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## How a Prior Case Can Impact Your Current Case: Issue and Claim Preclusion

While going through my weekly review of Indiana Supreme Court and Court of Appeals decisions, I encountered a new Supreme Court opinion that was decided under the legal concept of *issue preclusion*. My first inclination was to write a discussion of the case, *National Wine & Spirits, Inc. v. Ernst & Young, LLP*. However, when I sat down to write a discussion of the case, I realized that the more valuable discussion is to tackle the complexities of issue preclusion and the related concept of claim preclusion. These are concepts that trip up many lawyers and law students alike. In my daily practice, I often find that these issues arise and are extremely tricky to explain to a client on how they may impact his or her case. With that said, let us embark on this week's adventure through the nuances of the legal system.

The related concepts of issue and claim preclusion are the modern names given to what used to be known as collateral estoppel and *res judicata*. After decades of judges and lawyers mixing, confusing, and butchering the meaning of collateral estoppel and *res judicata*, a modern trend has led to using the more descriptive names of issue and claim preclusion. With this transition, the term *res judicata* is now used to describe the broader category that encompasses both issue and claim preclusion. To understand what these two issues mean on a general level,

let us consider the literal meaning of *res judicata*. As you may have likely guessed, *res judicata* is a Latin phrase. It translates into “the thing (*res*) having already been judged (*judicata*).” So what we are talking about here are aspects of a case that have been decided by a previous adjudication.

Bear in mind that this is different from issues that may be established in a case prior to trial. It is possible in the course of a case to have issues established either by the court, by agreement between the parties, or by one party admitting to it prior to taking the matter to the actual trial. However, issue and claim preclusion are different. These are issues decided by another case altogether. To be more precise, the issue did not have to be decided by a “case.” In some instances some form of proceeding other than an actual trial could have decided the issue. In fact, this was the case in *National Wine & Spirits, Inc.* In that case, the specific issue in the case was decided by arbitration.

Now that we have discussed issue and claim preclusion generally, let us look specifically at what these two concepts are and why they are not one in the same. At issue in *National Wine & Spirits, Inc.* was issue preclusion, classically known as collateral estoppel. What issue preclusion basically means is that a specific issue in the case has already been decided by a court, or other binding body. In *National Wine & Spirits, Inc.*, the plaintiffs attempted to argue that the defendant fraudulently manipulated documents before the arbitration panel. The Indiana Supreme Court found that the ultimate issue was the veracity of those documents which was an issue necessarily decided at arbitration and thus the issue was precluded.

The way Indiana courts define issue preclusion is that:

Issue preclusion, or collateral estoppel, bars subsequent relitigation of the same fact or issue where that fact or issue was necessarily adjudicated in a former lawsuit and that same fact or issue is presented in a subsequent suit. This rule applies even if the second adjudication is on a different claim.

In *National Wine & Spirits, Inc.*, issue preclusion was used as a defense to liability. However, issue preclusion does not always need to be used by a defendant. A good example of effective use of issue preclusion by a plaintiff is in the world of defective medical devices. Often in these cases, the exact issue of whether the device had a design defect has been decided by a previous court. Once it has been established in a previous case against the same defendant, plaintiffs may prevent the defendant from denying that the device was not defective. For this reason, it can provide a mighty weapon in a skillful attorney’s arsenal.

However, just because an issue seems to have been decided in a previous matter does not necessarily mean that issue preclusion applies. In order for the doctrine to apply there must be: “(1) a final judgment on the merits in a court of competent jurisdiction; (2) identity of the issues; and (3) the party to be estopped was a party or the privity of a party in the prior action.” In addition, a court must also consider whether the party in the prior case had a “full and fair opportunity to litigate the issue” and whether application would be unfair in this instance.

The ultimate outcome, if a court finds that issue preclusion does apply, is that the specific issue cannot be litigated in the case. Put simply, whatever the prior decision on that issue was will be how it is handled in the current case.

Claim preclusion, on the other hand, is a much more disastrous result if it can be applied. As the Indiana Court of Appeals stated in *Wells Fargo Bank v. PNC Bank*, “When claim preclusion applies, all matters that were or might have been litigated are deemed conclusively decided by the judgment in the prior action.” In other words, if claim preclusion applies then it does not matter if you had another claim from the same facts or try to bring another case, all claims are decided and no claim can be brought – period.

The requirements for claim preclusion are very similar to those of issue preclusion. The first element is identical to the first element of issue preclusion – that the judgment be rendered “by a court of competent jurisdiction.” The fourth element is similar, but different in one very important aspect. The fourth element is that the prior case was between the same parties of the current suit “or their privies.” The privies part just means a successor in interest. The other two requirements are unique to claim preclusion: (2) the judgment was rendered on the merits; and (3) the issue could have been decided in the previous case.

To understand claim preclusion, let us consider a good example for its application. Under Indiana law, all claims arising from the same transaction or occurrence must be brought together in one case. So consider a scenario of a man who is injured when his car is rear-ended by a truck while stopped at a red light. If the car driver files a lawsuit for this automobile accident he may well only file his claim for his personal injuries. However, if after his case goes to trial and he wins a judgment for his physical injuries he decides that he wants money to pay for the damages to his car he cannot bring another case against the truck driver for the damage to his car. The damages to his car could have and should have been brought in his personal injury case. Thus, if he tries to bring another claim for the damages to his car, it will be dismissed due to claim preclusion.

If this has not made the various aspects of *res judicata* through issue and

claim preclusion crystal clear, don't worry. These issues still confound many attorneys. Nevertheless, I hope that I have been able to shed some light on the concept of how prior cases can have a direct impact upon your case.

Join us again next time for further discussions of developments in the law.

### Sources

- *Nat'l Wine & Spirits, Inc. v. Ernst & Young, LLP*, 976 N.E.2d 699 (Ind. 2012), *reh'g denied* (2013).
- *Wells Fargo Bank, N.A. v. PNC Bank, N.A.*, 971 N.E.2d 1216 (Ind. Ct. App. 2012).

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