

710 So.2d 728  
 District Court of Appeal of Florida,  
 Third District.

Leo TERMINELLO, Appellant,

v.

Michael J. ALMAN, Appellee.

No. 97-2697. | May 13, 1998.

| Rehearing Denied June 10, 1998.

Plaintiff filed second action against attorney who had represented plaintiff's former wife in divorce proceeding six weeks after first action was dismissed with prejudice. The Circuit Court, Dade County, [Ronald M. Friedman, J.](#), dismissed second action with prejudice. Plaintiff appealed. The District Court of Appeal held that second action was barred by res judicata and collateral estoppel where plaintiff took no appeal from final order in first action and second complaint was essentially the same as first.

Affirmed.

West Headnotes (2)

**[1] Judgment**

 [What constitutes identical causes](#)

Plaintiff's second action against attorney who had represented plaintiff's former wife in divorce proceeding, filed six weeks after first action was dismissed with prejudice, was barred by res judicata and collateral estoppel, where plaintiff took no appeal from final order in first action and second complaint was based upon same set of facts, sought same relief, and asserted essentially same cause of action.

[Cases that cite this headnote](#)

**[2] Attorney and Client**

 [Duties and liabilities to adverse parties and to third persons](#)

Statements made by counsel in course of litigation are covered by absolute privilege.

**Attorneys and Law Firms**

**\*729** Leo Terminello, in proper person.

Weissman, Dervishi, Shepherd, Borgo & Nordlund and [Jeffrey Weissman](#), Fort Lauderdale, for appellee.

Before [JORGENSON](#), [COPE](#) and [SORONDO](#), JJ.

**Opinion**

PER CURIAM.

Leo Terminello appeals from the dismissal, with prejudice, of his complaint. We affirm.

Terminello filed an action in 1996 against Michael Alman, an attorney who represented Terminello's former wife in a divorce proceeding. That action was dismissed with prejudice; Terminello took no appeal from that final order. Six weeks later, Terminello again sued the same defendant. The second complaint was based upon the same set of facts, sought the same relief, and asserted essentially the same cause of action.

[1] The trial court properly granted the defendant's motion to dismiss the second action, finding that:

If Mr. Terminello disagreed with the Court's dismissal of his complaint in the First Action, he could have appealed the dismissal of the first Action. However, Mr. Terminello did not appeal that dismissal, and the dismissal of the First Action is now final.... Therefore, this suit is ... barred by principles of *res judicata* and collateral estoppel.

[2] Furthermore, the dismissal was proper on the merits, as all of the claims brought-in both the first and the second complaint-were barred by the absolute privilege covering statements made by counsel in the course of litigation. *See Levin, Middlebrooks, Mabie, Thomas, Mayes & Mitchell, P.A. v. United States Fire Ins. Co.*, 639 So.2d 606 (Fla.1994).

AFFIRMED.

**Parallel Citations**

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