

# **Bond Case Briefs**

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## **WORKERS' COMP - LOUISIANA**

### **Borja v. FARA**

**Supreme Court of Louisiana - October 19, 2016 - So.3d - 2016 WL 6123579 - 2016-0055 (La. 10/19/16)**

Parish firefighter filed disputed claim for workers' compensation compensation for knee, heart, and lung injuries.

The Office of Workers' Compensation granted employer's exceptions of res judicata and prescription. Claimant appealed. The Court of Appeal affirmed. Claimant's application for writ of certiorari was granted.

The Supreme Court of Louisiana held that:

- Res judicata did not bar claim for permanent disability benefits;
- Employer's payment of maximum disability payments interrupted prescription under heart and lung statute; and
- Three-year prescriptive period applicable to medical benefits claim under heart and lung statute did not commence.

Workers' compensation claimant's claim for permanent disability benefits, whether result of his knee injury or his heart and lung condition, was not barred by res judicata, based on prior voluntary dismissal of disputed claim for benefits, where voluntary dismissal was not final judgment denying benefits, and there was no settlement of all issues, much less lump sum settlement approved by workers' compensation judge.

Employer's payment of maximum disability payments following workers' compensation claimant's prior disputed claim, which included claim for indemnity benefits for both knee injury and heart and lung issues, interrupted prescription under Firemen's Heart and Lung Statute with respect to claimant's subsequent disputed claim for permanent disability for same injuries filed within one year of termination of indemnity benefits, and therefore claims for benefits under Statute were not barred by prescription. Even though claimant did not assert in prior form that he was totally and permanently disabled, he did state that his injuries included occupational disease and his right knee, and employer paid maximum benefits allowed at time without sunset or end date.

Employer had not made payment of medical benefits for workers' compensation claimant's alleged heart and lung condition, such that three-year prescriptive period applicable to claim under Firemen's Heart and Lung Statute would have commenced to run. Employer's payment of medical expenses was for claimant's knee injury, rather than his heart and lung condition, and there had not yet been determination by workers' compensation judge that claimant was entitled to benefits under Statute.