

The Two-Timing T-Bird

In the movie *Groundhog Day*, Bill Murray plays a hapless television reporter who finds himself in an endless loop of rerunning the exact same day over and over. It is clearly a terrifying and frustrating scenario, although the character makes the best of it.

The law recognizes the need (and, in some cases, the constitutional right) to avoid unnecessary repetition and “reinventing the wheel.” Indeed, the core concept of legal precedent reflects the goal of not repeatedly going over old ground, but building upon prior decisions to move forward in an efficient and (at least somewhat) predictable way. Similarly, in criminal law, the prosecution is barred from putting a defendant in “double jeopardy” – charging and making the defendant stand trial twice for the same offence.

Legal concepts embodying similar considerations were involved in *Frank v. Manbevers*, decided on October 2, 2007 by the Court of Appeals of Ohio, Fifth Appellate District, Muskingum County.

According to the Court, Gail Frank owned a 1964 Ford Thunderbird. Frank sued Mark Manbevers, alleging the defendant breached a contract between them by failing to restore the car.

Manbevers denied the existence of any contractual agreement to restore Frank’s T-Bird. Thereafter, Manbevers moved for summary judgment, asking the Court to rule in his favor without the need for a trial. Frank opposed that motion. Frank thereafter moved to amend his complaint to add, beyond his original breach of contract claim, new causes of action for unjust enrichment, specific performance, and promissory estoppel.

The trial court denied Frank’s motion to amend his complaint. Then, the Court granted Manbevers’ motion for summary judgment, dismissing Frank’s claim against him.

Frank did not appeal. However, a couple of months later, Frank filed an identical lawsuit in a different court, asserting claims for breach of contract, unjust enrichment/quantum meruit, specific performance and promissory estoppel.

Among other things in response, Manbevers filed a motion for summary judgment claiming, in part, that Frank’s claims were now barred by the doctrine of “res judicata” and/or “collateral estoppel” and attached a certified copy of the first court’s file. Frank opposed the summary judgment motion.

The second trial court granted Manbevers’ motion for summary judgment, holding that Frank’s claims had been previously adjudicated and thus, he was barred from filing the second case. Frank disagreed and appealed.

The Court of Appeals ruled for Manbevers, affirming the second trial court’s granting summary judgment to Manbevers and dismissing Frank’s claims.

The Court explained: “The doctrine of res judicata . . . provides that an existing, final judgment between the parties to litigation bars all claims which were litigated or could have been litigated in that lawsuit from being re-litigated in a later action.”

In addition, “the doctrine of collateral estoppel provides that an issue or a fact that was fairly, fully, and necessarily litigated and determined in a prior action may not be drawn into question in a subsequent action between the same parties or their privies, whether the cause of action in the two actions be identical or different.”

“[O]nce a competent tribunal enters a valid, final judgment on the merits, res judicata bars all subsequent actions based upon any claims arising out of the transaction or occurrence that was the subject matter of the previous action. . . . The doctrine of res judicata not only applies to those claims and defenses actually litigated in the first dispute, but is conclusive as to any claim that may have been properly adjudicated. . . . [R]es judicata requires a plaintiff to present every ground for relief in the first action, or be forever barred from asserting it.”

“Upon review of the record, we find that the Complaint filed in the Common Pleas Court and the Complaint filed in the County Court both involve the same two parties and the same transaction or occurrence. We further find that the Muskingum County Court was a competent tribunal which entered a valid, final judgment on the merits in this case and that [Frank] did not appeal said final judgment. We further find that [Frank] could have raised, and in fact attempted to raise, be it too late, the issues of breach of contract, unjust enrichment/quantum meruit, specific performance and promissory estoppel in the first action.

“We therefore find that [Frank] was barred from filing the second Complaint in the Muskingum County Court of Common [Pleas] based on the doctrine of res judicata and the [second] trial court did not err in granting [Manbevers’] Motion for Summary Judgment and dismissing [Frank’s] claims based on same.”

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Hopefully you will never find yourself having to bring, or defend against, litigation. But if you do, it is important to have your “ducks in a row,” be they the spectrum of supportable claims you might assert as a plaintiff, or supportable defenses you might raise as a defendant. Unlike in some movies, seconds on that proverbial apple may well be hard to come by.



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