

ESTOPPEL IN THE NAME OF THE LAW

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One of the many goals of our legal system is *finality*: the idea that, at some point, an issue is ultimately and conclusively decided, and the parties can then go on with their lives. This is reflected in many legal concepts, such as statutes of limitation, which provide that, after a certain point, no claim regarding a particular incident may be brought.

Another reflection of the goal of finality is the legal doctrine of "*collateral estoppel*." Collateral estoppel prevents relitigating an issue that was already actually litigated and which was a critical and necessary part of a prior court judgment. It is an embodiment of the popular concept that one only gets one "bite at the apple."

In the context of collector car disputes, collateral estoppel may apply to prohibit the relitigating of questions such as ownership, responsibility for damage, and the like. The case of *Missouri Mexican Products v. Dunafon*, decided on March 29, 1994, by the Court of Appeals of Missouri, involved such a situation.

According to the court, in 1985, Darrell Dunafon purchased a 1928 Ford. Missouri Mexican, a corporation solely owned and controlled by Mr. Dunafon, issued a \$10,000 check to him to pay for the automobile. The car was stored at the Dunafons' residence. In 1990, the Dunafons' marriage unfortunately dissolved. In a 1991 dissolution order, a court found that the Ford was personal property in the possession of Mrs. Dunafon, and awarded her the vehicle. There was no indication that Mr. Dunafon appealed that ruling.

In 1992, Missouri Mexican filed a petition for "replevin," claiming ownership and seeking the return of the Ford. Mrs. Dunafon made a motion for summary judgment, asking the court to dis-

miss the case based on the prior order in the dissolution proceeding. The trial court agreed with her, declaring that the corporation was collaterally estopped from relitigating the issue of possession of the car, because that issue had been decided in the prior divorce action. Missouri Mexican appealed, arguing that collateral estoppel was inappropriate because it was not a party to, and had no opportunity to litigate its right to possession of the Ford in, the dissolution action.

The Court of Appeals affirmed the lower court's ruling for Mrs. Dunafon. It noted that four factors will be considered in determining whether collateral estoppel is appropriate in a given case.

The first factor is whether the issue decided in the prior adjudication was identical with the issue presented in the present action. The court stated that in making an order of property distribution, the dissolution court had to determine whether the property was marital or separate. Therefore, in both cases there were issues regarding rights to possession which were necessary to resolve in connection with any proposed disposition of the car. There was thus "issue identity" between the two actions.

The second factor is whether the prior adjudication resulted in a decision "on the merits" — *i.e.*, a substantive ruling based on the rights of the parties as opposed to a purely procedural determination. This requirement was met because the dissolution proceeding was contested, and each party had a motive to litigate the issue of the right to possession of the Ford. Mrs. Dunafon desired to have the car declared marital property, so that she would have an opportunity to receive it; Mr. Dunafon desired to have the car declared the property of Missouri Mexican rather than marital property, so that his corporation could retain it.

The third factor is whether the party against whom collateral estoppel is asserted was a party or closely connected ("in privity") with a party to the prior adjudication. The court found that the closely-held corporation, Missouri Mexican was in privity with its owner, Mr. Dunafon. It observed, "it may be presumed that their interests coincide and that one opportunity to litigate issues that concern them in common should sufficiently protect both."

The fourth and final factor is whether the party against whom collateral estoppel is asserted had a full and fair opportunity to litigate the issue in the prior suit. The court noted that Mr. Dunafon had had a fair opportunity to litigate the issue of the right to possession of the Ford in the dissolution proceeding, and that his claim to it had been made and rejected.

Thus, the Court of Appeals ruled that, through Mr. Dunafon, Missouri Mexican had already had its "day in court." It therefore affirmed the trial court's ruling for Mrs. Dunafon based on the doctrine of collateral estoppel.

The *Missouri Mexican* case emphasizes the importance of promptly and properly presenting your case in any proceeding which can affect your rights, since in law — as in life — you rarely get a second "bite at the apple."

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