

Claim Preclusion Review Problem

Paul was attacked by a mugger, and he suffered physical and emotional injuries for which he later sought legal redress. He wasn't sure of the identity of his attacker, but he believed it was most likely Dan, so Paul sued Dan in Cook County Circuit Court. At trial, Dan presented three witnesses who credibly asserted that Dan was with them when Paul was attacked. The jury delivered a verdict for Dan.

After further investigation, Paul believed Dave was actually his attacker, so Paul sued Dave in federal court in the Northern District of Illinois. Dave immediately moved to have Paul's suit dismissed on the basis of claim preclusion, pointing out that Paul had already pursued a lawsuit on the basis of that same incident, and that lawsuit had concluded with a final judgment adjudicating the claim against Paul.

Should the court dismiss the case against Dave?

- A) yes, because the suit against Dave is the subject of the same "claim" (that is, it arises from the same "conduct, transaction, or occurrence") as the earlier suit against Dan, which concluded with a final, fully adjudicated, and preclusive judgment.
- B) yes, because while Dave wasn't present in the earlier case, Paul was, and Paul had a full and fair opportunity to litigate his claim against Dave but chose or negligently failed to do so.
- C) no, because the state and federal courts are "separate sovereigns" and have independent prerogative to enter judgment even on related claims.
- D) no, because the two cases do not involve the exact same parties—Dave was not a party to the first lawsuit.