

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

TOKIO MARINE MANAGEMENT
(*) and SOMEK CORPORATION,

Appellants,

CASE NO. 1D06-0071

v.

RICHARD PIZON,

Appellee.

Opinion filed December 22, 2006.

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

William H. Rogner of Hurley, Rogner, Miller, Cox, Waranch & Westcott, P.A.,
Winter Park, for Appellants.

Gregory W. Stoner, Orlando and Bill McCabe, Longwood, for Appellee.

PER CURIAM.

The Employer/Carrier (E/C) appeal an award of workers' compensation benefits
to Appellee/Claimant, who hurt his wrist at work on February 3, 1999. E/C argue that

the JCC erred in three respects: accepting the testimony of an attorney; ruling that *res judicata* precluded E/C from presenting evidence as to major contributing cause of the need for benefits; and declining to permit a defense of apportionment. We affirm the JCC's ruling as to the first issue, without comment. However, we reverse as to the second and third issues, and remand for further proceedings, for the reasons below.

A claimant is entitled to benefits only so long as the industrial injury remains the major contributing cause of the disability or need for treatment. See Checkers Rest. v. Wiethoff, 925 So. 2d 348, 350 (Fla. 1st DCA 2006) (en banc); §440.09(1)(b), Fla. Stat. (1999). Although Checkers was not yet decided when the JCC issued the order on appeal, its holding is applicable in this case, and its application might affect the JCC's ruling. Accordingly, we reverse the JCC's rulings and remand for reconsideration in light of Checkers.

REVERSED and REMANDED.

BROWNING, C.J., DAVIS and LEWIS, JJ., CONCUR.