UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SNEH PRABHA SHUKLA,

Plaintiff,

-v-

HARTRFORD CASUALTY INSURANCE CO.,

Defendant.

MEMORANDUM AND ORDER

18-CV-06604 (LDH) (LB)

LASHANN DEARCY HALL, United States District Judge:

Plaintiff Sneh Prabha Shukla, proceeding pro se, asserts a claim for breach of contract against Defendant Hartford Casualty Insurance Co.[1] (Compl. ("Pl.'s Compl."), ECF No. 1-1.) Defendant timely removed the action to this Court pursuant to 28 U.S.C. §§ 1441 and 1446(a). (Notice Removal, ECF No. 1.) Defendant moves pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure to dismiss the complaint in its entirety. (ECF No. 14.)

BACKGROUND[2]

Plaintiff is a partner of SYZ Associates ("SYZ"). (Pl.'s Compl. ¶ 4.) On June 2, 2012, SYZ and Defendant entered into an insurance contract covering the premises located at 519–545 West Merrick Road, Valley Stream, Valley Stream, New York 11580. (*Id.*) On August 9, 2012, a fire destroyed the insured building. (*Id.* ¶ 5.) Although a county fire marshal estimated the value of the damage as $1.5 million, and although Defendant's estimate was $1 million, Defendant paid SYZ only $800,000 and "orally promised to pay the difference." (*Id.* ¶¶ 6–7.) As a result, Plaintiff incurred $500,000 in expenses to restore the building. (*Id.* ¶¶ 8–12.)

[1] In the caption of her complaint, Plaintiff misspells Defendant's name as "Hartrford." (ECF No. 1-1.)

[2] The following facts are taken from the complaint, allegations of which are assumed to be true for the purpose of this memorandum and order, as well as any materials incorporated therein and public documents of which the Court may take judicial notice.

STANDARD OF REVIEW

To withstand a Rule 12(b)(6) motion to dismiss, a complaint "must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). A claim is facially plausible when the alleged facts allow the court to draw a "reasonable inference" of a defendant's liability for the alleged misconduct. *Id.* While this standard requires more than a "sheer possibility" of a defendant's liability, *id.*, "[i]t is not the Court's function to weigh the evidence that might be presented at trial" on a motion to dismiss. *Morris v. Northrop Grumman Corp.*, 37 F. Supp. 2d 556, 565 (E.D.N.Y. 1999). Instead, "the Court must merely determine whether the complaint itself is legally sufficient, and, in doing so, it is well settled that the Court must accept the factual allegations of the complaint as true." *Id.* (citations omitted).[3]

Moreover, where, as here, a plaintiff is proceeding pro se, his pleadings "must be construed liberally and interpreted to raise the strongest arguments that they suggest." *Sykes v. Bank of Am.*, 723 F.3d 399, 403 (2d Cir. 2013) (quoting *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474 (2d Cir. 2006)). A pro se complaint, "however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers." *Boykin v. KeyCorp*, 521 F.3d 202, 213–14 (2d Cir. 2008) (quoting *Erickson v. Pardus*, 55 U.S. 89, 94 (2007) (per curiam)).

[3] "But [a court] may also look to public records, including complaints filed in state court, in deciding a motion to dismiss." *Blue Tree Hotels Inv. (Canada), Ltd. v. Starwood Hotels & Resorts Worldwide, Inc.*, 369 F.3d 212, 217 (2d Cir. 2004); *accord Byrd v. City of New York*, No. 04-1396-CV, 2005 WL 1349876, at *1 (2d Cir. June 8, 2005) (summary order) (collecting cases).

DISCUSSION

Defendant sets forth three independent grounds for dismissal of Plaintiff's sole claim: (1) that it is barred by the doctrine of res judicata, (2) that Plaintiff is not a party to the contract at issue, and (3) that Plaintiff's claim is barred by the applicable statute of limitations. (Def. Hartford's Mem. Law Supp. Its Mot. Dismiss Pl.'s Pro Se Compl. ("Def.'s Mem.") 5–15, ECF No. 14-12.)[4] As to the first ground, Defendant argues that Plaintiff's claim is precluded by the judgment in *SYZ Associates v. Hartford Casualty Insurance Co. et al.*, No. 14-CV-5608 (E.D.N.Y.) (the "SYZ Action"). (Def.'s Mem. 1–2.) Because the Court agrees, it need not reach Defendant's alternative arguments for dismissal.

"The preclusive effect of a judgment is defined by claim preclusion and issue preclusion, which are collectively referred to as 'res judicata.'" *Taylor v. Sturgell*, 553 U.S. 880, 892 (2008) (footnote omitted). "Under the doctrine of claim preclusion, a final judgment forecloses 'successive litigation of the very same claim, whether or not relitigation of the claim raises the same issues as the earlier suit.'" *Id.* (quoting *New Hampshire v. Maine*, 532 U.S. 742, 748 (2001)).

