

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2012

PUBLIX SUPER MARKETS, INC.,

Appellant,

v.

Case No. 5D11-2595

WILLIAM WORLEY and
RHONDA WORLEY,

Appellees.

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Opinion filed June 1, 2012.

Appeal from the Circuit Court
for Seminole County,
Alan A. Dickey, Judge.

Edward G. Guedes of Weiss Serota
Helfman, Pastoriza, Cole & Boniske, P.L.,
Coral Gables, for Appellant.

Mark A. Cornelius of Law Office of Mark A.
Cornelius, P.A., Maitland, for Appellees.

JACOBUS, J.

Appellant, Publix Super Market, Inc., appeals the trial court's order granting Appellee, William Worley, a new trial after Worley rejected an additur of \$20,000 for past non-economic damages. Publix contends that the trial court abused its discretion in granting Worley an additur and, by extension, a new trial on damages because the evidence adduced at trial supported the jury's decision not to award past non-economic

damages. We disagree with this contention and affirm the trial court's order granting a new trial.

This case arises out of a slip-and-fall accident at Publix in which Worley hit his head on the handle of the door to a refrigerated case. The door handle cut Worley's forehead and required nine sutures to close the wound. The jury found that Publix was 100% at fault and awarded Worley \$6,079.19 in past medical expenses but gave him nothing for future medical expenses, past or future lost wages, or past or future non-economic damages. The trial court determined that Worley should have received something for past non-economic damages in light of the jury finding that he was entitled to past medical expenses and that Publix was 100% at fault. The court awarded an additur of \$20,000 or alternatively a new trial. Worley elected a new trial.

We find that there is no abuse of discretion on the part of the trial court in its findings. See Beauvais v. Edell, 760 So. 2d 262, 264-65 (Fla. 4th DCA 2000) (holding that a motion directed to the inadequacy of a verdict awarding past medical expenses but no past non-economic damages is left to the broad discretion of the trial judge). The order of the trial court is affirmed and the matter is remanded for a new trial on past non-economic damages.

AFFIRMED and REMANDED.

LAWSON and COHEN, JJ., concur.