

CLAIM PRECLUSION APPLIES WHERE SECOND SUIT ADDRESSES DIFFERENT ISSUES THAN THE FIRST SUIT AS LONG AS THEY ARISE FROM THE SAME NUCLEUS OF FACTS

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Howell v. Hodap & Johnson
Ct. Appeals, Div. One, May 12, 2009

Authored by the [JSH Appellate Team](#)

This case raised separate appeals arising out of the execution of a search warrant. The search warrant was executed at the Howells' home at night, when police believed they would be sleeping. Police announced themselves and used a battering ram to breach the security and outer door to the home. Howell fired a warning shot before realizing that it was the police, at which time he threw his gun down and submitted. The Howells sustained minor injuries during the arrest, and eventually all charges against Mr. Howell were dropped.

The Howells first filed a state-law complaint in superior court. Just prior to the start of their jury trial, they filed a § 1983 complaint in federal court. The "allegations to all claims" sections of their state and federal complaints were nearly identical. All claims in federal court were either dismissed, or were the subject of a jury verdict for defendants.

Defendants then moved for summary judgment in superior court based on res judicata and collateral estoppel. Those motions were denied and the case went to trial. The jury returned a \$10,000 verdict for Mrs. Howell for false imprisonment.

Defendants appealed and argued the trial court erred by refusing to apply the doctrine of claim preclusion in favor of the defendants. The court of appeals reversed, holding that claim preclusion should have applied. Plaintiffs' claims arose out of the same nucleus of facts and could have been raised in the federal suit. It did not matter that the state court offered more expansive remedies or protections available to plaintiffs. It also did not matter that the state action alleged multiple tort violations. All the claims arose out of the same transactional nucleus of facts, even though the legal theories were different. In addition, the damages allegations were exactly the same in both suits, except that the state complaint includes damages for past lost business opportunities, and the federal complaint alleged punitive damages. Therefore, the trial court erred by failing to bar all of the Howells' claims in the state proceeding.