” *Lubrizol*, 929 F.2d at 966.

Here, Plaintiff and Moving Defendants were all parties to the Prior Action. Plaintiff’s claims against Moving Defendants in this case are also the same and/or premised on the same underlying allegations and theories as those he asserted in the Prior Action. Indeed, in the second amended complaint filed in the Prior Action, Plaintiff alleged:

This suit arises from Defendant’s decision to refuse[] to hire fulltime job and/or refused hire contract job and/or terminate Plaintiff because of his Race, Color, National of Origin, (Language), retaliation, Age, Disability, genetic information, US Citizenship in violation of [various federal statutes].”

(Sec. Am. Compl., Civil Action No. 19-2259, ECF 56, at ¶ 1). In the amended complaint underlying this action, Plaintiff makes the same allegations:

This suit arises from Defendant's decision to refuse[] to hire fulltime job and/or refused hire contract job and/or terminate Plaintiff because of his Race, Color, National of Origin, (Language), retaliation, Age, Disability, genetic information, US Citizenship in violation of Under Laws."

(Am. Compl., ECF 24, at ¶ 2). As such, the second and third elements for application of *res judicata* are clearly met.

Plaintiff contends, however, that the judgment in the Prior Action was not "on the merits" because it was premised on pleading deficiencies under Rules 8 and 10 and on his failure to comply with Court Orders under *Poulis v. State Farm Fire and Casualty Co.*, 747 F.2d 863 (3d Cir. 1984). While Plaintiff is correct as to the bases of the prior dismissal, he is incorrect as to the preclusive effect of such dismissals. Though not squarely determined by the Third Circuit, district courts in this Circuit have held that dismissal of a plaintiff's claims with prejudice for failure to comply with federal court orders operates as an adjudication on the merits for preclusion purposes. *See, e.g., Jackson v. Dow Chem. Co.*, 902 F. Supp. 2d 658, 668–69 (E.D. Pa. 2012); *Nwani v. Molly*, 2018 WL 2461987, at *6 (E.D. Pa. May 31, 2018) (citing and following *Jackson*). This approach is also the uniform view taken by other federal courts. *See Dillard v. Sec. Pac. Brokers, Inc.*, 835 F.2d 607, 608 (5th Cir. 1988) (affirming application of claim preclusion to earlier federal judgment entered as a sanction for failure to comply with court order); *United States v. \$149,345 U.S. Currency*, 747 F.2d 1278, 1280 (9th Cir. 1984)

(same); *see also* 18A Charles A. Wright *et al.*, *Federal Practice and Procedure* § 4440 n.1 (3d ed.) (collecting cases). Though in *dicta*, the United States Supreme Court indicated its agreement. *See Costello v. United States*, 365 U.S. 265, 286 (1961) (stating that dismissal for reasons enumerated in Rule 41(b), including “failure . . . to comply with an order of the Court,” would normally “bar a subsequent action”). Further, the Third Circuit has recognized that dismissal as a sanction for failure to obey a court order would give rise to preclusion under Pennsylvania law. *McCarter v. Mitcham*, 883 F.2d 196, 199–200 (3d Cir. 1989). In light of this caselaw, this Court agrees that a dismissal with prejudice premised on a plaintiff’s failure to comply with court orders operates as a decision on the merits for preclusion purposes.

Here, Judge Tucker dismissed the Prior Action, with prejudice, on account of Plaintiff’s failure to comply with prior orders. Specifically, she concluded that Plaintiff’s second amended complaint was filed after the deadline set in an Order dismissing Plaintiff’s previous complaint. After conducting the requisite *Poulis* analysis, which included consideration of the merits of Plaintiff’s claims, Judge Tucker dismissed the second amended complaint with prejudice. Judge Tucker’s dismissal with prejudice was affirmed on appeal by the Third Circuit. *See Karupaiyan*, 2021 WL 6102077 (3d Cir. Dec. 22, 2021). Under these circumstances, and based on the caselaw cited above, this Court finds that the dismissal of the Prior Action with prejudice for failure to comply with court orders constitutes a decision on the merits for preclusion purposes. As such, Plaintiff’s claims against Moving Defendants are precluded by the doctrine of *res judicata*.

