

STATE OF LOUISIANA

COURT OF APPEAL

FIRST CIRCUIT

NO. 2007 CA 1708

OLLIZO RICHARD

VERSUS

MASTER MAINTENANCE

**Judgment rendered March 26, 2008.**

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On Appeal from the Office of Workers' Compensation  
Administration, District 5, Louisiana  
Docket No. 06-06365  
Honorable Jason G. Ourso, Judge Presiding

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OLLIZO RICHARD  
BATON ROUGE, LA

AMANDA H. CARMON  
BATON ROUGE, LA

IN PROPER PERSON  
PLAINTIFF-APPELLANT

ATTORNEY FOR  
DEFENDANT-APPELLEE  
MASTER MAINTENANCE AND  
CONSTRUCTION CO. and  
LOUISIANA WORKERS'  
COMPENSATION CORPORATION

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**BEFORE: CARTER, C.J., PETTIGREW, AND WELCH, JJ.**

**PETTIGREW, J.**

On February 24, 2003, claimant, Ollizo Richard, filed a Disputed Claim for Compensation with the Office of Workers' Compensation in which he asserted a claim for wage benefits and medical treatment as a result of an alleged chemical exposure accident on September 25, 1996.<sup>1</sup> In response, Mr. Richard's employer, Master Maintenance and Construction Co. ("Master Maintenance"), filed a peremptory exception raising the objection of prescription. The exception urged by Master Maintenance was granted by the workers' compensation judge ("WCJ") on May 5, 2004, resulting in a dismissal with prejudice. Mr. Richard did not appeal the dismissal of his suit.

Mr. Richard, appearing in proper person, thereafter, filed the instant claim for compensation with the Office of Workers' Compensation, on August 17, 2006, wherein he again asserted a claim for wage benefits and medical treatment as a result of an alleged accident on September 25, 1996. Master Maintenance responded by filing a peremptory exception raising the objection of res judicata. The exception urged by Master Maintenance was granted by the WCJ on March 30, 2007, once again resulting in a dismissal of Mr. Richard's suit with prejudice. Following the dismissal of his suit, Mr. Richard filed the instant appeal.

On appeal, Mr. Richard argues that the defense of res judicata is predicated on a judgment that was rendered and signed in October 1999; and that the 1999 judgment was obtained by fraud and deceit.<sup>2</sup> In response, Master Maintenance asserts that the WCJ did not err in concluding that the court's prior dismissal with prejudice, of the claim for compensation filed by Mr. Richard in 2003, precluded the filing of a second claim for compensation by Mr. Richard in 2006, against the same party based on the identical

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<sup>1</sup> Said litigation was captioned, **Ollizo Richard v. Master Maintenance**, Office of Workers' Compensation District 05, Docket No. 03-01473. Mr. Richard was represented in connection with this litigation by attorney Milton Osborne.

<sup>2</sup> Mr. Richard and other injured workers evidently signed a Receipt and Release in 1999 in connection with a settlement of their claims in tort and, unwittingly, also released their rights to workers' compensation benefits.

cause of action. Master Maintenance further cites **Dean v. The City of New Orleans**, 05-1347 (La.App. 4 Cir. 7/12/06); 936 So.2d 851 in support of its position.

Following a thorough review of the record in this matter, we find no error in the findings of the WCJ. Thus, we affirm the decision below in accordance with Uniform Rules – Courts of Appeal, Rule 2-16.2(A)(2), (4), (6), and (8), and assess all costs associated with this appeal against the claimant, Ollizo Richard.

**AFFIRMED.**