

Judgment rendered December 17, 2025.  
Application for rehearing may be filed  
within the delay allowed by Art. 2166,  
La. C.C.P.

No. 56,663-WCA

COURT OF APPEAL  
SECOND CIRCUIT  
STATE OF LOUISIANA

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LUBA WORKERS COMP AND  
TRUCARE HOME HEALTH, LLC

Plaintiff-Appellant

versus

REBECCA SEARS

Defendant-Appellee

\* \* \* \* \*

Appealed from the  
Office of Workers' Compensation, District 1-E  
Parish of Ouachita, Louisiana  
Trial Court No. 24-05586

Brenza Irving-Jones  
Workers' Compensation Judge

\* \* \* \* \*

PARKER & LANDRY, LLC  
By: Keith J. Landry

Counsel for Appellant

LAW OFFICES OF STREET & STREET  
By: C. Daniel Street

Counsel for Appellee

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Before PITMAN, STEPHENS, and ROBINSON, JJ.

**PITMAN, C. J.**

Plaintiffs LUBA Workers Comp (“LUBA”) and TruCare Home Health LLC (“TruCare”) appeal the judgment of the Workers’ Compensation Judge (“WCJ”) granting an exception of res judicata in favor of Defendant Rebecca Sears and dismissing their complaint against her. For the following reasons, we reverse the judgment of the WCJ and remand for further proceedings.

**FACTS**

This case was previously before this court in *LUBA Workers Comp. v. Sears*, 56,489 (La. App. 2 Cir. 10/1/25), \_\_\_ So. 3d \_\_\_. (“*LUBA I*”)

In *LUBA I*, Plaintiffs filed a disputed claim for compensation against Defendant, a former employee of TruCare, who was involved in an automobile accident on her way to work in February 2014. She suffered injuries to her neck and back and received workers’ compensation benefits.

On November 20, 2023, Plaintiffs’ first disputed claim for compensation alleged that Defendant provided false statements and misrepresentations to medical providers concerning her injuries, condition, limitations and restrictions related to the work injury in violation of La. R.S. 23:1208. Plaintiffs claimed that between November 2021 and July 2023, Defendant reported that she suffered radicular, acute pain, aggravated by life activities such as walking, bending or prolonged sitting. These reports caused medical providers to opine that she needed additional medical treatment and services. Plaintiffs did not believe her statements and alleged that she could perform daily activities without apparent limitations or restrictions and without assistance. They asserted that she made the false statements for the purpose of obtaining additional compensation benefits and

violated La. R.S. 23:1208, which mandated the forfeiture of her future benefits and restitution for benefits previously issued to her.

Defendant filed an answer and denied making false statements to her medical providers. She also filed an exception of no cause of action and asserted that Plaintiffs had failed to state their claim with particularity as required by law. She stated that the complaint was vague and asked that it be dismissed with prejudice.

The WCJ heard the exception of no cause of action and sustained it but allowed Plaintiffs leave to amend within a 15-day time period to show the specific dates the statements were made, to whom they were made and the exact words of the statements. In default of the amendment, the WCJ said that the claims “are dismissed with prejudice.” Notice of the signing of the judgment was issued on June 28, 2024. On July 2, 2024, Plaintiffs filed a notice of intent to apply for supervisory review and the WCJ ordered the application filed before July 17, 2024. On August 23, 2024, the writ was denied and this court declined to exercise its supervisory jurisdiction.

On September 23, 2024, Plaintiffs filed a “First Amended Disputed Claim for Compensation,” restated their earlier claim and attached an exhibit as an addendum that contained a table of statements Defendant made to doctors from October 2021 through April 2024, which supported the claim of the La. R.S. 23:1208 violations. Defendant filed a motion to strike and argued that Plaintiffs had not filed an amended petition within 15 days of the signing of the judgment. Thus, she claimed that the interlocutory judgment sustaining the exception of no cause of action was final because Plaintiffs did not appeal the judgment and did not request a stay of the judgment pending supervisory review. The WCJ found that Plaintiffs had not

requested a stay of the judgment granting the exception of no cause of action when it sought writs and, therefore, failed to amend the disputed claim within the time period allowed. The WCJ granted the motion to strike the amendment and dismissed Plaintiffs' claims against Defendant with prejudice. Plaintiffs appealed and contended the WCJ erred in granting the motion to strike, sustaining the exception of no cause of action and dismissing the disputed claim with prejudice.

