

## Scholarly Commons @ UNLV Boyd Law

---

Nevada Supreme Court Summaries

Law Journals

---

2-4-2013

### Summary of Garcia v. Prudential Ins. Co. of America, 129 Nev. Adv. Op. 3

Benjamin K. Reitz  
*Nevada Law Journal*

Follow this and additional works at: <https://scholars.law.unlv.edu/nvscs>



Part of the [Civil Procedure Commons](#)

---

#### Recommended Citation

Reitz, Benjamin K., "Summary of Garcia v. Prudential Ins. Co. of America, 129 Nev. Adv. Op. 3" (2013).  
*Nevada Supreme Court Summaries*. 122.  
<https://scholars.law.unlv.edu/nvscs/122>

This Case Summary is brought to you by the Scholarly Commons @ UNLV Boyd Law, an institutional repository administered by the Wiener-Rogers Law Library at the William S. Boyd School of Law. For more information, please contact [youngwoo.ban@unlv.edu](mailto:youngwoo.ban@unlv.edu).

CIVIL PROCEDURE – CHOICE OF LAW AND ISSUE PRECLUSION

**Summary**

An appeal addressing the preclusive effect of a judgment entered by a federal district court sitting in diversity.

**Disposition**

The Court affirmed the district court ruling but clarified that the controlling case is *Semtek International Inc. v. Lockheed Martin Corp.*, 531 U.S. 497 (2001), not *Bower v. Harrah's Laughlin*, 125 Nev. 470 (2009). The preclusive effect of an issue decided by federal courts sitting in diversity is determined by federal common law, which requires federal courts to apply the law of the state in which the court sits. In this contract and tort action, the Court held that issues decided by a New Jersey Federal District Court should be given preclusive effect by applying New Jersey law, not federal law.

**Factual and Procedural History**

Upon the death of her husband in 2005, Kathryn Garcia submitted claims under life insurance policies purchased from Prudential Insurance Company of America. The policies provided for one lump sum to be paid promptly upon proof of death, but also provided payment options where the benefits could be distributed over time.

Prudential's standard claim form asked Garcia to select one of six payment options; "lump sum" was not one of the options. The form also stated that, in the event of non-selection, Prudential would establish an interest-earning "Alliance Account" in Garcia's name from which Garcia could make withdrawals at her preference. When Garcia did not select a payment option, Prudential setup the account and sent blank checks and withdrawal slips to Garcia.<sup>2</sup>

In November 2008, Garcia, a domiciliary of Nevada, filed an action on behalf of herself and a nationwide class of similarly situated persons in New Jersey federal court. Because Prudential's home state is New Jersey, the federal district court heard Garcia's contract and tort claims in diversity. In December 2009, the district court granted without prejudice Prudential's motion to dismiss for failure to state a claim.

In September 2010, Garcia filed this action against Prudential in the Second Judicial District Court of the State of Nevada. Prudential filed a motion to dismiss under NRCP 12(b)(5) for failure to state a claim, arguing that her claims were precluded by the federal court decision. After a hearing, the district court granted Prudential's motion and dismissed all of Garcia's claims on issue preclusion grounds. This appeal followed.

---

<sup>1</sup> Benjamin K. Reitz

<sup>2</sup> Seemingly, Garcia believed that Prudential breached the contract and duties of care, despite her ability to withdraw the full amount of the claim from the Alliance Account.

## Discussion

The Court heard this appeal *en banc*. Justice Douglas wrote the opinion, with Justices Pickering, Gibbons, Hardesty, Parraguirre, Cherry, and Saitta concurring.

### New Jersey law applies

The Court used this case to clarify its opinion in *Bower* which held that a Nevada district court is required to apply federal law to determine the preclusive effect of a federal decision. Because *Bower* did not distinguish between federal question and diversity cases, the Court clarified that *Bower* applies only to federal decisions on federal questions. Alternatively, under a 2001 U.S. Supreme Court case, *Semtek*, a district court should apply state law to determine the preclusive effect of decisions by a federal court sitting in diversity.

According to *Semtek*, a state district court determines preclusive effects by applying federal common law. With regard to federal question cases, federal common law endeavors to develop a uniform rule of preclusion.<sup>3</sup> However, decisions rendered when the federal court is sitting in diversity are, under federal common law, to be accorded the same claim-preclusive effect as a state court decision in the state in which the federal court sits. And although *Semtek* addressed claim preclusion, the court applied the holding to issue preclusion as well.

In this case, the New Jersey federal district court was sitting in diversity when it rendered the decision at issue. Accordingly, New Jersey issue-preclusion law determines whether that judgment precludes Garcia's Nevada state court claims.

### Garcia's claims would be precluded under New Jersey law

#### Applying New Jersey law, a party asserting issue preclusion

must show that: (1) the issue to be precluded is identical to the use decided in the prior proceeding; (2) the issue was actually litigated in the prior proceeding; (3) the court in the prior proceeding issued a final judgment on the merits; (4) the determination of the issue was essential to the prior judgment; and (5) the party against who the doctrine is asserted was a party to or in privity with a party to the earlier proceeding.<sup>4</sup>

The court acknowledged the similarity of federal and New Jersey preclusion law, but emphasized that adherence to the correct method is systematically important. The issues raised by Garcia in the Nevada complaint were identical in substance to those raised in New Jersey and, under New Jersey law, the Garcia is precluded from relitigating those issues.

## Conclusion

Justice Douglas concluded: "Although the district court erred in applying federal law instead of state law to determine the preclusive effect of the federal court's decision, it reached the correct result because it correctly determined that Garcia is precluded from relitigating her claims."

---

<sup>3</sup> Taylor v. Sturgell, 553 U.S. 880, 891 (2008).

<sup>4</sup> Olivieri v. Y.M.F. Carpet, Inc., 897 A.2d 1003, 1009 (N.J. 2006).