

A plaintiff filed a tort action in state court but then failed to prosecute the action. The defendant moved to dismiss the action, and the court granted the motion in an order that stated: "The defendant's motion to dismiss is granted, and this action is dismissed with prejudice." The court accordingly entered judgment for the defendant.

The plaintiff then filed the same claim against the defendant in federal court, invoking diversity jurisdiction. The defendant has asserted the defense of res judicata (claim preclusion) in its answer.

Should the federal court give preclusive effect to the state court judgment?

- A. No, because the judgment was entered by a state court, not a federal court.
- B. No, because the state court did not rule on the merits in its dismissal.
- C. Yes, because a dismissal with prejudice operates as a judgment on the merits.
- D. Yes, because a judgment for failure to prosecute operates as a judgment on the merits under the Federal Rules of Civil Procedure.

Explanation:

The doctrine of **res judicata** (ie, claim preclusion) provides that a valid **final judgment on the merits precludes** a party from **relitigating an identical claim** against the **same party**—regardless of whether the actions were filed **in state or federal court (Choice A)**. However, the court in which the judgment was entered determines which claim-preclusion rule applies:

- A judgment entered in *state* court means that *state's* law applies to the second action.
- A judgment entered in *federal* court means *federal* law applies to the second action.

Here, the plaintiff's first tort action was dismissed *with* prejudice by the state court. A dismissal with prejudice constitutes a final judgment on the merits, so the federal court must give preclusive effect to the state court judgment **(Choice B)**. And since the judgment was entered by a state court, that state's rule on claim preclusion should apply.

(Choice D) Under Federal Rule of Civil Procedure (FRCP) 41(b), a dismissal for failure to prosecute a case in federal court operates as a judgment on the merits in that federal court. But since the *state* court rendered the judgment dismissing the plaintiff's claim, state claim-preclusion law (not the FRCP) applies.

Educational objective:

Under the doctrine of *res judicata* (ie, claim preclusion), a valid final judgment on the merits precludes a party from relitigating an identical claim against the same party—regardless of whether the actions were filed in state or federal court.

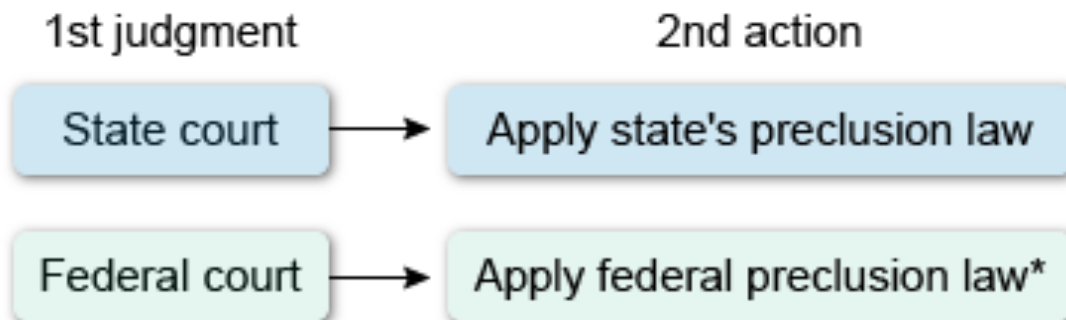
References

- 28 U.S.C. § 1738 (full faith and credit statute).
- *Allen v. McCurry*, 449 U.S. 90, 96 (1980) (stating that federal courts must give the same preclusive effect to state court judgments that courts in the judgment-rendering state would give).

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Choice of law for preclusion



*Federal court sitting in diversity will likely apply the law of the state where it sits

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