> A party seeking to invoke claim preclusion must generally make three showings: (i) an earlier action resulted in an adjudication on the merits; (ii) that earlier action involved the same counterparty or those in privity with them; and (iii) the claim sought to be precluded was raised, or could have been raised, in that earlier action.

Marcel Fashions Grp., Inc. v. Lucky Brand Dungarees, Inc., 898 F.3d 232, 237 (2d Cir. 2018), *cert. granted*, 139 S. Ct. 2777 (2019).

[4] Although Defendant uses the term "standing" to describe its argument that Plaintiff has no contractual relationship with Defendant, its argument does not regard Article III standing in the jurisdictional sense. (Def.'s Mem. 11–12.)

The first element is easily met. "A voluntary dismissal with prejudice is an adjudication on the merits for purposes of *res judicata*." *Chase Manhattan Bank, N.A. v. Celotex Corp.*, 56 F.3d 343, 345 (2d Cir. 1995). Here, the SYZ Action resulted in a voluntary stipulation of dismissal with prejudice, which District Judge Joan M. Azrack so-ordered on July 25, 2016. (Decl. Michael A. Troisi ("Troisi Decl.") Ex. C, ECF No. 14-4.) This was an adjudication on the merits.[5]

The second element is also satisfied. "[A] subsequent action brought by an individual partner on a partnership claim is barred where another partner has brought a prior action on the same claim." *Ferris v. Cuevas*, 118 F.3d 122, 130 (2d Cir. 1997) (citing Restatement (Second) of Judgments § 60(2) (1982)). That is because partners are in privity with their partnerships. *Beras v. Carvlin*, 313 F. App'x 353, 354 (2d Cir. 2008) (summary order). Here, SYZ brought the SYZ Action against Defendant and its agent to recover an amount allegedly unpaid under the same insurance contract for damage to the same property resulting from the same August 9, 2012 fire. (Troisi Decl. Ex. A ("SYZ Compl.") at ¶¶ 13–15, ECF No. 14-2.) Importantly, SYZ alleged that it "was and presently is the owner" of the property at issue. (*Id.* ¶ 8.) In the instant complaint, Plaintiff alleges that she is a partner of SYZ. (Pl.'s Compl. ¶ 4.) Accordingly, the SYZ Action involved a party in privity with Plaintiff.

The third element, too, is met. As noted above, SYZ raised a claim against Defendant for breach of contract arising out of the same fire at the same building. (SYZ Compl. ¶¶ 22–26.)

[5] On February 23, 2017, the district court denied SYZ's motion to reopen the case. (Troisi Decl. Ex. F, ECF No. 14-7.) Plaintiff appealed on behalf of SYZ. (*Id.*) By mandate issued January 9, 2018, the Second Circuit indicated that it would dismiss the appeal effective April 27, 2017, unless SYZ retained counsel. (*Id.* Ex. G, ECF No. 14-8.) SYZ did not do so, and the appeal was terminated.

Moreover, SYZ raised the issue of Plaintiff's expenses at summary judgment. (Troisi Decl. Ex. J, ECF No. 14-11.) Specifically, SYZ argued, in relevant part, as follows:

> After the fire on August 9, 2012, Ms. Shukla engaged [Defendant] by submitting the claim under the policy timely . . . . Ms. Shukla complained to [Defendant] several times that the costs of repairs were well above [the stated loss amount of] $878,090. . . . Ms. Shukla testified that she used her own personal cash and jewelry and borrowed large amounts of cash from friends and relatives in order to pay the Contractor so he could finish the job. Ms. Shukla also testified that she paid back those loans. . . . Ms. Shukla provided $1,027,000 in paid invoices for the repairs from the Contractor . . . to [Defendant] in July 2014.

(*Id.* at 1–2.) In this action, Plaintiff alleges, in relevant part, as follows:

> 6. . . . The defendant paid to SYZ a sum of $800,000.00, despite their own estimate of $1,000,000. . . .
>
> 8. Plaintiff was forced by the [u]nderpayment to use her own personal funds to pay for necessary expenses to restore the [premises].
>
> 9. This included the [s]ale of Plaintiff's own property in Brookville, [i]nsurance [p]olicies and personal jewelry.

(Pl.'s Compl. ¶¶ 6, 8–9.) Plaintiff alleges that she paid more than $1 million for repairs of and maintenance on the premises. (*See id.* ¶¶ 10–11.) In short, Plaintiff's claim was raised in the prior action. Accordingly, Plaintiff's sole claim in this action is precluded by the final judgment in the SYZ Action.

CONCLUSION

For the foregoing reasons, Defendant's motion is GRANTED. The complaint is dismissed in its entirety with prejudice.

SO ORDERED.

Dated: Brooklyn, New York
November 27, 2019

/s/ LDH
LASHANN DEARCY HALL
United States District Judge