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**RES JUDICATA**

Moya v. Trucks & Parts of Tampa, Inc., 39 Fla. L. Weekly D23  
(Fla. 1<sup>st</sup> DCA December 20, 2013).

The claimant appealed a summary final order denying his petition for benefits seeking authorization for an MRI of his right shoulder.

The JCC entered an order on January 30, 2009 finding that, as of October 24, 2006, the claimant was at MMI and required no further treatment for an alleged repetitive trauma injury to his shoulder and cervical spine. The court did, however, award continued treatment for his bilateral carpal tunnel syndrome. On December 27, 2012, the claimant then filed a petition for benefits seeking authorization of an MRI of his right shoulder per the recommendation of the authorized treating physician for the claimant's carpal tunnel syndrome. The employer/carrier filed a motion for summary final order, arguing that the January 30, 2009 order precluded this claim based on res judicata. The claimant responded, alleging only that the doctor who wrote the

prescription was authorized, that the claimant was going to take the doctor's deposition, and that a summary final order was not appropriate for this issue. The JCC granted the employer/carrier's motion.

On appeal, the First District Court of Appeal cited Florida Administrative Code Rule 60Q-6.120, which permits any party to file a motion for summary final order when there are no material factual disputes, and directs opposing counsel to file a response together with supporting depositions, affidavits, and/or other documents within 30 days after service of the motion. The Court stated the claimant failed to provide any affidavits, depositions, or other evidence to substantiate a material issue of fact that would preclude application of res judicata for the claim. Accordingly, the Court upheld the summary final order, finding that the issue of compensability for the claimant's shoulder was previously litigated and it was determined he was at MMI with no additional treatment being necessary.