



COMMONWEALTH OF
PUERTO RICO
Department of Labor and Human
Resources

June 24, 2015

Inquiry Num. 15,798

We acknowledge receipt of your email sent on June 11, 2015, in which you request information that might assist you in updating your company's information as to unemployment insurance and collateral estoppel as it may be used in Puerto Rico. Based on your email, your company's current information regarding this matter is as follows:

Collateral Estoppel is prohibited, meaning the UI law "contains language that limits unemployment decisions, judgment, final order or findings of fact from being conclusive or binding in a subsequent legal action, like a wrongful discharge suit, etc.. The intent of the collateral estoppel language is to essentially keep the unemployment record and hearing decision applicable to UI matters, only. Any other legal actions between the employee and employer would need to be litigated on its own merits without using the unemployment record as evidence, despite any similarities in facts or interested parties."

Act No. 15 of April 14, 1931, as amended, known as the *Department of Labor and Human Resources Organic Law*, establishes that, as a public agency, we are called to foster and promote the interests and wellbeing of workers in Puerto Rico, as well as to strive to improve their conditions of life and work and advance their opportunities for profitable employment. The Puerto Rico Department of Labor and Human Resources (PRDOL) also has the ministerial duty to foster industrial peace and implement, develop and coordinate public policy and programs for the training of the



necessary human resources to meet the needs of the labor sector.¹ Due to the scope of local employment law and the rules governing it, our intervention is limited to private sector and public corporations doing business as private entities.

The Office of the Solicitor of Labor (OSL), which is assigned to the Office of the Secretary of Labor and Human Resources, provides advice regarding employment legislation, current and proposed, and issues guidance regarding questions about the scope and content of varying labor laws. The OSL will refrain from issuing opinions on claims or matters that are, or could be, in the present or in the future, before the consideration of an administrative agency, courts or subject to judicial review, or can be investigated or adjudicated at any time by the PRDOL. It will also refrain from issuing opinions based on assumed facts or over matters that are outside the scope and jurisdiction of the PRDOL.

This opinion is based solely on the facts and circumstances stated in your communication and is issued based on representations, express or implied, made by you. We understand that you have provided a full, true and fair description of all the facts and all the circumstances that would be relevant to our consideration of your inquiry. The opinion expressed herein could change subject to other facts or considerations not included in your communication.

Regarding your inquiry, the Puerto Rico Supreme Court, in *Acevedo v. Western Digital Caribe, Inc.*, 140 D.P.R. 452 (1996), held that the decisions issued by the Puerto Rico Bureau of Employment Security (Bureau) are not conclusive as to wrongful discharge suits filed under Act No. 80 of May 30, 1976, *as amended*. In Puerto Rico, the Court explains, the doctrine of res judicata is governed by civil law principles. A claim may be precluded under the doctrine of res judicata if there exists the most perfect identity between the things, causes, and persons of the litigants, and their capacity as such. Civil law also recognizes the doctrine of collateral estoppel which, unlike res judicata, does not require identity between the causes.

Based on these principles, the Court held that there is no perfect identity between the persons involved in the administrative procedure before the Bureau and in the judicial claim filed under Act No. 80, *supra*. The Court explained that the Bureau was created to enforce Act No. 74 of June 21, 1956, *as amended*, known as the *Security in Employment Act*, which establishes the requirements to qualify for unemployment benefits. Thus, the Bureau's determinations were limited to addressing plaintiff's unemployment benefits claim and deciding to grant said benefits. During the proceedings before the Bureau, the parties were plaintiff and the Secretary of Labor and Human Resources. While plaintiff's former employer participated during said proceedings, said participation was as a witness complying with the Bureau's notices. Additionally, the Secretary of Labor and Human Resources does not represent the interest of plaintiff's former employer in these administrative proceedings.

¹ See Section 2 of Act No. 15, *supra*.


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Thus, concludes the Court, when the nature of what is questioned before an administrative forum is different to the question being raised in a judicial claim, it is reasonable to not apply the res judicata doctrine. To hold the contrary, that is, to bind an employer to the determinations issued by the Bureau, would have the effect of turning the summary administrative proceedings of granting unemployment benefits into trials. In consideration of the flexibility under which the doctrine of res judicata is applicable in administrative proceedings, said doctrine must be rejected when the defendant has not had the incentives to litigate completely and rigorously the controversies that rose in the first process, which, in this case, was the administrative proceeding before the Bureau.

Although our state law does not have a provision which limits the application of unemployment decisions to unemployment matters only, thus prohibiting collateral estoppel in subsequent legal actions, inasmuch as our Highest Court has issued an opinion regarding this matter in *Acevedo v. Western Digital Caribe, Inc.*, *supra*, we understand that the Court's holding in said case is binding.

We hope that the information provided is useful.

Cordially,


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Solicitor of Labor