The opinion in *LUBA I* was rendered by this court on October 1, 2025, which reversed the WCJ and found that a judgment granting an exception of no cause of action, but giving the party leave to amend, is not a final or an interlocutory judgment subject to appeal. Rather, it merely permits an amendment within the delay allowed by law, and that amendment can be filed at any time unless the defendant has moved for dismissal. In *LUBA I*, we found that Defendant had not moved for dismissal prior to the time Plaintiffs filed the amendment. Accordingly, this court found the WCJ erred in granting the motion to strike the amended petition and dismissing the claims with prejudice. The matter was remanded for further proceedings.<sup>1</sup>

Once the WCJ dismissed Plaintiffs' disputed claim for benefits with prejudice and while *LUBA I* was pending in this court, on September 26, 2024, Plaintiffs took the depositions of Defendant's pastor, Johnny Barnhill, and his wife, Nita Barnhill. The Barnhills informed Plaintiffs that Defendant had been volunteering at the church by teaching classes and cleaning the church. Plaintiffs filed a "Petition/1008" against Defendant on October 27,

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<sup>1</sup> Defendant filed a notice of intent to seek writs with the Louisiana Supreme Court in *LUBA I*. The writ was filed on October 24, 2025, under docket number 25-C-01379. Therefore, this judgment is still subject to review and is currently pending in the supreme court.

2024. This claim, Workers' Comp Docket No. 24-05586, is the basis for the instant appeal.

LUBA and TruCare alleged:

Claimant provided intentional, false statements and misrepresentations in violation of La. R.S. 23:1208. The false statements and misrepresentations were made on OWC Form 1020s in which claimant denied performing volunteer work in connection with her church family, church clean ups, and church mission work or service, and when she failed to attend and participate in a scheduled Functional Capacity Evaluation [FCE] to determine her ability to perform job tasks and her physical limitations and restrictions, cancelled by Dr. Ledbetter.

Defendant filed a peremptory exception of res judicata and a dilatory exception of vagueness. She contended that this Petition/1008 asserted the same action between the same parties, in the same capacities, on the same cause of action and with the same object as Plaintiffs had in *LUBA I*. She pled that "the Judgment rendered therein from which no appeal was taken" is res judicata "of this action." She prayed for dismissal of this claim and filed a motion for sanctions against Plaintiffs for filing the new petition. She claimed that Plaintiffs should have filed every claim they had against her for fraud in their first complaint if those alleged acts were committed prior to the dismissal of the earlier suit with prejudice. She also argued that all five requirements for res judicata were met, including that there was a valid final judgment.

On March 10, 2025, the WCJ heard Defendant's exception of res judicata. At the hearing, Defendant claimed Plaintiffs' assertions that her activities of volunteering at the church by teaching and cleaning were known to them prior to the rendition of the final judgment on the exception of no cause of action in *LUBA I*. She also claimed that they had not raised the issue of the cancellation of the FCE in the first disputed claim for

compensation. Therefore, she argues the exception of res judicata was warranted.

Plaintiffs proffered the depositions of the pastor and his wife, and the WCJ deferred ruling on whether the proffer was acceptable and also deferred the motion for sanctions filed by Defendant until a later date. The WCJ granted the exception of res judicata and dismissed the claim with prejudice. Prior to the signing of the judgment on March 31, 2025, Plaintiffs filed a notice of appeal.

A week after the hearing on the exception of res judicata, but prior to the signing of the judgment, the WCJ considered Defendant's motion for sanctions and Plaintiffs' exceptions to the motion for sanctions which had just been filed in response, including lack of jurisdiction. The exception of lack of jurisdiction to the motion for sanctions was denied because the motion for appeal of the res judicata ruling had not yet been signed. The WCJ then denied Defendant's motion for sanctions because the slightest justification for the exercise of a legal right precludes sanctions. Plaintiffs attempted to proffer depositions taken pursuant to the earlier litigation, but the WCJ did not allow the depositions to be presented as evidence.

The arguments regarding the timing of discovery and when the depositions were taken concerned whether the judgment in *LUBA I* was a final judgment. The WCJ excluded the depositions from evidence on the basis that the pending workers' compensation claim had been dismissed and that Plaintiffs did not comply with La. C.C.P. art. 1433.<sup>2</sup>

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<sup>2</sup> La. C.C.P. art. 1433(A) provides that if an appeal has been taken from a judgment of a district court or before the taking of an appeal if the time has not expired, the district court may allow the taking of depositions to perpetuate testimony for use in the event of further proceedings in the district court. In such case the party who desires

## DISCUSSION

Plaintiffs argue that the WCJ erred when she sustained the Defendant's exception of res judicata and ordered their Disputed Claim for Compensation, Form 1008, dismissed. They also argue it was reversible error for the WCJ to enforce and give collateral effect to the judgment on the exception of no cause of action which was pending on suspensive appeal before this court in *LUBA I*. Plaintiffs contend that there is no final judgment on which to base the exception of res judicata as long as the appeal was pending in this court and that judgment could not bar further claims of fraud by them against Defendant. They also argue it was reversible error for the WCJ to apply res judicata pursuant to La. R.S. 13:4231 because the predicate judgment was an interlocutory judgment of no cause of action, which was not a final judgment and does not have the authority of the thing adjudged.

