

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2002

R.W. SMITH & CO. OF FLORIDA,
INC.,

**

Appellant,

**

vs.

CASE NO. 3D01-1531

**

**

R. WILBUR SMITH & CO., INC.
d/b/a R.W. SMITH & CO., INC., **

Appellee.

LOWER

** TRIBUNAL NO. 98-20083

Opinion filed November 6, 2002.

An appeal from the Circuit Court for Dade County, Jennifer
D. Bailey, Judge.

Roger M. Dunetz; Lauri Waldman Ross and Theresa L. Girtten,
for appellant.

Katz, Barron, Squitiero & Faust and Philippe Lieberman, for
appellee.

Before COPE, LEVY and FLETCHER, JJ.

PER CURIAM.

R. W. Smith & Co. of Florida, Inc., appeals an adverse
summary judgment in its suit against R. Wilbur Smith & Co., Inc.

We agree with the trial court that the instant suit is barred by res judicata. See Red Carpet Corp. of Panama City Beach v. Roberts, 443 So. 2d 377 (Fla. 1st DCA 1983); see also Harrington v. Batchelor, 781 So. 2d 1133 (Fla. 3d DCA 2001).

R. Wilbur Smith & Co., Inc. appeals an order denying its motion to tax costs against Antonio Elortegui, the president and sole shareholder of R. W. Smith & Co. of Florida. We reverse on authority of subsection 607.1421(4), Florida Statutes (2001), and Barrie v. Buchsbaum, 547 So. 2d 1009 (Fla. 3d DCA 1989).

Affirmed in part, reversed in part, and remanded for further proceedings consistent herewith.