

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ARIZONA

Mara Finch v. Block Incorporated, et al.

No. CV-25-04247-PHX-JJT (D. Ariz. Feb. 26, 2026) · No. No. CV-25-04247-PHX-JJT · Decided February 26, 2026

SUMMARY

The court denies McDonald’s motion for reconsideration of its prior decision declining to apply claim preclusion to the plaintiff’s claims. Although the plaintiff’s two prior voluntary dismissals technically triggered the two-dismissal rule, the court concludes that applying claim preclusion would not serve its underlying policies and would create a manifest injustice because the prior actions involved no substantive litigation. The court grants defendants’ alternative request for an extension and requires responsive pleadings by March 20, 2026.

CASE DETAILS

COURT	United States District Court for the District of Arizona
JURISDICTION	United States District Court for the District of Arizona
DECIDED	February 26, 2026
DOCKET	No. CV-25-04247-PHX-JJT
DISPOSITION	other
PROCEDURAL POSTURE	Defendants moved for reconsideration of the court's prior refusal to dismiss Plaintiff's claims under claim preclusion and separately moved to stay or extend the deadline for responsive pleadings.
STANDARD OF REVIEW	A motion for reconsideration under Local Rule 7.2(g) is ordinarily denied absent a showing of manifest error.
PRECEDENTIAL VALUE	Unpublished district-court order; persuasive value only

TOPICS

- motion for reconsideration
- res judicata
- pleadings
- civil procedure

PRACTICE AREAS

- civil procedure
- claim preclusion
- motions for reconsideration
- pleadings

QUESTIONS PRESENTED

1. Whether the court committed manifest error by declining to dismiss Plaintiff's claims under claim preclusion after finding that Rule 41(a)(B)(1)'s two-dismissal rule applied.
2. Whether Defendants were entitled to a stay or, alternatively, an extension of time to file responsive pleadings.

HOLDINGS

1. The two-dismissal rule is narrower than the broader claim-preclusion doctrine, and its application does not automatically require preclusion of all claims when applying claim preclusion would not serve its underlying policies and would produce manifest injustice.
2. Defendants established good cause for an extension of time to respond to Plaintiff's First Amended Complaint, but the request for a stay pending resolution of reconsideration was moot.

KEY QUOTATIONS

"It is upon the broader claim preclusion doctrine—not the two-dismissal rule—that this Court found it improper to preclude all of Plaintiff's claims." (at 2)

"Dismissal of the matter at bar because it meets the technical requirements of claim preclusion would bury the never-addressed merits of Plaintiff's claims for no reason beyond rote adherence to that doctrine." (at 3)

"The Court finds no error in declining to apply claim preclusion doctrine where such peril would evidently occur and the policy upon which claim preclusion stands is not served." (at 4)

FACTUAL BACKGROUND

Plaintiff had filed two state-court actions that were voluntarily dismissed only days after filing because of a clerical error. The defendants were unaware of those actions until litigation of the present federal action began, and the prior actions involved no substantive litigation, harassment, or meaningful use of the courts. The court concluded that applying claim preclusion solely because the two-dismissal rule technically treated the dismissals as adjudications on the merits would produce manifest injustice.

PROCEDURAL HISTORY

The court previously held that Plaintiff's voluntary dismissal of a second state-court action triggered Federal Rule of Civil Procedure 41(a)(B)(1)'s two-dismissal rule, but declined to apply claim preclusion to all claims. McDonald's moved for reconsideration under Local Rule 7.2(g), arguing that application of the two-dismissal rule required dismissal. Block and McDonald's also sought a stay or extension of the responsive-pleading deadline. The court denied reconsideration, found the stay request moot, and granted an extension of time to file responsive pleadings through March 20, 2026.

