Document(1)

1. 1-10 LN Practice Guide: FL Crim Practice & Procedure 10.27

Client/Matter: -None-
Use collateral estoppel to bar a second prosecution where the same fact is being litigated. The government is estopped from re-litigating issues that were previously determined in order to establish that a crime occurred. However, it is important to note that it must be the same fact that is being re-litigated in order for double jeopardy to bar the second prosecution. The doctrine is applied to the states through the *5th Amendment to the United States Constitution*.

### Core Case:

*Ashe v. Swenson, 397 U.S. 436 (1970)* (defendant was acquitted of robbing one of six poker players; State was barred from subsequent prosecution for robbing another, different poker player).

### Judicial Note:

A prosecution for conspiracy will not be barred because some of the overt acts of the conspiracy have already been prosecuted [*see United States v. Felix, 503 U.S. 378 (1992)*].