

Case Brief

Civ Pro unit c: basic joinder

1/28/15

Identity of Case

King v. Blanton, 735 S.E. 2d 451 (N.C. App. 2012).

Page 619 of the case brief

Summary of Facts/Procedural History

King and Blanton had an MVA. Blanton filed a complaint against King, and they settled out of court with King paying for Blanton's damages (subject to some negotiation that we don't have info about). King was represented by an attorney paid for by the insurance company. During the original proceedings, King never alleged Blanton was responsible in any way, or even answered the original complaint. A year later, King files suit against Blanton claiming that Blanton was solely responsible and requesting damages. Dismissed.

Statement of the Issue

Can King raise later an issue that was a mandatory counterclaim to the earlier suit?

Holding

Even though King settled the earlier suit, by not bringing a mandatory counter claim (any claim which arises from the same occurrence/transaction) King waives her right to ever bring that suit.

Reasoning

Judicial efficiency. But there are some interesting issues. Was King's attorney really looking out for her best interest? The time for asserting a counterclaim is at the time of pleading, which is to say answer. King never answered the original complaint...does that mean she could have a chance? Not really, but still interesting to consider.

Evaluation