DISPOSITION

other

CASES CITED

- *Olewin v. Nobel Mfg., LLC*, 523 P.3d 413, 420 (Ariz. App. 2023)
- *Circle K Corp. v. Industrial Commission*, 880 P.2d 642, 645-46 (Ariz. App. 1994)
- *Gibbs v. Gibbs*, 258 P.3d 221, 225 (Ariz. App. 2011)
- *Peterson v. Newton*, 307 P.3d 1020, 1022 (Ariz. App. 2013)
- *Federated Department Stores, Inc. v. Moitie*, 452 U.S. 394, 399-401 (1981)

OPINION

Finch

PER CURIAM.

1 WO 2 3 4 5

6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE DISTRICT OF ARIZONA

8 9 Mara Finch, No. CV-25-04247-PHX-JJT 10 Plaintiff, ORDER 11 v. 12 Block Incorporated, et al., 13 Defendants. 14 15 Before the Court is Defendant McDonalds USA, LLC's Motion for Reconsideration 16 (Doc. 63) and Defendant Block Inc.'s Motion to Stay Responsive Pleading Deadline, or in 17 the Alternative, For an Initial Extension of Time to File Responsive Pleading (First 18 Request) (Doc. 64), with which McDonald's joined (Doc. 65). The Court will deny the 19 Motion for Reconsideration and grant in part and deny in part the Motion to Stay. 20 In its Order dated February 4, 2026, the Court found that Rule 41(a)(B)(1) ("two- 21 dismissal rule") treats the voluntary dismissal of Plaintiff's second state court action as an 22 adjudication on the merits. (Doc. 61 at 14.) Still, the Court declined to dismiss Plaintiff's 23 claims under the claim preclusion doctrine. Pursuant to Local Rule 7.2(g), McDonald's 24 moves the Court to reconsider this portion of the Order as a manifest error. (See Doc. 63 at 25 1.) See LRCiv 7.2(g)(1) ("The Court will ordinarily deny a motion for reconsideration of 26 an Order absent a showing of manifest error . . ."). 27 McDonald's contends that dismissal was mandatory once the Court found that the 28 two-dismissal rule applied. (Doc. 63 at 4–5.) Had the satisfaction of the two-dismissal rule 1 been all that was required to dismiss Plaintiff's claims, the Court's inquiry would have 2 ended there. The Court is not so myopic. Rather, it addressed the whole of the claim 3 preclusion doctrine, of which the two-dismissal rule is a mere part. *Olewin v. Nobel Mfg., LLC*, 523 P.3d 413, 420 (Ariz. App. 2023) (noting that the two-dismissal rule is "narrower" 5 than the claim preclusion defense). It is upon the broader claim preclusion doctrine—not 6 the two-dismissal rule—that this Court found it improper to preclude all of Plaintiff's 7 claims. 8 The judicially created claim preclusion doctrine is ordinarily "restrictive" and 9 "illiberal toward the opportunity for relitigation." Restat. 2d of Judgments 1 § Scope. Claim 10 preclusion promotes "(1) finality in litigation; (2) the prevention of harassment; [and] (3) 11 efficiency in the use of the courts." *Circle K Corp. v. Indus. Comm'n*, 880 P.2d 642, 646 12 (Ariz. App. 1993). At its core, claim preclusion is "[a] convention designed to compensate 13 for man's incomplete knowledge and strong tendency to quarrel." Restat. 2d of Judgments 14 § Scope. The severity of this convention has the potential to work a great injustice

