

**In re Thomas Aloysius WARMUS, Debtor**

**Kenneth A. Welt, Chapter 11 Trustee for the Bankruptcy  
Estate of Thomas Aloysius Warmus, and Liquidating Trustee  
of the Thomas Aloysius Warmus Liquidating Trust, Plaintiff,**

**v.**

**Randall L. Leshin and Randall L. Leshin, P.A., Defendants**

**No. 94-24673 BKC-RBR**

**Adv. No. 00-2046-BKC-RBR-A**

(Cite as: 252 B.R. 579, *rev'd*, 276 B.R. 688 (S.D.Fla. 2002))

Trustee successfully sued to avoid a post-petition transfer. Trustee then sued to recover the transfer from attorney for transferees, alleging that proceeds of the avoided transfer was used to pay attorney's fees. Trustee filed a Motion in Limine contending that the attorney was collaterally estopped from disputing the factual and legal issues resolved pursuant to the final judgment entered in the prior proceeding. The Court held that the four prerequisites to the application of collateral estoppel were met, which were: (1) the issue(s) at stake must be identical to the one alleged in the prior litigation; (2) the issue(s) must have been actually litigated in the prior suit; (3) the determination of the issue in the prior litigation must have been a critical and necessary part of the judgment in the earlier action; and (4) the party against whom the earlier decision is asserted must have had a full and fair opportunity to litigate the issue(s) in the earlier proceeding. [*District Court held that fourth requirement for collateral estoppel was not met.*]