DÉJÀ VU: CLAIM AND ISSUE PRECLUSION

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Res judicata (claim preclusion) and Collateral Estoppel (issue preclusion) are two doctrines that generally provide that once there has been a final judgment in a case, the claims and issues involved in that case cannot be litigated again in a subsequent action. Although they are two distinct concepts, res judicata and collateral estoppel are interrelated doctrines that are often raised together as defenses in subsequent litigation. So what's the difference?

Federal courts will apply res judicata where there has been a final judgment on the merits of a case involving identical parties and the same causes of action, and the final judgment was rendered by a court of competent jurisdiction. Where the causes of action are not the same but the subsequent litigation involves the same parties and issues, parties typically look to collateral estoppel. To rely on collateral estoppel, a party must show that (1) the issue involved in the subsequent litigation is identical to the issue involved in the prior litigation; (2) the issue was actually litigated in the prior case; (2) the determination of the issue in the prior litigation was a "critical and necessary" part of the judgment in that case; and (4) the party against whom collateral estoppel is being asserted had a full and fair opportunity to litigate the issue in the prior case.

It is important to note that collateral estoppel bars the specific issues that were actually litigated and decided in the prior action while res judicata bars not only the causes of action that were litigated, but every other matter that the parties could have litigated and had determined based on the issues as framed by the pleadings or connected with the subject matter.

In either case, what is key for these doctrines to come into play is that there was a final judgment on the merits in the first litigation. The case of Aronowitz v. Home Diagnostics, Inc., which was recently decided by Florida's Fourth District Court of Appeal on September 9, 2015, is instructive. Aronowitz involved nearly two decades of litigation in federal court involving patent infringement and breach of contract. The district court initially found in favor of Home Diagnostics on both the patent infringement and breach of contract, but on appeal the federal circuit court vacated the district court's findings and remanded, instructing the district court to make additional determinations. On remand, the district court addressed the patent infringement issue but completely failed to address the breach of contract issue.

In the meantime, while the federal litigation was ongoing, Aronowitz filed a breach of contract action in Florida state court in Broward County. Once the federal litigation concluded, the parties began litigating the state court action and Home Diagnostics filed a motion for summary judgment arguing that res judicata and collateral estoppel barred the breach of contract action. In denying Home Diagnostics' motion for summary judgment, the court relied on the fact that any finding made by the district court with respect to the breach of contract issue was vacated by the federal circuit court. Further, because the breach of contract issue was not addressed by the district court on remand, there was no final judgment on the merits of the breach of contract claim. Therefore, the Fourth District Court of Appeal held that neither res judicata nor collateral estoppel would bar the breach of contract claim in the subsequent state court action.

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