ORETA BRIDGEMAN
(Appellee)

v.

S.D. WARREN
(Appellant)

and

CANNON COCHRAN MANAGEMENT SERVICES, INC.
(Insurer)

Argued: July 19, 2017
Decided: February 16, 2018

PANEL MEMBERS: Administrative Law Judges Goodnough, Elwin, and Pelletier
BY: Administrative Law Judge Goodnough

[¶1] S.D. Warren appeals from a decision of a Workers' Compensation Board administrative law judge (*Collier, ALJ*) granting Oreta Bridgeman's Petition for Award. S.D. Warren contends that because the board had previously adjudicated a claim based on the same facts and issues that Mr. Bridgeman raised in the instant litigation, the ALJ should have applied res judicata principles and barred Mr. Bridgeman's petition. We conclude that the ALJ incorrectly applied the doctrine of res judicata and vacate the decision.

I. BACKGROUND

[¶2] Mr. Bridgeman began working as an electrician for S.D. Warren in 1984. He filed several petitions in 2001 alleging various physical injuries in addition to a mental stress injury that occurred on August 6, 1999. Mr. Bridgeman,

who is African-American, alleged that his mental stress injury was the result of racial harassment that occurred during the entire course of his employment at S.D. Warren through 1999 when he left his job. Mr. Bridgeman's testimony included descriptions of especially pernicious harassment that took place in December 1994 and what he described as a mental breakdown that he had as a result. The board's independent medical examiner also referenced the December 1994 events in his March 8, 2002, report to the board. Liberty Mutual, the insurer on the risk for the 1999 date of injury, argued that if Mr. Bridgeman sustained a gradual mental stress injury, the correct date of injury would have been in December 1994, not 1999 as alleged (although it did not file a petition to that effect).

[¶3] In a September 30, 2002, decree, the board concluded that Mr. Bridgeman had, in fact, sustained a mental stress injury, gradually to August 6, 1999, but that he had failed to provide timely notice of the injury. His petition was therefore denied.

[¶4] Mr. Bridgeman filed the petition that is the subject of the pending litigation in 2011, once again alleging a gradual mental stress injury against S.D. Warren but this time asserting December 1, 1994, as his date of injury. Mr. Bridgeman once again offered evidence of racial harassment that occurred at and before that time, albeit in more vivid detail. The board's independent medical

examiner issued another report, this time in his capacity as an expert retained by Mr. Bridgeman himself. He noted that:

> Mr. Bridgeman's report in this evaluation is consistent with information he has provided at prior evaluations and when testifying before the Workers' Compensation Board.
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> . . . .
>
> . . . The seminal event occurred in late November, early December 1994.
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> . . . .
>
> . . . He became depressed, had trouble sleeping, and was taken out of work for approximately one month.

Thus, the operative facts (i.e., racial harassment) surrounding the events giving rise to the alleged 1994 injury are similar to those raised in the prior round of litigation.

[¶5] The ALJ granted Mr. Bridgeman's petition, concluding that res judicata did not bar his claim. The ALJ acknowledged that "the previous claim, which was for a mental stress injury occurring gradually up through Mr. Bridgeman's last day of work in August of 1999, encompassed the stress from the beginning of his employment through December 1, 1994, as well as the stress from work incidents occurring after that date." But he also determined, relying on the opinion of medical experts, that Mr. Bridgeman suffered a compensable mental stress injury on December 1, 1994. Accordingly, the ALJ ordered S.D. Warren to pay a period of partial benefits in 1999, and then ongoing total from 2002 through the present and continuing.

[¶6] S.D. Warren filed a Motion for Further Findings of Fact and Conclusions of Law, and the ALJ issued Further Findings, clarifying and further supporting his decision regarding S.D. Warren's res judicata defense. The ALJ, distinguishing the case from *Day v. S.D. Warren*, Me. W.C.B. No. 16-19 (App. Div. 2016), explained that Mr. Bridgeman's 1994 injury was "separate and distinct" from the 1999 mental stress injury and, because the 2002 decree did not address the 1994 injury, Mr. Bridgeman's claims were not barred by res judicata. This appeal followed.

