

**Commonwealth Of Kentucky**

**Court of Appeals**

NO. 2003-CA-002457-MR

CATHERINE VINCENT

APPELLANT

v. APPEAL FROM EDMONSON CIRCUIT COURT  
HONORABLE RONNIE C. DORTCH, JUDGE  
ACTION NO. 02-CI-00133

BRIAN O. VINCENT

APPELLEE

OPINION

AFFIRMING

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BEFORE: DYCHE, KNOPF, AND MINTON, JUDGES.

DYCHE, JUDGE: Catherine Vincent and Brian O. Vincent were involved in a traffic accident on September 9, 1998, in Edmonson County; Catherine's vehicle was damaged and she received personal injuries. In 2000, an action was filed in the Edmonson District Court in Catherine's name and the name of her insurance carrier; this action sought recovery of the money damages paid by her insurer to Catherine for the property damage to her vehicle. The district court entered a default judgment against

Brian in an amount exceeding the jurisdictional limits of that court; the judgment was ultimately satisfied without further court proceedings. Catherine received a part of the recovery.

On September 9, 2002, Catherine filed this action in the Edmonson Circuit Court seeking to recover money damages for her personal injuries. Brian defended by asserting that Catherine had impermissibly split her cause of action, and the latter action should therefore be dismissed. The trial court agreed, and this appeal followed. We affirm.

Kirchner v. Riherd, 702 S.W.2d 33 (Ky. 1985) indicates that "[t]his jurisdiction has long recognized the prohibition against splitting a cause of action." 702 S.W.2d at 34.

The theory for the prohibition against splitting a cause of action is barred [sic][based] largely on the ground that fairness to the defendant and sound judicial administration require that at some point litigation over a particular controversy be brought to a final conclusion.

702 S.W.2d at 35. Although Catherine makes some appealing arguments in urging that her case is an exception to this general rule, she cannot prevail under these circumstances. The first cause of action was brought in her name. She received some of the proceeds of the recovery in that action. If either of these facts were not present, she could possibly have a stronger argument that she had not split her cause of action. But since they are, the longstanding rule forbidding such

splitting applies, and the circuit court was correct in dismissing the second action.

The order of the Edmonson Circuit Court is affirmed.

ALL CONCUR.

BRIEF FOR APPELLANT:

D. Bailey Walton  
Lanphear & Walton, P.L.L.C.  
Bowling Green, Kentucky

BRIEF FOR APPELLEE:

Benjamin T. Owings, II  
Sheffer Law Office, LLC  
Louisville, Kentucky