

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF PUERTO RICO

3 SANDY VALENTIN-VELEZ, *et al.*

4 Plaintiffs,

5 v.

6 U.S. POSTAL SERVICE, *et al.*

7 Defendants.

Civil No. 10-1358 (SEC)

8
9 **OPINION and ORDER**

10 Before the Court is the above-captioned defendants unopposed motion to dismiss. Docket
11 # 11. After reviewing the record and the applicable law, the Court **GRANTS** their motion.

12 **Background**

13 On April 30, 2010, plaintiffs Sandy Valentin-Velez, his wife Maribel Lopez, and their
14 conjugal partnership (collectively “Plaintiffs”) filed this *pro se* suit under Title VII of the Civil
15 Rights Act, the Americans with Disabilities Act, and the United States’ Constitution. Docket
16 # 1. Specifically, Plaintiffs allege that Valentin-Velez was terminated from his employment at
17 the U.S. Postal Service because of discrimination based on disability. *Id.* Defendants are the
18 U.S. Postal Service, its Post Master John E. Potter, and Valentin-Velez’s direct supervisors,
19 Luis Cabrera and Efrain Sanchez (collectively “Defendants”). *Id.* After receiving service of
20 process, Defendants immediately moved to dismiss the complaint, stating that Plaintiffs have
21 filed suit in 2002 for the same facts, against the same parties, and under the same legal theories.
22 Docket # 11, citing Civ. Case No. 02-2634, Laffitte, J., presiding. According to Defendants,
23 Plaintiffs’ previous suit was summarily dismissed with prejudice, based on an unopposed
24 magistrate judge’s report and recommendation. *Id.* Therefore, they argue that *res judicata* bars
25 the present action. *Id.* Plaintiffs did not oppose Defendants’ motion. *Id.*

2 **Standard of Review**

3 A motion to dismiss under rule 12(b)(6) premised on an affirmative defense such as *res*
4 *judicata* may be appropriate if “the facts that establish the defense... [are] definitively
5 ascertainable from the allegations of the complaint, the documents (if any) incorporated therein,
6 matters of public record, and other matters of which the court may take judicial notice.” In re
7 Colonial Mortgage Bankers Corp., 324 F.3d 12, 16 (1st Cir. 2003). Moreover, “the facts so
8 gleaned must conclusively establish the affirmative defense.” Id.

9 **Applicable Law and Analysis**

10 Under the federal rule of *res judicata*, also referred to as claim preclusion, a valid and
11 final judgment is conclusive of a claim. If the judgment is for the plaintiff, the claim is
12 extinguished and merged in the judgment; if the judgment is for the defendant, the plaintiff is
13 barred from reasserting the claim. Restatement of Judgments 2d § 17. *Res judicata* applies “not
14 only as to every matter which was offered and received to sustain or defeat the claim or demand,
15 but as to any other admissible matter which might have been offered for that purpose.”
16 Cromwell v. Sac County, 94 U.S. 351, 352 (1877); see also Blonder-Tongue Laboratories, Inc.,
17 v. University of Illinois Foundation, 402 U.S. 313, 329 (1971); Parklane Hosiery Co., Inc. v.
18 Shore, 439 U.S. 322 (1979). In addition, “[o]nce there has been an adjudication on the merits
19 ... all claims which are ‘part of the same cause of action’ are extinguished, whether or not
20 actually asserted in the original action.” Kale v. Combined Ins. Co. of America, 924 F.2d 1161,
21 1164 (1st Cir. 1991). As a consequence of that doctrine, “when a plaintiff pleads a claim in
22 federal court, he must, to avoid the onus of claim-splitting, bring all related ... claims in the
23 same lawsuit so long as any suitable basis for subject matter jurisdiction exists.” Id. at 1165.

24 The policy behind the doctrine of *res judicata*, is “to relieve [the] parties of the cost and
25 vexation of multiple lawsuits, conserve judicial resources, and, by preventing inconsistent
26 decisions, encourage reliance on adjudication.” Apparel Art Intern. v. Amertex Enters. Ltd., 48
F.3d 576, 583 (1st Cir. 1995). The doctrine is “no ‘mere matter of practice or procedure,’ but

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3 'a rule of fundamental and substantial justice, of public policy and of private peace, which
4 should be cordially regarded and enforced by the courts.'" Kale, 924 F.2d at 1168 (internal
5 quotations omitted). Therefore, the First Circuit Court of Appeals has mandated a steadfast
6 adherence to the doctrine. Id. ("Any idiosyncratic unfairness that may result from the consistent
7 and straightforward application of preclusion principles is ... far outweighed by the systemic
8 benefits which flow from steadfast adherence to so salutary a doctrine."). In fact, although the
9 First Circuit has recognized that an occasional exception to the rule may exist in order to
10 prevent "unusual hardship," it has yet to find a specific instance where it would apply. Id.; see
11 also Rose v. Town of Harwich, 778 F.2d 77, 82 (1st Cir. 1985) ("If, as the Restatement
12 suggests, there may nonetheless be an occasional exception to prevent unusual hardship, this
13 case does not fall within it. This is not a case in which the plaintiff has 'clearly and convincingly
14 shown that the policies favoring preclusion of a second action are overcome for an extraordinary
15 reason.'").

16 Three elements are required to establish *res judicata*: (1) that there is a final judgment
17 on the merits in a prior action; (2) that the parties in the prior and the subsequent action are
18 sufficiently identical; and (3) that the causes of action in the two cases are sufficiently identical.
19 Breneman v. U.S. ex rel. F.A.A., 381 F.3d 33, 38 (1st Cir. 2004).

20 In this case, Defendants' contentions are correct. A review of the Court's electronic
21 records shows that Plaintiffs filed suit nine years ago against Defendants for the same facts and
22 under the same legal theories. See Civil Case No. 02-2334, Dockets ## 13-14. Moreover, as
23 Defendants state, on that occasion, the Court summarily dismissed Plaintiffs' suit, based on an
24 unopposed magistrate judge's report and recommendation. Id. *Res judicata* therefore bars
25 Plaintiffs' present suit.¹

26 ¹ Plaintiffs' complaint states that their lawyer mishandled the prior case. See Docket # 1, pgs.
3-5. Should that be the case, Plaintiffs should seek legal advice as to what recourse, if any, they may

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3 **Conclusion**

4 For the foregoing reasons, the Court **GRANTS** Defendants' motion to dismiss.

5 **IT IS SO ORDERED.**

6 In San Juan, Puerto Rico, this 25th day of March, 2011.

7 *s/Salvador E. Casellas*
8 **SALVADOR E. CASELLAS**
9 **U.S. Senior District Judge**

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_____ have against their previous lawyer.