

Déjà Vu: Doctrine of Res Judicata

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The doctrine of *res judicata* prevents the re-litigation of issues previously decided between the same parties, and *res judicata* is shown if (1) the identities of the parties are the same as in the prior litigation; (2) the subject matter is the same as in the prior litigation; and (3) there was a prior adjudication of the issue by court of competent jurisdiction. See, [Johnson v. Greenwood Mills, Inc.](#), 452 S.E.2d 832 (S.C. 1994). While it is well settled that rules of evidence are to be liberally construed in workers' compensation proceedings, the doctrine of *res judicata* is one of the principal tenets upon which the judicial system is based. Were a court to ignore the principals of *res judicata*, both Claimants and Defendants would continue to try and re-try the same issues in hopes that a new Commissioner or court would reach a different decision. Therefore, the tenets of *res judicata* are vital to the efficient operation of our judicial system, particularly within the parameters of worker's compensation claims.

The principle of *res judicata* is easily distinguishable from a claim for a change of condition as in [Estridge v. Joslyn Clark Controls, Inc.](#), 482 S.E.2d 577 (S.C. Ct. App. 1997). In *Estridge*, the claimant suffered a compensable back injury and injury to his right upper extremity. In the initial Order in the case, the Commissioner made no findings regarding a mental or "nervous" injury. The Claimant appealed noting that the Hearing Commissioner failed to find Claimant entitled to psychological treatment, and on appeal the Commission "fully affirmed" the Hearing Commissioner without specifically addressing claimant's mental claim. Claimant subsequently filed for a change of condition regarding his elbow and his mental condition and the Court of Appeals finally found Claimant's mental claim compensable, but in so ruling found, "[i]f [claimant's] mental condition was not causally connected or is a separate injury which could have been included in the original hearing but was not, then it cannot be considered a change of condition." *Id.* Therefore, the court reasoned if claimant's mental condition was not causally connected to his original injury, or if it arose from a separate injury which could have been included in the original claim, but was not, then it cannot be considered under a change of condition – if there was never a compensable injury, then there cannot be a change of condition or an aggravation. *Id.*

As our courts have long held, *res judicata* applies to issues "actually litigated or which might have been litigated in the first action." See [Hayes v. Hayes](#), 439 S.E.2d 305 (S.C. Ct. App. 1993). To allow the Claimant to again litigate an issue which was already before a Commissioner contravenes the interest of judicial efficiency, and should be barred. Additionally, *Estridge* is clearly limited to its facts – to wit, a claim for mental injuries. It is well-established that a mental injury may arise as an "overlay" to a compensable injury. The same principles cannot apply to a physical injury was occurred on a specific date, as part of a specific accident, which has already been litigated before the Commission.

ABOUT THE AUTHOR

McAngus Goudelock & Courie is a metrics-driven law firm built specifically to serve the insurance industry, their insureds and self-insureds. Past success does not indicate the likelihood of success in any future legal representation.

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