

# Third District Court of Appeal

State of Florida, January Term, A.D. 2008

Opinion filed May 14, 2008.

---

No. 3D07-1501  
Lower Tribunal No. 03-29479

---

**Big Lots Stores, Inc.,**  
Appellant,

vs.

**Gloria Maria de Diaz and Jose Diaz,**  
Appellees.

An Appeal of a non-final order from the Circuit Court for Miami-Dade County, Mindy S. Glazer, Judge.

DeMahy, Labrador, Drake, Payne & Cabeza, and Michael T. Tomlin, for appellant.

Wald, Gonzalez & Graff, and Estrella Gonzalez; Barbara Green, for appellees.

Before COPE and SUAREZ, JJ., and SCHWARTZ, Senior Judge.

SUAREZ, J.

Big Lots seeks to reverse the trial court's order granting the plaintiffs a new trial on future damages and loss of consortium, and to reinstate the jury's verdict.

We relinquish jurisdiction to the trial court for entry of an order specifying the trial court's grounds for granting a new trial.

Gloria de Diaz filed a personal injury action against Big Lots claiming injuries due to a fall at a Big Lots store. Big Lots answered alleging that her injuries were from pre-existing arthritis and/or intervening causes. Gloria de Diaz amended her complaint to include a loss of consortium claim on her husband's behalf. Following trial, the jury found in Gloria de Diaz's favor and awarded her past medical expenses and damages for past pain and suffering. The jury did not award damages for her future medical expenses or future pain and suffering, and did not award damages to her husband for loss of consortium. The trial court entered final judgment. The following day, the plaintiffs filed two motions for new trial, one motion as to Gloria's future damages and the other as to her husband's loss of consortium claim. Both motions claim that the jury's verdict was against the manifest weight of the evidence. After a hearing, the trial court granted the motions finding that the jury's verdict on these issues was against the manifest weight of the evidence. The trial court's order states this, but fails to specify the grounds for its decision.

Florida Rule of Civil Procedure 1.530(f) provides that "[a]ll orders granting a new trial shall specify the specific grounds therefor. If such an order is appealed and does not state the specific grounds, the appellate court shall relinquish

jurisdiction to the trial court for entry of an order specifying the grounds for granting the new trial.”<sup>1</sup>

We therefore relinquish jurisdiction and remand to the trial court for entry of an order specifically setting forth the grounds upon which the trial court relies for granting a new trial.

---

<sup>1</sup> Fla. R. Civ. P. 1.530(f); see also Brown v. Estate of Stuckey, 749 So. 2d 490, 497 (Fla. 1999) ("When a trial judge grants the motion for a new trial, he or she must articulate the reasons for the new trial in the order."); Wackenhut Corp. v. Canty, 359 So. 2d 430, 436 (Fla. 1978) (upholding district court's reversal of trial court's grant of new trial where trial order did not explain why verdict was excessive); Jones v. Goodyear Tire & Rubber Co., 871 So. 2d 899 (Fla. 3d DCA 2003) (accord).