

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

PIZZA HUT and GALLAGHER
BASSETT SERVICES, INC.,

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

Appellants,

CASE NO. 1D05-3732

v.

RICHARD PROCTOR,

Appellee.

Opinion filed April 30, 2007.

An appeal from an order of the Judge of Compensation Claims.
W. James Condry, Judge.

David M. Havlicek of Kelley, Kronenberg, Gilmartin, Fichtel & Wander, P.A.,
Orlando, for Appellants.

Eric T. Kirk, Maitland, for Appellee.

PER CURIAM.

The employer/carrier appeal a workers' compensation order which granted the claimant's request for a change in physicians and a second medical opinion. In challenging this award the employer/carrier present several issues on appeal, each of which we find to be without merit. In addition, while the employer/carrier refer

to the major contributing cause standard in section 440.09(1)(b), Florida Statutes, that statutory provision does not apply here as this case involves two industrial accidents and injuries without any preexisting injury or condition attributable to a nonindustrial cause. As explained in Pearson v. Paradise Ford, 32 Fla. L. Weekly D373 (Fla. 1st DCA Feb. 5, 2007), section 440.09(1)(b) applies when a claimant's need for treatment or benefits is caused by the impact of an industrial accident combining with a preexisting injury or condition which is unrelated to an industrial accident.

The appealed order is affirmed.

BARFIELD, ALLEN and KAHN, JJ., CONCUR.