Defendant argues that the WJC was correct in assuming her judgment sustaining the exception of no cause of action became final when it was not amended within the 15-day time period allowed.<sup>3</sup>

Louisiana's law on res judicata is set forth in La. R.S. 13:4231 and states:

Except as otherwise provided by law, a valid and final judgment is conclusive between the same parties, except on appeal or other direct review, to the following extent:

(1) If the judgment is in favor of the plaintiff, all causes of action existing at the time of final judgment arising out of the transaction or occurrence that is the subject matter of the litigation are extinguished and merged in the judgment.

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to perpetuate the testimony may make a motion in the district court for leave to take the depositions. *LUBA I* remanded for further proceedings.

<sup>3</sup> This argument was made prior to the opinion of this court in *LUBA I*.

(2) If the judgment is in favor of the defendant, all causes of action existing at the time of final judgment arising out of the transaction or occurrence that is the subject matter of the litigation are extinguished and the judgment bars a subsequent action on those causes of action.

(3) A judgment in favor of either the plaintiff or the defendant is conclusive, in any subsequent action between them, with respect to any issue actually litigated and determined if its determination was essential to that judgment.

A reading of La. R.S. 13:4231 reveals that a second action is precluded when all of the following are satisfied: (1) the judgment is valid; (2) the judgment is final; (3) the parties are the same; (4) the cause or causes of action asserted in the second suit existed at the time of final judgment in the first litigation; and (5) the cause or causes of action asserted in the second suit arose out of the transaction or occurrence that was the subject matter of the first litigation. *Burguières v. Pollingue*, 02-1385 (La. 2/25/03), 843 So. 2d 1049.

Res judicata bars relitigation of a subject matter arising from the same transaction or occurrence of a previous suit. La. R.S. 13:4231; *Ave. Plaza, L.L.C. v. Falgoust*, 96-0173 (La. 7/2/96), 676 So. 2d 1077. It promotes judicial efficiency and final resolution of disputes. *Id.* A judgment determining the merits of a case is a final judgment. La. C.C.P. art. 1841. *See also Tolis v. Board of Sup'rs of Louisiana State Univ.*, 95-1529 (La. 10/16/95), 660 So. 2d 1206. A valid and final judgment is conclusive between the same parties, except on appeal or other direct review. La. R.S. 13:4231; *Ave. Plaza, L.L.C., supra*. If a certiorari application is filed, the court of appeal judgment becomes final and definitive after a delay of five days exclusive of legal holidays when the supreme court denies the application for certiorari. La. C.C.P. art. 2166(E). A final judgment from



which there can be no appeal acquires the authority of the thing adjudged. *Ave. Plaza, L.L.C., supra*. The doctrine of res judicata is not discretionary and mandates the effect to be given to final judgments. *Id.*

The party who urges the exception of res judicata bears the burden of proving its essential elements by a preponderance of the evidence. *Eddens v. Exceptional Client Care, LLC*, 48,747 (La. App. 2 Cir. 2/26/14), 135 So. 3d 784.

The res judicata effect of a prior judgment is a question of law that is reviewed de novo. *B.A. Kelly Land Co., LLC v. Aethon United BR LP*, 54,115 (La. App. 2 Cir. 9/22/21), 327 So. 3d 1071, *writ denied*, 21-01828 (La. 2/8/22), 332 So. 3d 671.

A de novo review of the record before this court on appeal confirms that the WCJ erred in granting the exception of res judicata and dismissing Plaintiffs' action against Defendant. The predicate judgment upon which the exception of res judicata was based, *LUBA I*, was clearly not a valid final judgment when the WCJ dismissed the second Petition/1008. The appeal of the dismissal of Plaintiffs' case was pending in this court when the objection of res judicata was sustained. Writs have been taken to the Louisiana Supreme Court and the decision of this court is still subject to review. Therefore, the first two requirements of La. R.S. 13:4231, that a valid and final judgment was rendered precluding any further action, have not been met and Defendant has failed to meet her burden of proof that she was entitled to dismissal.

Accordingly, this assignment of error has merit. The judgment is reversed, and the matter remanded for further proceedings. Discussion of

the issues regarding the admission of depositions and various motions for sanctions are pretermitted.

### **CONCLUSION**

For the foregoing reasons, we reverse the WCJ's granting of the exception of res judicata and remand for further proceedings. Costs of this appeal are assessed to Defendant Rebecca Sears.

**REVERSED AND REMANDED.**