

CASE INFORMATION SHEET
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COUNTY AND COURT:

Orange County Circuit Court

NAME OF CASE:

NICHOLAS TRABULSY,

Plaintiff,

v.

PUBLIX SUPER MARKETS, INC., a Florida corporation, and ALMONZO
BRANTON,

Defendants

CASE DOCKET NO.: 2010-CA-12975 **JUDGE:** Robert J. Egan

PLAINTIFF(S) ATTORNEY(S)/TRIAL COUNSEL:

Richard B. Troutman, Esquire
Richard B. Troutman, P.A.
Winter Park, FL

DEFENDANT(S) ATTORNEY(S)/TRIAL COUNSEL:

Art C. Young, Esquire
Rissman, Barrett, Hurt,
Donahue & McLain, P.A.
Orlando, FL
Defendant, Publix

Susan Payne, Esquire
Alvarez, Sambol, Winthrop & Madson, P.A.
Orlando, FL
Defendant, Branton

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:

60 year old male on Social Security Disability for preexisting spinal conditions, including insulin dependent diabetes, cervical decompression, cervical laminectomy, lumbar laminectomy, craniotomy with removal of meningioma and an implanted morphine pain pump.

FOR WRONGFUL DEATH CASES, PLEASE GIVE AGE AND RELATIONSHIP OF SURVIVORS:

N/A.

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

October 11, 2007 at approximately 9:00 p.m. at Publix store #00227 located at Hunt Club Road and State Road 436 in Altamonte Springs, Florida. Plaintiff alleged he was assaulted by Publix employee Almonzo Branton and Publix was vicariously liable for the assault.

CAUSE OF INJURY:

After a verbal altercation between Plaintiff and a Publix employee over the employee taking Plaintiff's abandoned cart, the Publix employee pushed Plaintiff in the chest knocking him into a seafood display and onto the ground.

NATURE OF INJURY:

Multiple injuries including traumatic aggravation of cervical spondylosis, cervical disk syndrome, post-traumatic neuralgia, mid and low back sprain/herniation, left arm and shoulder strain, bilateral carpal tunnel syndrome, concussion, post-traumatic headaches, hernia, broken teeth, replacement of morphine pump, shooting pain in arms and legs with numbness and tingling, PTSD and adjustment disorder.

Plaintiff had two laminectomies on his neck and back after the incident and will probably require more surgery. He also had to have his morphine pump replaced.

Plaintiff alleged over \$306,000 in medical expenses.

PLAINTIFF'S EXPERT WITNESSES:

Dr. Francis Brooks, D.O.
Pain Management expert

Dr. Brooks made 15 diagnoses related to this incident and gave Plaintiff a 17% impairment rating. He recommended an epidural stimulator system.

Dr. Jonathan Greenberg
Neurological Surgery expert

Dr. Greenberg performed C1 laminectomy, C2 and C3 laminectomies, and C2-3 and C3-4 bilateral neural foraminotomies on July 13, 2010.

Dr. Marc Sharfman
Neurology expert

On October 17, 2008, Dr. Sharfman gave the Plaintiff a 15% impairment and had 13 recommendations for future treatment for post traumatic headache, post traumatic cervical spine trauma and post traumatic thoracolumbar spine trauma.

DEFENDANT'S EXPERT WITNESSES:

N/A.

CHECK APPROPRIATE SPACE: X Summary Judgment

DATE OF SUMMARY JUDGMENT:

October 31, 2012

VERDICT/SETTLEMENT AMOUNT:

N/A.

COMPARATIVE NEGLIGENCE:

N/A.

SUMMARY JUDGMENT:

On October 31, 2012, Judge Robert Egan granted Defendant, Publix Super Markets, Inc.'s, Motion for Summary Judgment, finding that

at the time of the assault, the Publix employee was not acting in furtherance of Publix's interests and, therefore, there was no vicarious liability for the intentional act.

DATE OF FINAL SUMMARY JUDGMENT:

November 14, 2012

DEFENDANT'S OFFER:

Zero

PLAINTIFF'S DEMAND:

\$600,000

ATTORNEY'S COMMENTS:

Plaintiff's argument was that Publix should be vicariously liable for the intentional acts of its employee committed while on the job and at the workplace. The trial court found that at the time of the assault, the employee was not acting for his employer or in furtherance of Publix's interests. Plaintiff filed a Notice of Appeal on November 30, 2012.

Submitted By: Art C. Young **Date:** March 4, 2013

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