

A woman approached a stop sign at a four-way intersection and applied her brakes, which failed. The woman drove into the intersection and was hit by a truck, causing her to sustain severe injuries. The woman then brought a diversity action against the brake manufacturer in a federal court in State A for negligence. The manufacturer filed an answer to the woman's complaint, asserting the affirmative defense of contributory negligence. The jury returned a verdict for the woman, specifically determining that the manufacturer had negligently designed the brakes and that the woman was not negligent. The court then entered a final judgment pursuant to the verdict.

Five months later, a man who purchased the same type of brakes was involved in an accident caused by brake failure. He filed a negligence action against the manufacturer in the State A federal court. The man argued that the judgment in the first action bound the court on the issue of whether the manufacturer negligently designed the brakes.

State A permits nonmutual issue preclusion.

Should the court give preclusive effect to the judgment entered in the first action?

- A. No, because the determination that the manufacturer negligently designed the brakes was not essential to the judgment.
- B. No, because the man was not a party to the first action.
- C. Yes, because the man could not have joined the first action.
- D. Yes, because the jury determined that the manufacturer negligently designed the brakes.

## Explanation:

**Issue preclusion** (ie, collateral estoppel) **bars** the **relitigation of issues** of fact or law that were actually litigated, determined, and **essential** to a valid final judgment in a prior lawsuit. An issue is essential if it provided a **clear and necessary component** of the **ultimate decision** or, stated differently, if the final judgment depended on the determination of that issue. Conversely, when multiple issues were determined in a prior action, issues that were contrary to the final judgment are *not* essential.\*

Here, the parties in the first action actually litigated and the jury determined that the manufacturer negligently designed the brakes and that the woman was not negligent. Based on these determinations, the court entered a valid final judgment against the manufacturer. And since the final judgment depended on a determination of the manufacturer's negligence, the court in the second action should give preclusive effect to the judgment entered in the first action **(Choice A)**.

\*The requirement that the issue be essential to the judgment stems from the concern that the fact finder will not use sufficient care in deciding nonessential issues.

**(Choice B)** The man may assert issue preclusion even though he was not a party to the first action. That is because State A permits **nonmutual issue preclusion**, which allows nonparties from the first action to assert issue preclusion against parties from the first action.

**(Choice C)** The man could not have joined the first action because his accident had not yet occurred. If he could have, the court may have barred his offensive use of collateral estoppel—ie, when a plaintiff asserts collateral estoppel against a defendant based on an issue decided in a previous case with a different plaintiff. However, courts have *broad discretion* to determine whether offensive collateral estoppel should be allowed.

## Educational objective:

Issue preclusion prevents the relitigation of issues that were actually litigated, determined, and essential to a valid final judgment in a prior lawsuit. An issue is essential when it provided a clear and necessary component of the ultimate decision, and an issue that was contrary to the final judgment is not essential.

## References

- Restatement (Second) of Judgments § 27 cmt. h (Am. Law Inst. 1982) (explaining when the determination of an issue is essential to a judgment).
- 18 Charles Alan Wright et al., Federal Practice and Procedure § 4421 (3d ed. 2020) (describing when an issue is and is not essential to a final judgment for purposes of issue preclusion).

- Parkland Hosiery Co., Inc. v. Shore, 439 U.S. 322, 326–31 (1979) (discussing the development of nonmutual issue preclusion and the offensive use of collateral estoppel).

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## Issue preclusion (ie, collateral estoppel)

Valid final judgment on litigated & essential issue

- Issue submitted to & decided by trier of fact
- Issue was necessary component of judgment
- Nothing for court to do but enforce judgment



Identical issues

- Subsequent case involves same issue of fact or law as prior case



Mutual or nonmutual parties

- Mutual = asserted by *party* to first action
- Nonmutual = asserted by *nonparty* to first action

