

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

GREGORY O'LEARY,

Appellant,

v.

CASE NO. 1D02-2732

USA WASTE MANAGEMENT and
GALLAGHER BASSETT SERVICES,

Appellees.

Opinion filed December 8, 2003.

An appeal from Order of Judge of Compensation Claims.

Paul T. Terlizzese, Judge.

Dennis Smejkal, Orlando, and Bill McCabe, Longwood, for Appellant.

Pamela Craig of Stump, Webster, Craig, Staten & Recksiedler, P. A., Orlando, for Appellees.

PER CURIAM.

The claimant appeals a workers' compensation order by which a claim was denied upon a determination that the claimant made false, fraudulent, or misleading

statements and omitted or concealed material information, thereby violating section 440.105(4)(b)3, Florida Statutes, and being disqualified from receiving benefits pursuant to section 440.09(4), Florida Statutes. In making this finding the judge relied on a recorded statement which was not confirmed on this record as being properly authenticated under section 90.901, Florida Statutes. Unless so authenticated, the statement should not have been received into evidence over the claimant's objection. The appealed order is therefore reversed, and the case is remanded for further proceedings.

ALLEN, DAVIS and BENTON, JJ., CONCUR.