

Chartwell Law Wins Motion to Dismiss for Fraud in Florida

C. Mark Vazzana recently obtained an excellent result for Whole Foods Market, after Judge Andrea McHugh granted his Motion to Dismiss for Fraud after an evidentiary hearing held in Sarasota County, Florida.

Plaintiff had previously demanded \$400,000 as a result of injuries he sustained when he fell from a raised hydraulic lift at the Sarasota Whole Foods Market. Plaintiff also brought forth a significant wage claim as a result of his injuries. Plaintiff suffered a comminuted displaced olecranon fracture of his left arm, which needed to be surgically repaired over the course of two procedures. Plaintiff's elbow function was left severely impaired after this procedure. Additionally, months after this incident, Plaintiff's treating physicians determined that bulges, herniations, and radicular complaints were also causally related to this incident at Whole Foods. Plaintiff underwent multiple injections into his spine, and was recommended to undergo lumbar surgery.

In investigating Plaintiff's wage claim, Mr. Vazzana obtained several employment records in Texas which showed Mr. Lavoro had not "resigned" from multiple jobs in his past, as he testified under oath. Rather, he had been repeatedly fired for poor work performance, excessive absences, unannounced absences, and violent behavior in the workplace.

Furthermore, these employment records also provided key information as to several medical facilities that the Plaintiff had been treated at prior to his incident at Whole Foods. When those facilities were subpoenaed, the records revealed that the Plaintiff had prior complaints of low back pain (with radiating pain to his legs), a prior MRI to his lumbar spine, six prior injections to his lower spine, and four weeks of physical therapy for those lower back complaints. Plaintiff had testified under oath that he never received any physical therapy to his back, never had any diagnostic scans to his back, and never had any injections to his back prior to his incident at Whole Foods.

At the evidentiary hearing, Judge McHugh ruled that Plaintiff gave false and misleading deposition testimony, as well as false answers to discovery. It was determined that Plaintiff had sentiently set in motion a scheme calculated to interfere with the judicial system's ability to adjudicate the matter by improperly influencing the trier of fact and unfairly hampering the Defendant's defense of this claim. Plaintiff's complaint was dismissed with prejudice.

Furthermore, as the result of an earlier Proposal for Settlement, Whole Foods Market was entitled to attorney's fees and costs in excess of \$30,000 as a result of Plaintiff's case being dismissed for fraud.