II. DISCUSSION

A. Standard of Review

[¶7] In general, the role of the Appellate Division "is limited to assuring that the [ALJ's] findings are supported by competent evidence, that [the] decision involved no misconception of applicable law and that the application of the law to the facts was neither arbitrary nor without rational foundation." *Moore v. Pratt & Whitney Aircraft*, 669 A.2d 156, 158 (Me. 1995) (quotation marks omitted). When a party requests and proposes additional findings of fact and conclusions of law, as was done in this case, "we review only the factual findings actually made and the legal standards actually applied" by the ALJ. *Daley v. Spinnaker Indus.*, 2002 ME 134, ¶ 17, 803A.2d 446 (quotation marks omitted). Because the employer requested additional findings of fact and conclusions of law pursuant to

39-A M.R.S.A. § 318 (Supp. 2017), and submitted proposed additional findings, we do not assume that the ALJ made all the necessary findings to support the conclusion that Mr. Bridgeman's claim is not barred by the doctrine of res judicata. *See Spear v. Town of Wells*, 2007 ME 54, ¶ 10, 922 A.2d 474. "Instead, we review the original findings and any additional findings made in response to a motion for findings to determine if they are sufficient, as a matter of law, to support the result and if they are supported by evidence in the record." *Id.* (quotation marks omitted).

B. Res Judicata

[¶8] Valid and final decisions of the Workers' Compensation Board, like court decisions, are subject to the general rules of res judicata and issue preclusion. *Bailey v. City of Lewiston*, 2017 ME 160, ¶ 10, 168 A.3d 762; *Grubb v. S.D. Warren Co.*, 2003 ME 139, ¶ 9, 837 A.2d 117. Res judicata is grounded in concerns for judicial economy and efficiency, the stability of final judgments, and fairness to litigants. *See Lewis v. Me. Coast Artists*, 2001 ME 75, ¶ 9, 770 A.2d 644. The doctrine bars relitigation of an entire cause of action when: (1) the same parties or their privies are involved in both actions; (2) a valid final judgment was entered in the prior action; (3) the matters presented for decision in the second action were, or might have been, litigated in the first action; and (4) both cases involve the same cause of action. *Johnson v. Shaw's Distribution Ctr.*, 2000 ME 191, ¶ 6, 760 A.2d 1057.

[¶9] In this case, Mr. Bridgeman argues that the third element of res judicata is not present because the 2002 decree only addressed his alleged 1999 mental stress injury, not his 1994 injury, which the ALJ determined to be separate and distinct. S.D. Warren, on the other hand, contends that Mr. Bridgeman's injuries are not two but one, and that he has asserted essentially the same mental stress claim that the board rejected in 2002 for want of timely notice.

[¶10] We agree with S.D. Warren. Although Mr. Bridgeman has alleged a date of injury different from that used to identify his previous claim, the matters presented for decision in the second action were actually litigated in the first. Before it issued its 2002 decree, the board heard evidence of the stress-inducing events that occurred on and before December 1, 1994. Accordingly, the ALJ explicitly found that Mr. Bridgeman's previous claim encompassed the work-related stress of 1994 identified by Mr. Bridgeman in support of his second action.

[¶11] The fourth element is also met because Mr. Bridgeman's two claims constitute the same cause of action. Under the "transactional test" articulated by the Law Court, claims are the same if they are "founded upon the same transaction, [arise] out of the same nucleus of operative facts, and [seek] redress for essentially the same basic wrong." *Lewis*, 2001 ME 75, ¶ 10 (quoting *Brown v. Osier*, 628 A.2d 125, 127 (Me. 1993)). Whether facts arise out of the same transaction depends on whether they are related in time, space, origin, or motivation. *Id.*; *see*

also Beegan v. Schmidt, 451 A.2d 642, 646 (Me. 1982). Thus, purportedly separate workers' compensation claims asserted under different dates of injury may nevertheless be treated as the same cause of action when they involve a single injury. *See Day v. S.D. Warren*, Me. W.C.B. No. 16-19, ¶ 8 (App. Div. 2016).

[¶12] In *Day v. S.D. Warren*, for example, an employee filed a petition seeking ongoing incapacity benefits for alleged gradual and acute injuries to his cervical spine that occurred on October 29, 2010. *Id.* at ¶ 2. The board acknowledged the occurrence of an acute injury but found that that injury did not cause any lasting incapacity. *Id.* The board's decree did not specifically address the alleged gradual injury, though it had been the subject of the litigation. *Id.* The employee filed new petitions once again seeking incapacity benefits for gradual injuries to his cervical spine, but this time asserted December 10, 2010, and July 21, 2011, as his dates of injury. *Id.* at ¶ 3.