to 15 litigants “if the initial engagement of the merits was inadequate.” *Id.* Therefore, the 16 doctrine “must provide some leeway for reexamination of judgments. Doing so is a matter 17 not only of fairness but also of efficiency.” *Id.* Arizona courts recognize that the claim 18 preclusion doctrine “is not rigidly applied when it would contravene an overriding public 19 policy[,] result in manifest injustice,” *Gibbs v. Gibbs*, 258 P.3d 221, 225 (Ariz. App. 2011) 20 (citation modified), or fail to further the policies underlying claim preclusion, *Circle K 21 Corp.*, 880 P.2d at 645. 22 As the Court observed in its Order, the two state court actions that gave rise to the 23 application of the two-dismissal rule had barely crossed the threshold of what could be 24 considered a civil action. Having been dismissed by Plaintiff only days after filing due to 25 a “clerical error,” each state court action ended before it substantively began. McDonald’s 26 and Block had not even known about those two state court actions until they began 27 1 Arizona courts turn to the Restatement (Second) of Judgments for guidance regarding res 28 judicata doctrine. See *Peterson v. Newton*, 307 P.3d 1020, 1022 (Ariz. App. 2013) (quoting the Restatement in evaluating a dispute about claim preclusion). 1 litigating the instant action. While the two prior actions culminate in an “adjudication on 2 the merits” under the strict application of the two-dismissal rule, it is plainly evident that 3 those actions involved no litigation, harassment, or meaningful use of the court system that 4 claim preclusion otherwise bars from reprise. Dismissal of the matter at bar because it 5 meets the technical requirements of claim preclusion would bury the never-addressed 6 merits of Plaintiff’s claims for no reason beyond rote adherence to that doctrine. That 7 would serve none of the policies underlying the claim preclusion doctrine and would result 8 in a manifest injustice by blocking Plaintiff’s access to the judicial system. 9 McDonald’s argues that “claim preclusion’s equitable underpinnings” do not create 10 “a free-floating invitation to do simple justice,” and cites *Federated Department Stores, 11 Inc. v. Moitie*, 452 U.S. 394 (1981). There, the Supreme Court reversed the Ninth Circuit’s 12 decision to spare a litigant from the effects of claim preclusion where that litigant’s 13 previously dismissed claims were later rendered cognizable by a successful appeal 14 procured by other independent parties. *Id.* at 399. The Supreme Court “recognize[d] no 15 general equitable doctrine . . . which countenances an exception to the finality of a party’s 16 failure to appeal merely because his rights are closely interwoven with those of another 17 party.” *Id.* at 400 (citation modified). It held that claim preclusion bars a litigant’s collateral 18 attack of an earlier adjudication no matter if it was based on erroneous conclusions or 19 overturned principles of law. *Id.* at 399–401. The Court espoused “that public policy 20 dictates that there be an end of litigation; that those who have contested an issue shall be 21 bound by the result of the contest, and that matters once tried shall be considered forever 22 settled as between the parties.” *Id.* at 401. 23 But the matter at bar is nothing like *Moitie*. Here, no litigation or contest was ever 24 held between the parties before the instant action proceeded. There is no “second bite” of 25 the proverbial apple that claim preclusion ordinarily seeks to prevent. The facts at hand 26 constitute a rare occurrence in which the restrictive nature of claim preclusion must be 27 tempered to avoid manifest injustice. See *id.* at 402–03 (Blackmun, J.

and Marshall, J., 28 concurring) (“I, for one, would not close the door upon the possibility that there are cases 1 || in which the doctrine of res judicata must give way to... overriding concerns of public || policy and simple justice.”) (citation modified). The Court finds no error in declining to 3 || apply claim preclusion doctrine where such peril would evidently occur and the policy upon which claim preclusion stands is not served. 5 Having resolved the Motion for Reconsideration, Defendants’ joint request for a 6|| stay pending that resolution is rendered moot. Defendants alternatively request an 7|| extension of time to file responsive pleadings and, good cause appearing, the Court will 8 || grant that request. Defendants shall each file a responsive pleading to Plaintiffs First || Amended Complaint (Doc. 62) no later than March 20, 2026. 10 IT IS ORDERED denying Defendant McDonalds USA, LLC’s Motion for 11 || Reconsideration (Doc. 63). 12 IT IS FURTHER ORDERED granting in part and denying in part Defendant 13} Block Inc.’s Motion to Stay Responsive Pleading Deadline, or in the Alternative, For an 14|| Initial Extension of Time to File Responsive Pleading (First Request) (Doc. 64), with which 15 || Defendant McDonald’s joined (Doc. 65). Defendants shall each file a responsive pleading 16|| to Plaintiff’s First Amended Complaint no later than March 20, 2026. 17 Dated this 26th day of February, 2026. CN i. Unifgd StatesDistrict Judge 20 21 22 23 24 25 26 27 28 -4-