

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

2005 CA 0388

DAWN MAGEE

VERSUS

ABEK, INC.

Judgment rendered: MAY - 5 2006

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On Appeal from District 6  
Office of Workers' Compensation Administration  
Docket Number 04-07451  
The Honorable Robert Varnado, Judge Presiding

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Abek, Inc.

BEFORE: CARTER, C.J., DOWNING AND GAIDRY, JJ.

*EJB - Gaidry, J. - dissents AS RES JUDICATA does not apply  
JACKSON vs IBERIA PARISH GOVERNMENT (LA 4/10/99  
732 So 2d 517*

**DOWNING, J.**

This is an appeal from a judgment dismissing the claimant's workers' compensation claim on the basis of *res judicata*. We affirm the trial court judgment.

A full recitation of the facts can be found in an earlier opinion rendered by this court entitled *Magee v. Abek, Inc.*, 04-2554, (La.App. 1 cir. 4/28/06) \_\_\_\_ So.2d \_\_\_\_\_. Except for the issue of scarring, (not included in this appeal), the claims asserted by Dawn Magee arise out of the same transaction and occurrence as the earlier claims against Abek, Inc.

Generally, after final judgment, *res judicata* bars re-litigation of any cause of action arising from the same transaction and occurrence. LSA-R.S. 13:4231, LSA-C.C.P. art. 425; *Avenue Plaza, L.L.C. v. Falgout*, 96-0173, (La. 7/02/96), 676 So.2d 1077, 1079. Workers' compensation judgments however, are treated differently from ordinary judgments because the flexibility of the workers' compensation system would be greatly restricted if the same rigid rules applied. *Falgout v. Dealers Truck Equipment Co.*, 98-3150, pp. 8-9 (La. 10/19/99), 748 So.2d 399, 405. In *Jackson v. Iberia Parish Gov't*, 98-1810 (La.4/16/99), 732 So.2d 517, 520, the Louisiana Supreme Court held where the legislature expressly provides that a workers' compensation award or judgment can be subject to a claim for modification, *res judicata* does not apply. *Falgout*, 748 So.2d at 406-406.

We determine that the workers' compensation judge adequately explained how it made its determinations. A thorough review of the record supports its decision. Therefore, we affirm the judgment in accordance with Uniform Court of Appeal Rule 2-16.2A(2). All costs of this appeal are assessed against plaintiff-appellant, Dawn Magee.

**AFFIRMED**