

CASE INFORMATION SHEET
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COUNTY AND COURT:

Osceola County Circuit Court

NAME OF CASE:

CAROLINA MORALES,

Plaintiff,

v.

BOGGYCREEK FOOD CORP.,

Defendant.

CASE DOCKET NO.: 2012-CA-4257-ON **JUDGE:** John E. Jordan

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

David Moffett, Esquire
Velma L. Jones, Esquire
Morgan & Morgan, P.A.
Kissimmee, Florida

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

Art C. Young, Esquire
Meredith M. Stephens, Esquire
Rissman, Barrett, Hurt,
Donahue & McLain, P.A.
Orlando, Florida

AGE/SEX/OCCUPATION OF PLAINTIFF OR DECEDENT:

On the date of the incident, Plaintiff was 62 years old. She is originally from Coamo, Puerto Rico. She was unemployed on the date of the incident.

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

N/A

DATE, TIME AND PLACE OF ACCIDENT OR OCCURRENCE:

The incident occurred on December 12, 2011 at the Bravo Supermarket located at 2618 Boggycreek Road in Kissimmee, Florida.

CAUSE OF INJURY:

Plaintiff alleged Defendant failed to properly maintain its store and freezer leading to a leak which allegedly caused Plaintiff to fall on a mat saturated with water.

NATURE OF INJURY:

Plaintiff underwent a total knee replacement performed by Dr. Ayman Daouk.

PLAINTIFF'S EXPERT WITNESSES:

Ayman Daouk, M.D.

Orthopaedic Institute of Central Florida
Orlando, Florida
Orthopaedic

Dr. Daouk testified via video deposition. He opined that, by history, Plaintiff's knee replacement appeared to be related to the subject accident.

Paul Maluso, M.D.

West Orange Orthopaedics
Ocoee, Florida 34761
Orthopedic

At trial, Dr. Maluso testified that, based on his treatment of Plaintiff between 2009 and 2011, he did not believe that she was a candidate for total knee replacement before the subject accident. Since Dr. Maluso had not treated Plaintiff after the subject accident, he had no opinion regarding causation.

DEFENDANT'S EXPERT WITNESSES:

Jeffrey Rosen, M.D.

Orlando Orthopaedic Center
Orlando, FL
Orthopaedic

At trial, Dr. Rosen testified that Plaintiff's total knee replacement surgery was related to her preexisting osteoarthritis and that she should have had only a temporary exacerbation from the subject accident.

CHECK APPROPRIATE SPACE: X Verdict

DATE OF VERDICT:

September 12, 2014.

VERDICT:

For Plaintiff.

The jury awarded Plaintiff a total of \$8,805.75 in damages. That figure included her medicals of \$8,345.75 and \$460 for past pain and suffering. No future medical expenses or intangible damages were awarded. After applying comparative negligence, the net jury verdict was \$2,641.72.

COMPARATIVE NEGLIGENCE:

70%

JUDGMENT:

Plaintiff filed voluntary dismissal with prejudice on September 30, 2014.

DATE OF JUDGMENT:

N/A

DEFENDANT'S OFFER:

Defendant filed a Proposal for Settlement in the amount of \$25,000 on June 4, 2014.

PLAINTIFF'S DEMAND:

Plaintiff filed a Proposal for Settlement in the amount of \$500,000 on March 25, 2013. Plaintiff's pretrial demand was \$500,000.

ATTORNEY'S COMMENTS:

At trial, Plaintiff requested her total medical bills of \$8,345.75, as well as pain and suffering. Plaintiff argued that the intangible award should be based on her 20 year life expectancy. She demanded \$153,000 in future pain and suffering and an indeterminable amount for past pain and suffering.

The jury returned a verdict finding Plaintiff to be 70% negligent and awarded \$8,345.75 in past medical bills and \$460.00 in past pain and suffering. The net jury verdict was \$2,641.72.

However, Defendant had an outstanding Proposal for Settlement in the amount of \$25,000. The parties agreed to a waiver wherein Plaintiff would not appeal or enter a judgment against Defendant and all parties would pay their own fees and costs.

Plaintiff filed a voluntary dismissal with prejudice on September 30, 2014.

Submitted by: Art C. Young
Meredith M. Stephens

Date: September 30, 2014

Firm: Rissman, Barrett, Hurt,
Donahue & McLain, P.A.

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