

Third District Court of Appeal

State of Florida

Opinion filed May 30, 2018.
Not final until disposition of timely filed motion for rehearing.

No. 3D17-1290
Lower Tribunal No. 14-29830

Martha Paredes and Jose Antonio Paza,
Appellants,

vs.

Whole Foods Market Group, Inc.,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Eric William Hendon, Judge.

Philip D. Parrish, P.A., and Philip D. Parrish; Simon Trial Firm, and Ronald M. Simon, for appellants.

Law Offices of Charles M-P George, and Charles M-P George; Chartwell Law Offices, and William H. Edwards, for appellee.

Before EMAS, SCALES and LUCK, JJ.

PER CURIAM.

Appellants, plaintiffs below, Martha Paredes and Jose Antonio Paza, appeal a final summary judgment entered in favor of Whole Foods Market Group, Inc.

Because the record reveals the existence of genuine issues of material fact on the issue, we reverse the portion of the summary judgment that found Whole Foods had no constructive knowledge of an alleged transitory substance upon which Ms. Paredes fell while shopping at Whole Foods. We affirm, however, the trial court's denial of appellants' requested negative inference instruction based on appellants' spoliation of evidence claim.

Affirmed in part, reversed in part, remanded for further proceedings.