[¶13] The Appellate Division, affirming the decision, observed that the employee's latter petitions constituted the same claim that he had made previously:

> In the previous litigation, [the employee] asserted that work activity in his many years at the mill caused a gradual injury to his neck that manifested on October 29, 2010. In the current litigation, [the employee] is alleging that work activity in his many years at the mill caused a gradual injury to his neck that manifested on December 10, 2010 [and July 21, 2011].

Id. at ¶ 6. Because the board had already denied his claim, principles of res judicata foreclosed the employee from reasserting the same essential cause of action under new dates of injury. *Id.*

[¶14] Like the employee in *Day*, Mr. Bridgeman has essentially repackaged a claim that the board rejected in 2002. Mr. Bridgman relied upon the same operative facts that he alleged in the prior litigation. Indeed, the ALJ below noted:

> There is no doubt that the previous claim, which was for a mental injury occurring gradually up through Mr. Bridgeman's last day of work in August 1999, encompassed the stress from the beginning of his employment through December 1, 1994, as well as for stress from work incidents occurring after that date.

Although the 2002 litigation was broader in scope than the current litigation insofar as it encompassed Mr. Bridgeman's employment through 1999 as opposed to 1994, the relevant facts regarding the events in 1994 formed an important part of both claims.

[¶15] Allowing employees like Mr. Bridgeman to reassert a claim that the board already denied would undercut judicial economy and the stability of final judgments—the very interests that the doctrine of res judicata are designed to protect. *Grubb*, 2003 ME 139, ¶ 9. It would also be unfair to employers like S.D. Warren, who could be required to mount multiple defenses over time against a single claim. *See Beegan*, 451 A.2d at 647 ("the transactional test of a cause of action [or claim] demands nothing more than what is fair.").

[¶16] Mr. Bridgeman argues that his second claim remains viable because, unlike the ALJ in *Day*, the ALJ here determined that he suffered more than one injury. He cites *Eck v. Verso Paper*, Me. W.C.B. No. 16-20 (App. Div. 2016) for the proposition that such a determination justifies treating his current claim as a new cause of action. But *Eck* merely stands for the proposition that an employee may suffer two successive gradual injuries within a single period of employment when "both the severity and nature of the employee's symptoms changed over time to such an extent as to produce a legitimate second injury." *Id.* at ¶ 8. Unlike *Eck*—and like *Day*—there was evidently no change in the severity and nature of Mr. Bridgeman's symptoms that would justify bifurcating Mr. Bridgeman's single injury into two.

III. CONCLUSION

[¶17] Because the board's 2002 decree conclusively established that Mr. Bridgeman sustained a gradual mental stress injury in 1999, and because the claim that led to that decree encompassed and directly addressed the circumstances surrounding the mental stress claim now alleged in this litigation, the current petition is barred on res judicata grounds. The issues now raised by Mr. Bridgeman were actually litigated in 2002 and involved the same cause of action asserted under a different date of injury. For these reasons, Mr. Bridgeman's petitions are barred by res judicata.

The entry is:

> The administrative law judge's decision is vacated and Mr. Bridgeman's petition is denied.

Any party in interest may request an appeal to the Maine Law Court by filing a copy of this decision with the clerk of the Law Court within twenty days of receipt of this decision and by filing a petition seeking appellate review within twenty days thereafter. 39-A M.R.S.A. § 322 (Supp. 2017).

Pursuant to board Rule, chapter 12, § 19, all evidence and transcripts in this matter may be destroyed by the board 60 days after the expiration of the time for appeal set forth in 39-A M.R.S.A. § 322 unless (1) the board receives written notification that one or both parties wish to have their exhibits returned to them, or (2) a petition for appellate review is filed with the law court. Evidence and transcripts in cases that are appealed to the law court may be destroyed 60 days after the law court denies appellate review or issues an opinion.

Attorneys for Appellant:
Richard Tucker, Esq.
TUCKER LAW GROUP
P.O. Box 696
Bangor, ME 04402-0696

Attorneys for Appellee:
James J. MacAdam, Esq.
Nathan A. Jury, Esq.
Donald M. Murphy, Esq.
45 Mallett Dr.
Freeport, ME 04032