**APPENDIX-E- ECF-17 DIST COURT ORDER- FORMA
PAUPERIS GRANTED & ORDERED TO SERVE THE
SUMMON AND COMPLAINT. NOV 3 2022. ECF-17
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DIST OF PENNSYLVANIA**

PALANI KARUPAIYAN V ARNAUD VAISSIE, <i>et</i> <i>al.</i>	CIVIL ACTION NO. 22-3083
---	-------------------------------------

ORDER

AND NOW, this 3rd day of November 2022, upon consideration of Plaintiff's *application to proceed in District Court without prepaying fees or costs*, [ECF 1], and it appearing to this Court that Plaintiff is unable to pre-pay the filing fees and costs, it is hereby **ORDERED** that:

1. Plaintiff's application to proceed *in forma pauperis* is **GRANTED**;

2. The Clerk of Court shall file the complaint and issue summons;

3. All original pleadings and other papers submitted for consideration to the Court in this case are to be filed with the Clerk of Court. Copies of papers filed in this Court are to be served upon counsel for all other parties (or directly on any party acting *pro se*). Service may be made by mail. Proof that service has been made is provided by a certificate of service. The certificate of service should be filed in the case along with the original papers and should show the day and manner of service. An example of a certificate of service by mail follows:

"I, (name), do hereby certify that a true and correct copy of the foregoing (name of pleading or other paper) has been served upon (name(s) of person(s) served) by placing the same in the U.S. mail, properly addressed, this (day) of (month), (year).

(Signature)"

4. Any request for court action shall be set forth in a motion, properly filed and served. The parties shall file all motions, including proof of service upon opposing parties, with the Clerk of Court. The Federal Rules of Civil Procedure and local rules are to be followed. Plaintiff is specifically directed to comply with Local Civil Rule 7.1 and serve and file a proper response to all motions within fourteen (14) days. Failure to do so may result in dismissal of this action;

5. Plaintiff is specifically directed to comply with Local Rule 26.1(f) which provides that "[n]o motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute." Plaintiff shall attempt to resolve any discovery disputes by contacting defendant's counsel directly by telephone or through correspondence;

6. No direct communication is to take place with the District Judge or United States Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk;

7. In the event a summons is returned unexecuted, it is plaintiff's responsibility to ask the

Clerk of Court to issue an alias summons and to provide the Clerk with the defendant's correct address, so service can be made; and

8. The parties should notify the Clerk's Office when there is an address change. Failure to do so could result in court orders or other information not being timely delivered, which could affect the parties' legal rights

BY THE COURT:

/s/ Nitza I. Quiñones Alejandro
NITZA I. QUIÑONES ALEJANDRO
Judge, United States District Court

APPENDIX-R : COMPENSATION FROM DEFENDANTS.**1. CLAIM AGAINST ISOS**

	Claim against ISOS	Compensation	Law(s)
1	Litigation cost	\$15 million	
2	US Citizenship discrimination	\$22 Million	PHRA, INA, Section 1981/1988
3	Favoring foreigner against US Citizenship	\$22 Million	PHRA, INA, Section 1981/1988
4	Race	\$300,000	Title VII
		\$22 Million	PHRA, Section 1981/1988
5	Color	\$300,000	Title VII
		\$22 Million	PHRA, Section 1981/1988
6	Desperate treatment/ less well treatment	\$300,000	Title VII
		\$22 Million	PHRA, Section 1981/1988
7	Failed to accommodate disability	\$22 Million	PHRA, ADA
7a	Genetic Status	\$22 Million	GINA, PHRA
8	Age Discrimination	\$22 Million	PHRA, ADEA
10	Intentional infliction of emotional distress (IIED)	\$22 Million	PHRA

11	Failure to hire,	\$300,000	Title VII
		\$22 Million	PHRA, Section 1981/1988
12	Wrongful Termination	\$300,000	Title VII
		\$22 Million	PHRA
13	Punitive damages	\$22 Million	Best interest of the Citizen is best interest of US. Favored foreigner against US citizen.
	Total	280.2 Million	

2. CLAIMS AGAINST ACCESS STAFFING

Claims Against Access			
1	Race	\$300,000	Title VII
		\$22 Million	PHRA
2	Color	\$300,000	Title VII
		\$22 Million	PHRA
	Total	\$44.6 Million	

APPENDIX-S-1 : URINAL BLADDER REPORT

Phone: (732) 574-1414

DIAGNOSTIC IMAGING
CENTER of EXCELLENCE

Fax: (732) 574-0846

PEACH PLAZA MEDICAL ARTS CENTER 1500 ST. GEORGES AVENUE, AVENEL, NJ 07001
AMERICAN COLLEGE OF RADIOLOGY DIAGNOSTIC IMAGING CENTER OF EXCELLENCEEdward Rivwage, M.D., MACR
Mark Singer, M.D., MACRCharles Santavirta, M.D., MACR
Peter S. Doss, M.D., MACRLeo Fontana, M.D., MACR
David G. Virlanhofer, M.D., MACRAT THE REQUEST OF
ANIL SINGH, MD
1740 OAK TREE ROAD
MEDICAL CARE ASSOC
EDISON, NJ 08816

AGE/SEX 40/F

ACCOUNT# 709703 - 0

PATIENT
PALANI KRUPPIYAM

DATE OF BIRTH

08/20/2019: US PELVIC MALE

HISTORY: Calculus of kidney

COMPARISON: None.

