

## Collateral Estoppel and Res Judicata Table

See the Michigan Judicial Institute’s *Appeals & Opinions Benchbook*, Chapter 1, and *Civil Proceedings Benchbook*, Chapter 2.

Collateral Estoppel - Issue Preclusion	Res Judicata - Claim Preclusion
<p>Proponent must show:</p> <ul style="list-style-type: none"> <li>(1) A question of fact essential to the judgment was actually litigated and determined by a valid and final judgment;</li> <li>(2) The same parties had a full and fair opportunity to litigate the issue; and</li> <li>(3) There was mutuality of estoppel.</li> </ul> <p>Estoppel is mutual if the party asserting estoppel would have been bound by the earlier adjudication if it had gone against them.</p> <p>See <i>People v Trakhtenberg</i>, 493 Mich 38, 48 (2012); <i>Monat v State Farm Ins Co</i>, 469 Mich 679, 684-685 (2004).</p>	<p>Proponent must show:</p> <ul style="list-style-type: none"> <li>(1) There was a prior decision on the merits;</li> <li>(2) The issues were fully resolved in the first action, either because they were actually litigated or because they might have been presented in the first action; and</li> <li>(3) Both actions are between the same parties or their privies.</li> </ul> <p>See <i>VanDeventer v Mich Nat'l Bank</i>, 172 Mich App 456, 464 (1988).</p>

