

Issue Preclusion Review Problem

A plaintiff sued a defendant airline for damages that she allegedly suffered when one of the defendant's planes crashed. The defendant denied that its negligence caused the crash and instead contended that the cause of the crash was the negligence of the air traffic controller. As a sanction for misconduct in discovery, the court struck the defendant's pleadings and ordered trial solely on damages. The plaintiff obtained a judgment for \$1,000,000. A second plaintiff sued for damages that he allegedly suffered in the same plane crash. The defendant again denied that its negligence caused the crash and instead contended that the cause of the crash was the negligence of the air traffic controller. The second plaintiff made a motion for partial summary judgment and argued that the defendant was collaterally estopped, as a result of the first case, from contending that the air traffic controller caused the accident. The court denied the motion.

Was the court correct to deny the motion for partial summary judgment based upon collateral estoppel?

- (A) Yes, because the second plaintiff was not a party to the first action.
- (B) Yes, because the issue of the air traffic controller's negligence was not actually litigated in the first action.
- (C) No, because the defendant had a full and fair opportunity to litigate the issue of the air traffic controller's negligence in the first action.
- (D) No, because the defendant lost the issue in the first action as a result of its own conduct.