TECHNIQUE: Sonographic evaluation of the bladder was performed utilizing gray scale images, color Doppler imaging and spectral analysis.

FINDINGS: The urinary bladder is grossly normal. There is no evidence of focal wall thickening or internal debris. Both ureteral jets are well demonstrated on color Doppler imaging. The prostate gland measures 2.8 x 2.9 x 3.5 cm with an overall volume of 15 ml.

A small postvoid residual of 21 mL is noted.

IMPRESSION: Normal sonographic evaluation of the bladder. Normal examination of the prostate gland. Small postvoid residual as noted above.

Thank you for the courtesy of this referral.

*This facility has been awarded the American College of Radiology Diagnostic Imaging Center of Excellence. Our center provides the highest levels of imaging quality and radiation safety by exceeding the standards for superior patient care.*Peter Doss MD
Board Certified RadiologistPD/VT, Dictated: 08/20/19, Transcribed: 08/20/19
cc: Ramanamurthy Bangalore, MD

RE: PALANI KRUPPIYAM ACCT# 709703 DOS: 08/20/2019

Electronically Signed - PETER DOSS, MD 08/20/19 14:13

APPENDIX-S-2 KIDNEY STONE

Phone: (732) 574-1414

DIAGNOSTIC IMAGING
CENTER OF EXCELLENCE

Fax: (732) 574-0843

PEACH PLAZA MEDICAL ARTS CENTER 1500 ST. GEORGES AVENUE, AVENEL, NJ 07001
AMERICAN COLLEGE OF RADIOLOGY DIAGNOSTIC IMAGING CENTER OF EXCELLENCEEdward R. Dwyer, M.D., MSCR
Mark Dwyer, M.D., MSCRCharles Swenson, M.D., MSCR
Peter S. Chen, M.D., MSCRLee Portone, M.D., MSCR
David O. Winkler, M.D., MSCRAT THE REQUEST OF
ANIL SINGH, MD
1740 OAK TREE ROAD
MEDICAL CARE ASSOCI
EDISON, NJ 08829

ACROSS EX #1

ACCOUNTS 797181 - 0

PATIENT
PALANI KRUPYAM

DATE OF BIRTH

09/20/2019 US ABDOMEN COMPLETE

INDICATION: Obstruction of kidney hematoma

TECHNIQUE: Examination of the abdomen was performed utilizing gray-scale imaging, color Doppler imaging and spectral analysis in

COMPARISON: None

FINDINGS: Situs inversus is noted.

The proximal abdominal aorta and IVC are unremarkable.

The pancreas is normal in appearance.

The liver is grossly unremarkable in morphology and echotexture. There is no evidence of hepatomegaly. The portal and hepatic veins are patent with appropriate direction of flow. Common duct measures 1 mm at the level of the porta hepatis.

The gallbladder is unremarkable. No sonographic Murphy sign is elicited. There is no evidence of cholecystitis.

The right kidney measures 9.1 cm in maximum sagittal length. There is a nonobstructing stone identified in the interpolar region measuring 4 mm.

The left kidney measures 8.6 cm in maximum sagittal length. There is no evidence of cystic or solid mass, shadowing calcification or hydronephrosis.

The spleen is unremarkable in size and morphology.

IMPRESSION: Nonobstructing stone of the right kidney. Situs inversus incidentally noted

Thank you for the courtesy of this referral.

This facility has been awarded the American College of Radiology Diagnostic Imaging Center of Excellence. Our center provides the highest levels of imaging quality and radiation safety by exceeding the standards for superior patient care.

RE: PALANI KRUPYAM ACCOUNT: 797181 DATE: 09/20/2019

Peter Doss MD
Board Certified RadiologistPD/VT, Dictated: 08/20/19, Transcribed: 08/20/19
cc: Ramamurthy Bangalore, MD

Electronically Signed - PETER DOSS, MD 08/20/19 14:12