

2015 WL 5315363

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United States Court of Appeals,  
Second Circuit.

Gertrude Coretta Fennell  
HAMILTON, Plaintiff–Appellant,

v.

MARK IV INDUSTRIES, INC., [Skadden](#), Arps,  
Slate, Meagher & Flom LLP, [Ogletree](#), Deakins,  
Nash, [Smoak & Stewart, P.C.](#), J. Eric Ivester,  
New York Attorney, Jay M. Goffman, New York  
Attorney, Susanna H. Murray, SC Attorney,  
Eric C. Schweitzer, SC Attorney, Catherine B.  
Templeton, Attorney, Defendants–Appellees.

No. 14–4406. | Sept. 14, 2015.

Appeal from a judgment of the United States District Court  
for the Southern District of New York ([Nathan](#), J.).

#### Attorneys and Law Firms

Gertrude Coretta Fennell Hamilton, pro se, Walterboro, SC,  
for Plaintiff–Appellant.

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Esq., [Skadden](#), Arps, Slate, Meagher & Flom LLP, New  
York, NY, for Defendant-appellee Mark IV Industries, Inc.

[George Abraham Zimmerman](#), [Lawrence Steven Spiegel](#),  
[Skadden](#), Arps, Slate, Meagher & Flom LLP, New York,  
NY; [Gary Greenbert](#), Esq., New York, NY, for Defendants–  
Appellees [Skadden](#), Arps, Slate, meagher & Flom LLP.; [J.](#)

[Eric Ivester](#), New York Attorney; [Jay M. Goffman](#), New York  
Attorney.

[Aaron Warshaw](#), [Ogletree](#), Deakins, Nash, Smoak & Stewart,  
P.C., New York, NY, for Defendants-appellees [Ogletree](#),  
Deakins, Nash, smoak & Stewart, P.C.; [Susanna H. Murray](#),  
sc Attorney; [Eric C. Schweitzer](#), sc Attorney; Catherine B.  
Templeton, Attorney.

Present [ROBERT A. KATZMANN](#), Chief Judge, [PETER W.](#)  
[HALL](#) and [DEBRA ANN LIVINGSTON](#), Circuit Judges.

#### SUMMARY ORDER

**\*1 UPON DUE CONSIDERATION, IT IS HEREBY  
ORDERED, ADJUDGED, AND DECREED** that the  
judgment of the district court is **AFFIRMED**.

Plaintiff-appellant Gertrude Coretta Fennell Hamilton,  
proceeding pro se, appeals from a judgment of the district  
court granting summary judgment in favor of the defendants  
and enjoining Hamilton from filing new actions in the  
Southern District of New York concerning her previous  
employment with Dayco Incorporated, or concerning Dayco's  
New York bankruptcy action. We assume the parties'  
familiarity with the underlying facts, the procedural history  
of the case, and the issues on appeal.

#### I. Summary Judgment

We review *de novo* a district court's grant of summary  
judgment. [Miller v. Wolpoff & Abramson, L.L.P.](#), 321 F.3d  
292, 300 (2d Cir.2003). “Summary judgment is appropriate  
only if the moving party shows that there are no genuine  
issues of material fact and that the moving party is entitled  
to judgment as a matter of law.” *Id.* We resolve all  
ambiguities and draw all inferences in favor of the non-  
movant. [Nationwide Life Ins. Co. v. Bankers Leasing Assoc.,  
Inc.](#), 182 F.3d 157, 160 (2d Cir.1999). Summary judgment is  
appropriate “[w]here the record taken as a whole could not  
lead a rational trier of fact to find for the non-moving party.”  
[Matsushita Elec. Indus. Co. v. Zenith Radio Corp.](#), 475 U.S.  
574, 587 (1986). We also review *de novo* a district court's  
application of res judicata and collateral estoppel principles.  
[Comp. Assocs. Int'l, Inc. v. Altai, Inc.](#), 126 F.3d 365, 368 (2d  
Cir.1997).

Upon review, we conclude that the district court properly  
granted summary judgment to the defendants. We affirm for

substantially the reasons stated by the district court in its well-reasoned and thorough October 31, 2014 Order. *See In re Hamilton*, No. 14-cv-1400-AJN (S.D.N.Y. Oct. 31, 2014).

## II. Filing Injunction

We review a district court's filing injunction for abuse of discretion. *Gollomp v. Spitzer*, 568 F.3d 355, 368 (2d Cir.2009). A district court must provide a litigant with notice and an opportunity to be heard before imposing a filing injunction. *Moates v. Barkley*, 147 F.3d 207, 208 (2d Cir.1998) (per curiam).

The district court did not abuse its discretion in enjoining Hamilton from filing further lawsuits relating to her employment with Dayco or to Dayco's bankruptcy proceedings. Hamilton has raised the same claims in multiple other actions and venues. Moreover, the district court gave

Hamilton notice and an opportunity to be heard prior to imposing the filing injunction, and Hamilton opposed the filing injunction in her opposition to the defendants' motions for summary judgment. The district court considered her arguments and properly determined that nothing "short of a filing injunction will protect the courts and other parties given that several judges have detailed precisely why [Hamilton's] claims are barred, meritless, or otherwise unavailing." *Hamilton*, slip op. at 15.

\*2 We have considered all of Hamilton's arguments and find them to be without merit. Accordingly, we **AFFIRM** the judgment of the district court.

## All Citations

--- Fed.Appx. ----, 2015 WL 5315363 (Mem)

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