

RES JUDICATA AND COLLATERAL ESTOPPEL

“It’s déjà vu all over
again.”

Berra, Yogi

Estoppel by Judgment

- Stability
- Finality
- Judicial economy
- Avoidance of litigation cost

Res Judicata

- “A thing decided.”
- Requirements
 - ◆ Prior final judgment on the merits
 - ◆ Identity of parties/privies
 - ◆ Identity of claim

(See Hogan v. Cone Mills Corporation, 315 N.C. 127, 135, 337 S.E.2d 477, 482 (1985).)

Collateral Estoppel

- Requirements
 - ◆ Prior final judgment on the merits
 - ◆ Identity of issue
 - ◆ Issue necessary to judgment
 - ◆ Issue actually litigated
 - ◆ Issue actually determined

(See Youse v. Duke Energy Corp., 171 N.C.App. 187, ___, 614 S.E.2d 396, 401 (2005)).

Applications

- Defensive and offensive
- Criminal and civil
- Administrative law
- Arbitration
- Claims and defenses
- Issues of fact and law

Burden of proof

- General: On party asserting the judgment as a bar.
- Exception: On assertion of collateral estoppel, party against whom asserted has burden of showing lack of full and fair opportunity to litigate issue.

Final Judgment

- Interlocutory orders
- Effect of appeal
- Erroneous judgment
- Void judgment

On the Merits

- Involuntary dispositions
 - ◆ Rule 12(b)
 - ★ Personal jurisdiction
 - ★ Venue
 - ★ Necessary party
 - ★ Failure to state a claim

On the Merits (cont'd)

- Involuntary dispositions
 - ◆ Rule 41(a)
 - ◆ Rule 41(b)

Identity of parties

- Privity

- ◆ “Mutual or successive relationship to same rights of property.”
- ◆ “By purchase, succession or inheritance.”
- ◆ “So identified in interest with another that he represents the same legal right.”

Privity (cont'd)

- Appears as requirement for both res judicata and collateral estoppel.
- Mutuality
 - ◆ That each party is bound by the judgment.
 - ◆ Abandoned for collateral estoppel

Identity of claim

- Facts that entitle party to judicial remedy.
- Not the facts, but the unlawful violation of a right shown by the facts.
- NC: “a legal wrong threatened or committed against the complaining party.”
- Policy against claim-splitting.

Identity of claim (cont'd)

- Transactional approach (Restatement)
- “All rights . . . to remedies against the defendant with respect to all or any part of the transaction, or series of connected transactions, out of which the action arose.”
- Not adopted in NC
 - ◆ But, applying different labels to a claim or defense does not, alone, render them distinct.
 - ◆ Nor does a difference in the remedy sought.
 - ◆ Nor does reliance on different evidence.

Identity of issue

- Actually litigated
- Necessary to judgment
- Full and fair opportunity to litigate
- Drill down

Closing observation

Neither res judicata nor collateral estoppel is applied as broadly in NC courts as in federal courts. If any consistent rationale exists for the more narrow approach, it is a reluctance to deny parties a day in court, sometimes openly in disregard of the policies that underlie the rules.

“It ain’t over ‘til it’s over.”

Berra, Yogi

Well, Yogi, it's over now!